

Status: This version of this provision is prospective.

Changes to legislation: Mental Capacity Act (Northern Ireland) 2016, Section 195 is up to date with all changes known to be in force on or before 04 April 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 4

DETENTION UNDER A PUBLIC PROTECTION ORDER WITH RESTRICTIONS

PROSPECTIVE

Permission for absence

195.—(1) Where a person (“A”) is liable to be detained under a public protection order with restrictions, the responsible medical practitioner may with the consent of the Department of Justice—

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

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(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) a person is absent in pursuance of permission given under this section, and
- (b) it appears to the responsible medical practitioner or the Department of Justice that it is necessary to do so for the health or safety of the person or the protection of other persons or because the person is not receiving proper care,

the responsible medical practitioner or the Department of Justice may by notice in writing, given to the person or to the person for the time being in charge of him or her, revoke the permission and recall the person to the establishment.

(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).

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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\(b\)](#)