

Status: This version of this cross heading contains provisions that are prospective.
Changes to legislation: *Mental Capacity Act (Northern Ireland) 2016, Cross Heading: Detention and discharge is up to date with all changes known to be in force on or before 20 March 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 3

DETENTION UNDER A PUBLIC PROTECTION ORDER WITHOUT RESTRICTIONS

PROSPECTIVE

Detention and discharge

Detention under a public protection order without restrictions

179.—(1) This section applies where—

- (a) a public protection order without restrictions is made in respect of a person under section 167; and
- (b) the person is admitted in pursuance of the order to the establishment specified in the order.

(2) The person may be detained in that establishment for a period not exceeding 6 months beginning with the date of the order.

(3) Subsection (2) is subject to (in particular)—

- (a) section 180 (discharge by responsible medical officer);
- (b) sections 181 to 186 (extension of period for which person liable to be detained);
- (c) section 231 (powers of Tribunal).

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Discharge from detention by responsible medical practitioner

180.—(1) A person who is for the time being liable to be detained under a public protection order without restrictions ceases to be so liable if the responsible medical practitioner (as defined by section 253) makes an order in writing discharging the person from being liable to be detained under the public protection order.

(2) Where—

- (a) a person is liable to be detained under a public protection order without restrictions, and
- (b) the responsible medical practitioner is satisfied that releasing the person from detention in an appropriate establishment would not create a substantial risk to others,

the responsible practitioner must make an order under subsection (1).

(3) For the purposes of subsection (2)(b) releasing the person from detention in an appropriate establishment would create a “substantial risk to others” if—

- (a) it would create a risk, linked to an impairment of or disturbance in the functioning of the person's mind or brain, of serious physical or psychological harm to other persons; and
- (b) the likelihood and seriousness of the harm concerned are such that detaining the person in an appropriate establishment in circumstances amounting to a deprivation of liberty is a proportionate response.

(4) A discharge of a person under this section does not prevent the person from being detained in circumstances amounting to a deprivation of liberty by virtue of Part 2 of this Act (or, if the person is under 16, Part 2 of the Mental Health Order), if the criteria that apply to such detention are met.

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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\(b\)](#)