



## 2016 CHAPTER 18

### PART 9

#### POWER OF POLICE TO REMOVE PERSON TO PLACE OF SAFETY

*Duties and powers of police where person removed to place of safety*

**Duty to inform certain persons where power of removal or transfer used**

**147.**—(1) This section applies where a constable takes a person (“R”) to a place of safety under section 139 or 145.

(2) The constable must ensure that, as soon as practicable after R arrives at the place of safety, the required information is given to—

- (a) the HSC trust in whose area that place of safety is situated;
- (b) the appropriate person; and
- (c) if the appropriate person does not live with R and it is practicable to give the information to a relevant person who lives with R, such a person.

(3) But if—

- (a) it is not practicable to give the required information to the appropriate person, and
- (b) it is practicable to give the required information to a relevant person,

subsection (2) has effect as if the reference in paragraph (b) to the appropriate person were to a relevant person.

(4) In this section—

“the appropriate person” means—

- (a) if R is 16 or over, any person who is R’s nominated person;

- (b) if R is under 16, a person with parental responsibility for R;  
“relevant person” means a person who is 16 or over and is—
    - (a) named by R as someone to whom the information should be given;
    - (b) engaged in caring for R; or
    - (c) interested in R’s welfare;
- “the required information” has the meaning given by section 148.

### **Section 147: meaning of “the required information” etc**

**148.**—(1) This section supplements section 147.

(2) “The required information” means—

- (a) the fact that R has been taken to a place of safety under section 139 or 145;
- (b) R’s name and address, if known;
- (c) the address of the place of safety to which R was taken;
- (d) the date and time at which R—
  - (i) was removed from the public place (where the notification relates to a removal under section 139); or
  - (ii) was taken from the place of safety from which he or she was transferred (where the notification relates to a transfer under section 145);
- (e) the circumstances giving rise to R’s removal or transfer; and
- (f) if the place of safety to which R was taken is a police station, the reason why R was taken there.

(3) Section 147 applies instead of Article 10 of the Criminal Justice (Children) (Northern Ireland) Order 1998 in any case where (but for this subsection) both that section and that Article would apply.

(4) Article 57 of PACE (right to have someone informed when arrested and detained) does not apply in relation to a person detained in a place of safety under this Part.

### **Record of detention to be kept**

**149.**—(1) Where a person is taken to a place of safety under section 139 or section 145 and detained there under section 142 or 143, the appropriate officer (as defined by section 160) must make a written record of the fact that the person has been so detained.

(2) The written record—

- (a) must be made as soon as practicable after the decision is made to detain the person under section 142 or 143; and

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*Status: This is the original version (as it was originally enacted).*

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(b) must be made in the presence of the person, who must at that time be informed by the appropriate officer that he or she is being detained under that section.

(3) Subsection (2)(b) does not apply where, at the time when the written record is made, the person is—

- (a) incapable of understanding what is said to him or her;
- (b) violent or likely to become violent; or
- (c) in urgent need of medical attention.

### **Responsibilities of the appropriate officer**

**150.**—(1) The appropriate officer must ensure that a person who is detained under this Part in a place of safety is treated in accordance with—

- (a) any provisions of this Part or PACE that relate to the treatment of persons who are so detained; and
- (b) any code of practice under this Act or PACE that relates to the treatment of persons who are so detained.

(2) The appropriate officer must also ensure that all matters relating to a person who is detained under this Part in a place of safety which are required by this Part, PACE or such a code of practice to be recorded in writing are so recorded.

### **Review of detention**

**151.**—(1) Where a person is detained in a place of safety under this Part, reviews of whether the detention conditions set out in section 144(2) are still met must be carried out periodically by the appropriate officer in accordance with this section.

(2) Subject to subsection (3)—

- (a) the first review must be not later than 6 hours after the person's arrival at the place of safety;
- (b) subsequent reviews must be at intervals of not more than 6 hours.

(3) A review may be postponed—

- (a) if, having regard to all the circumstances prevailing at the latest time for it specified in subsection (2), it is not practicable to carry out the review at that time;
- (b) if at that time the appropriate officer is not readily available.

(4) If a review is postponed under subsection (3) it must be carried out as soon as practicable after the latest time specified for it in subsection (2).

(5) If a review is carried out after postponement under subsection (3), the fact that it was so carried out does not affect any requirement of this section as to the time at which any subsequent review is to be carried out.

(6) The appropriate officer must record in writing—

- (a) any decision made, on a review, to continue to detain the person;
- (b) the reasons for any postponement of a review.

(7) A record under subsection (6)(a)—

- (a) must be made as soon as practicable after the decision is made; and
- (b) must be made in the presence of the person, who must at that time be informed by the appropriate officer of the decision.

(8) Subsection (7)(b) does not apply where the person is, at the time when the written record is made—

- (a) incapable of understanding what is said to him or her;
- (b) asleep;
- (c) violent or likely to become violent; or
- (d) in urgent need of medical attention.

(9) Any reference in this section to a period of time is to be treated as approximate only.

#### **Access to legal advice**

**152.**—(1) A person who is detained in a place of safety under this Part is entitled, if he or she so requests, to consult a solicitor privately at any time.

(2) If a person makes such a request, he or she must be permitted to consult a solicitor as soon as is practicable.

(3) A request under this section and the time at which it was made must be recorded in writing.

(4) Article 59 of PACE (access to legal advice) does not apply in relation to a person who is detained in a place of safety under this Part.

#### **Searches of person following removal to place of safety**

**153.** Article 55 of PACE (searches of detained persons) applies in relation to a person detained in a place of safety under this Part as if—

- (a) in paragraph (1) the reference to a person who has been brought to a police station after being arrested elsewhere were to a person who has been brought to a police station under section 139 or under section 145 (except from another police station);
- (b) paragraph (4)(a)(iii) were omitted;

- (c) in paragraph (7) the reference to the person mentioned there were to a person detained in a place of safety under this Part.

#### **Searches and examination to ascertain identity**

**154.** Article 55A of PACE (searches and examination to ascertain identity) applies in relation to a person detained in a place of safety under this Part as if—

- (a) in paragraph (1) the reference to a person who is detained in a police station were to a person who is detained in any place of safety under this Part;
- (b) paragraphs (1)(a), (2), (5) and (9) to (13) were omitted;
- (c) in paragraphs (6) and (7) the references to taking photographs were omitted.

#### **Intimate searches**

**155.** Article 56 of PACE (intimate searches) applies in relation to a person detained in a place of safety under this Part as if—

- (a) in paragraph (1)(a) the reference to a person who has been arrested and is in police detention were a reference to a person detained in a place of safety under this Part;
- (b) in paragraph (1)(a)(ii) the reference to police detention or the custody of a court were a reference to detention under this Part;
- (c) paragraphs (1)(b), (3A) to (4), (9), (10A), (12)(a)(iii) and (13A) were omitted.

#### **Annual records**

**156.—(1)** The records that must be kept under Article 50 of PACE include records showing, on an annual basis—

- (a) the number of persons detained under this Part in hospitals;
- (b) the number of persons detained under this Part in police stations.
- (c) the number of children detained under this Part in hospitals;
- (d) the number of children detained under this Part in police stations;
- (e) final disposals in respect of children detained as mentioned in paragraphs (c) and (d).

(2) Every annual report under section 58(1) of the Police (Northern Ireland) Act 2000 must contain information about the matters mentioned in subsection (1) in respect of the period to which the report relates.

(3) Regulations may provide that the records to be kept by virtue of subsection (1)(e) are records of such information, in respect of each child

who ceases to be detained under this Part, as may be prescribed; and that subsection (2) is to be read accordingly.

(4) In this section “children” means persons under 18.