

*Status: This version of this provision is prospective.*

**Changes to legislation:** *Mental Capacity Act (Northern Ireland) 2016, Section 180 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 3

##### DETENTION UNDER A PUBLIC PROTECTION ORDER WITHOUT RESTRICTIONS

##### *Detention and discharge*

PROSPECTIVE

##### **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).

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(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\(b\)](#)