

Status: This version of this cross heading contains provisions that are prospective.
Changes to legislation: *Mental Capacity Act (Northern Ireland) 2016, Cross Heading: Other supplementary provision is up to date with all changes known to be in force on or before 14 May 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*



2016 CHAPTER 18

PART 10
CRIMINAL JUSTICE
CHAPTER 9
SUPPLEMENTARY

PROSPECTIVE

Other supplementary provision

Requirements as to written evidence

249.—(1) This section applies for the purposes of any provision of this Part under which a court may act on the written evidence of a medical practitioner or a medical practitioner of any description.

(2) A report in writing purporting to be signed by a medical practitioner or a medical practitioner of such a description may, subject to the provisions of this section, be received in evidence—

- (a) without proof of the signature of the practitioner; and
- (b) without proof that he or she has the required qualifications or is of the required description.

(3) But the court may require the signatory of any such report to be called to give oral evidence.

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(4) Where in pursuance of a direction of the court any such report is tendered in evidence otherwise than by or on behalf of the person who is the subject of the report, then—

- (a) if that person is represented by counsel or a solicitor, a copy of the report must be given to that counsel or solicitor;
- (b) if that person is not so represented, the substance of the report must be disclosed to him or her or, where the person is a child, to his or her parent or guardian if present in court; and
- (c) that person may require the signatory of the report to be called to give oral evidence, and evidence to rebut the evidence contained in the report may be called by or on behalf of that person.

Interpretation of Part 10: children

250.—(1) In this Part—

“child” has the same meaning as in the Criminal Justice (Children) (Northern Ireland) Order 1998;

“guardian” has the same meaning as in that Order.

(2) Article 62 of the Criminal Justice (Children) (Northern Ireland) Order 1998 (determination of age of a person brought before the court) applies for the purposes of this Part as it applies for the purposes of that Order.

(3) Section 174 of the Children and Young Persons Act (Northern Ireland) 1968 (which also makes provision about determination of age for certain purposes) applies for the purposes of this Part as it applies for the purposes of that Act.

(4) Any reference in this Part to an offence punishable with imprisonment, or to an offence punishable on summary conviction with imprisonment, is to be construed without regard to any prohibition or restriction imposed by or under any statutory provision on the imprisonment of children.

Interpretation of Part 10: impairment of or disturbance in the functioning of the mind or brain

251.—(1) This section applies for the purposes of interpreting any reference in this Part to an impairment of, or disturbance in the functioning of, a person's mind or brain.

(2) For those purposes, it does not matter—

- (a) whether the impairment or disturbance is permanent or temporary;
- (b) what the cause of the impairment or disturbance is.

(3) In particular, it does not matter whether the impairment or disturbance is caused by a disorder or otherwise.

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Interpretation of Part 10: references to disorder

252.—(1) In this Part “disorder” (without more) includes any disorder or disability, whether mental or physical.

(2) For the purposes of this Part a disorder of a person “requires” treatment if it, or any of its symptoms or manifestations, could be alleviated or prevented from worsening by treatment.

(3) Where—

- (a) a hospital direction or hospital transfer direction has been given in respect of a person, and
- (b) the disorder in respect of which the direction was given was mental disorder (of any form),

any reference in this Part to the disorder in respect of which the direction was given is to be read as a reference to mental disorder (and not as a reference to mental disorder of a particular form).

Interpretation of Part 10: general

253.—(1) In this Part—

“appropriate care or treatment”, in relation to a person, means care or treatment which is (or care and treatment which are) appropriate in that person's case;

“appropriate establishment” has the meaning given by section 167;

“approved medical practitioner” means a medical practitioner approved by RQIA for the purposes of this Part;

“custodial sentence” has the same meaning as in Chapter 2 of Part 2 of the Criminal Justice (Northern Ireland) Order 2008 (see Article 4(1) of that Order);

“disorder” has the meaning given by section 252;

“hospital direction” has the meaning given by section 174;

“hospital transfer direction” has the meaning given by section 224;

“interim detention order” has the meaning given by section 177;

“juvenile justice centre” has the meaning given by Article 51(1) of the Criminal Justice (Children) (Northern Ireland) Order 1998;

“the period” of a public protection order without restrictions has the meaning given by section 181;

“prison” has the same meaning as in the Prison Act (Northern Ireland) 1953;

“public protection order” has the meaning given by section 167;

“public protection order with restrictions” has the meaning given by that section;

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“public protection order without restrictions” has the meaning given by that section;

“remand centre” has the meaning given by section 2(b) of the Treatment of Offenders Act (Northern Ireland) 1968;

“the responsible medical practitioner”, in relation to a person liable to be detained in a hospital or other establishment by virtue of this Part, means the medical practitioner who is in charge of the person's care (see also subsection (2));

“supervision and assessment order” has the meaning given by paragraph 1(1) of Schedule 7;

“young offenders centre” has the meaning given by section 2(a) of the Treatment of Offenders Act (Northern Ireland) 1968.

(2) Regulations may provide that the medical practitioner in charge of a person's care may carry out prescribed functions of the responsible medical practitioner under this Part only if—

- (a) the practitioner is an approved medical practitioner; or
- (b) any other prescribed condition is met.

(3) Any reference in this Part to an offence punishable on summary conviction with imprisonment includes a reference to an indictable offence which may be tried summarily.

(4) For the avoidance of doubt, a remand, order or direction of a court under this Part is not to be regarded for the purposes of section 2 or any other purpose of this Act as an act done or decision made for or on behalf of a person.

(5) See also sections 304 to 306 (definitions for purposes of Act).

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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\(b\)](#)