

Status: This version of this cross heading contains provisions that are prospective.
Changes to legislation: Mental Capacity Act (Northern Ireland) 2016, Cross Heading: Permission for absence and transfers is up to date with all changes known to be in force on or before 08 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

Permission for absence and transfers

Permission for absence

187.—(1) Where a person is liable to be detained under a public protection order without restrictions, the responsible medical practitioner may—

- (a) give the person permission to be absent from the establishment in which the person is liable to be detained; and
- (b) impose in relation to that permission any conditions that the responsible medical practitioner considers necessary for the health or safety of the person or the protection of other persons.

(2) The permission may be for a specified occasion or a specified period.

(3) Where permission is given for a specified period, the period may be extended by further permission given in the person's absence.

(4) The responsible medical practitioner may, on giving permission, direct that the person is to remain in custody during his or her absence; but such a

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direction may be given only if it appears to that practitioner that the direction is necessary for the health or safety of the person or the protection of other persons.

(5) Where such a direction is given, the person may be kept in the custody of—

- (a) a person on the staff of the establishment; or
- (b) any other person authorised in writing by the managing authority of the establishment.

(6) Where permission to be absent for more than 28 days is given to a person under this section, or a period for which a person is permitted to be absent is extended for more than 28 days, the managing authority of the establishment must—

- (a) within the period of 14 days beginning with the day the permission is given or the day the period is extended (as the case may be), inform RQIA of the address at which the person is staying; and
- (b) notify RQIA of the person's return within the period of 14 days beginning with the day of the return.

(7) Where a person (“A”) is absent in pursuance of permission given under this section, the responsible medical practitioner may, by notice in writing given to A or to the person for the time being in charge of A, revoke the permission and recall A to the establishment if it appears to that practitioner that it is necessary to do so—

- (a) for the health or safety of A;
- (b) for the protection of other persons; or
- (c) because A is not receiving proper care.

(8) But a person may not be recalled under subsection (7) after the person has ceased to be liable to be detained under the order mentioned in subsection (1).

Transfers between hospitals etc

188.—(1) Where a person is liable to be detained under a public protection order without restrictions, the managing authority of the establishment in which the person is liable to be detained may arrange for the transfer of the person from that establishment to another suitable establishment.

(2) Where a person is transferred under this section, section 171(1)(b) applies as if the establishment referred to there were the establishment to which the person has been transferred.

(3) Before a managing authority arranges for the transfer of a person (“A”) under this section, it must if practicable inform—

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

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(b) if A is under 16, a person with parental responsibility for A.

(4) Where a person is transferred under this section, the managing authority which arranged the transfer must immediately notify RQIA of the transfer.

(5) The power of a managing authority under this section to arrange for the transfer of a person from one establishment to another is subject to any prescribed conditions.

(6) In this section “suitable establishment” means an appropriate establishment (as defined by section 167) in which appropriate care or treatment is available for the person.

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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\(b\)](#)