



2016 CHAPTER 18

PART 13

OFFENCES

Ill-treatment or neglect

267.—(1) A person (“X”) who—

- (a) ill-treats, or
- (b) wilfully neglects,

another person (“P”) where this section applies commits an offence.

(2) This section applies where—

- (a) X has the care of P, and P lacks capacity in relation to all or any matters concerning his or her care or is believed by X to lack capacity in relation to all or any such matters;
- (b) P is detained under Part 9 or 10, and is in the custody or care of X;
- (c) X is an attorney under a lasting power of attorney, or an enduring power of attorney, granted by P; or
- (d) X is a deputy appointed for P by the court.

(3) A person guilty of an offence under this section is liable—

- (a) on summary conviction, to imprisonment for a term not exceeding 6 months or a fine not exceeding the statutory maximum or both;
- (b) on conviction on indictment, to imprisonment for a term not exceeding 5 years or a fine or both.

Status: This version of this part contains provisions that are prospective.

Changes to legislation: Mental Capacity Act (Northern Ireland) 2016, PART 13 is up to date with all changes known to be in force on or before 03 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

(4) Proceedings in respect of an offence under this section may be brought only by, or with the consent of, the Director of Public Prosecutions for Northern Ireland.

Commencement Information

- II** S. 267(1)(2)(a)(3)(4) in operation at 2.12.2019 for specified purposes by S.R. 2019/163, art. 2(4), **Sch. Pt. 4** (with art. 3) (as amended by S.R. 2019/190, art. 2)

Forgery, false statements etc

- 268.**—(1) A person commits an offence if the person—
- (a) makes, in a relevant document, an entry or statement which is false; and
 - (b) does so knowing that the entry or statement is false or being reckless as to whether it is false.
- (2) A person commits an offence if—
- (a) with intent to deceive, the person makes use of an entry or statement in a relevant document;
 - (b) the entry or statement is false; and
 - (c) the person knows it to be false.
- (3) In this section “relevant document” means any of the following—
- (a) a statement of incapacity for the purposes of section 13;
 - (b) a relevant certificate (as defined by section 18) for the purposes of section 16 or 17 (second opinions);
 - (c) a report under section 39 or any provision of Schedule 1, 2 or 3 (medical reports etc);
 - (d) an application under Schedule 1, an authorisation granted by a panel under that Schedule, or an extension by a panel of such an authorisation;
 - (e) an application under paragraph 4 of Schedule 4 (application for registration of lasting power of attorney);
 - (f) a report under any provision of Part 10 (criminal justice).
- (4) A person guilty of an offence under this section is liable—
- (a) on summary conviction, to imprisonment for a term not exceeding 6 months or a fine not exceeding the statutory maximum or both;
 - (b) on conviction on indictment, to imprisonment for a term not exceeding 2 years or a fine or both.
- (5) The Department may by regulations amend subsection (3).

Status: This version of this part contains provisions that are prospective.

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Commencement Information

- I2** S. 268(1)(2)(3)(a)(c)(d)(4)(5) in operation at 2.12.2019 for specified purposes by S.R. 2019/163, art. 2(4), **Sch. Pt. 4** (with art. 3) (as amended by S.R. 2019/190, art. 2)

Unlawful detention of persons lacking capacity etc

269.—(1) A person (“R”) commits an offence if—

- (a) R knowingly detains, in circumstances amounting to a deprivation of liberty, a person (“P”) who is 16 or over and lacks capacity in relation to whether he or she should be so detained; and
- (b) P is not liable to be so detained by virtue of this Act or any other statutory provision.

(2) A person (“R”) commits an offence if—

- (a) R intentionally detains another person (“P”) in circumstances amounting to a deprivation of liberty;
- (b) R does so in purported reliance on Part 9 or 10; and
- (c) P is not liable to be detained by virtue of that Part.

(3) Where—

- (a) a person has been detained in any place, in circumstances amounting to a deprivation of liberty, by virtue of this Act, and
- (b) the person continues to be detained in the place, in circumstances amounting to a deprivation of liberty, at a time when the person is no longer liable to be so detained by virtue of this Act or any other statutory provision,

any person who is responsible for that continued detention commits an offence.

(4) But no offence under this section is committed where—

- (a) the person who is detained is under 18; and
- (b) the detention gives effect to a decision made by a parent or guardian of the person which is effective under any rule of law.

(5) A person guilty of an offence under this section is liable—

- (a) on summary conviction, to imprisonment for a term not exceeding 6 months or a fine not exceeding the statutory maximum or both;
- (b) on conviction on indictment, to imprisonment for a term not exceeding 2 years or a fine or both.

(6) Proceedings in respect of an offence under this section may be brought only by, or with the consent of, the Director of Public Prosecutions for Northern Ireland.

Status: This version of this part contains provisions that are prospective.

Changes to legislation: Mental Capacity Act (Northern Ireland) 2016, PART 13 is up to date with all changes known to be in force on or before 03 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

(7) Section 20(1) of the Interpretation Act (Northern Ireland) 1954 applies in relation to the offence under this section as it applies in relation to other offences under this Act (so, for example, nothing in this section prevents a person from being prosecuted and punished for an offence of false imprisonment).

Commencement Information

- I3** S. 269 in operation at 31.5.2021 for specified purposes by [S.R. 2019/163, art. 2\(5\)](#), [Sch. Pt. 5](#) (with [art. 3](#)) (as amended by [S.R. 2019/190, art. 2](#) and [S.R. 2020/246, art. 2](#))

Assisting persons to absent themselves without permission

270.—(1) A person commits an offence if—

- (a) the person knows that another person (“P”) is, by virtue of this Act, liable to be detained in a place in circumstances amounting to a deprivation of liberty; and
- (b) the person induces, or intentionally assists, P to absent himself or herself without permission from that place.

(2) A person commits an offence if—

- (a) the person knows that another person (“P”) is, by virtue of this Act, liable to be detained in a place (“the relevant place”) in circumstances amounting to a deprivation of liberty;
- (b) P has absented himself or herself without permission from the relevant place; and
- (c) the person—
 - (i) allows P to live or stay with the person, knowing that P absented himself or herself without permission from the relevant place; or
 - (ii) gives P any assistance with the intention of preventing, delaying or interfering with P's being returned to detention.

(3) A person commits an offence if—

- (a) the person knows that another person (“P”) is, by virtue of this Act, liable to be detained in a place in circumstances amounting to a deprivation of liberty;
- (b) P is being taken to that place; and
- (c) the person induces, or intentionally assists, P to escape.

(4) In subsections (1) and (2) references to P absenting himself or herself without permission from a place where P is liable to be detained (“the relevant place”) include—

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- (a) P failing to return to the relevant place at the end of an occasion or period for which P was given permission to be absent, or on being recalled from a permitted absence; and
 - (b) P absenting himself or herself, without permission, from a place where P is required to be by conditions imposed on the grant of a permission for absence from the relevant place.
- (5) A person guilty of an offence under this section is liable—
- (a) on summary conviction, to imprisonment for a term not exceeding 6 months or a fine not exceeding the statutory maximum or both;
 - (b) on conviction on indictment, to imprisonment for a term not exceeding 2 years or a fine or both.

Commencement Information

- I4** S. 270 in operation at 2.12.2019 for specified purposes by S.R. 2019/163, art. 2(4), Sch. Pt. 4 (with art. 3) (as amended by S.R. 2019/190, art. 2)

PROSPECTIVE

Assisting breach of community residence requirement

271.—(1) A person commits an offence if—

- (a) the person knows that another person (“P”) is required by a community residence requirement to live at a particular place; and
- (b) the person induces, or intentionally assists, P to stop living at that place.

(2) A person commits an offence if—

- (a) the person knows that another person (“P”) is required by a community residence requirement to live at a particular place;
- (b) P has stopped living at that place; and
- (c) the person gives P any assistance with the intention of preventing, delaying or interfering with P's being returned to live at that place.

(3) A person guilty of an offence under this section is liable—

- (a) on summary conviction, to imprisonment for a term not exceeding 6 months or a fine not exceeding the statutory maximum or both;
- (b) on conviction on indictment, to imprisonment for a term not exceeding 2 years or a fine or both.

(4) In this section “community residence requirement” means a community residence requirement (as defined by section 31) that is imposed under Part 2.

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Obstruction

272.—(1) It is an offence for a person—

- (a) to refuse to allow the visiting or examination of any person by a person who is authorised by virtue of a relevant provision to carry out the visit or examination;
- (b) to refuse to produce any record the production of which is required by virtue of a provision mentioned in subsection (4)(a) or (b); or
- (c) otherwise to obstruct a person who is—
 - (i) carrying out a visit or examination by virtue of a relevant provision; or
 - (ii) exercising any other function by virtue of a provision mentioned in subsection (4)(a) or (b).

(2) Without prejudice to the generality of subsection (1), it is an offence for a person to insist on being present when requested to withdraw by a person authorised by virtue of a relevant provision to visit or examine a person.

(3) A person guilty of an offence under this section is liable on summary conviction to imprisonment for a term not exceeding 3 months or a fine not exceeding level 4 on the standard scale or both.

(4) In this section “relevant provision” means—

- (a) section 18(2), 92, 121, 127 or 131;
- (b) section 46, 47, 48, 227, 228 or 229 (read with section 275); or
- (c) section 39 or 126 or any provision of Schedule 1, 2 or 3.

Commencement Information

- I5** S. 272(1)-(3) in operation at 2.12.2019 for specified purposes by [S.R. 2019/163](#), [art. 2\(4\)](#), [Sch. Pt. 4](#) (with [art. 3](#)) (as amended by [S.R. 2019/190](#), [art. 2](#))
- I6** S. 272(4)(b)(c) in operation at 2.12.2019 for specified purposes (In s. 272(4)(b)" until “48” and (c) but omitting “or 126”) by [S.R. 2019/163](#), [art. 2\(4\)](#), [Sch. Pt. 4](#) (with [art. 3](#)) (as amended by [S.R. 2019/190](#), [art. 2](#))

Offences by bodies corporate

273.—(1) Where an offence under this Act or under any regulations made under this Act is committed by a body corporate and is proved to have been committed with the consent or connivance of or to be attributable to any neglect on the part of—

- (a) any director, manager, secretary or other similar officer of the body corporate, or
- (b) any person who was purporting to act in any such capacity,

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that person (as well as the body corporate) commits the offence and is liable to be proceeded against and punished accordingly.

(2) Where the affairs of a body corporate are managed by its members, subsection (1) applies in relation to the acts and defaults of a member in connection with that member's functions of management as if the member were a director of the body corporate.

(3) Proceedings in respect of an offence committed by virtue of this section may be brought only by, or with the consent of, the Director of Public Prosecutions for Northern Ireland.

(4) Section 20(2) of the Interpretation Act (Northern Ireland) 1954 (offences committed by a body corporate) does not apply to offences under this Act or under regulations made under this Act.

Commencement Information

I7 S. 273 in operation at 2.12.2019 for specified purposes by S.R. 2019/163, art. 2(4), Sch. Pt. 4 (with art. 3) (as amended by S.R. 2019/190, art. 2)

Status:

This version of this part contains provisions that are prospective.

Changes to legislation:

Mental Capacity Act (Northern Ireland) 2016, PART 13 is up to date with all changes known to be in force on or before 03 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 285(2)(a)-(c) substituted for s. 285(2)(a)(b) by [2022 c. 18 \(N.I.\) Sch. 3 para. 77\(b\)](#)