

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

**Changes to legislation:** *Mental Capacity Act (Northern Ireland) 2016, Section 185 is up to date with all changes known to be in force on or before 21 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

##### *Extension of the period of an order*

PROSPECTIVE

#### **The criteria for continuation**

**185.**—(1) In this Chapter “the criteria for continuation”, in relation to a public protection order without restrictions made in respect of a person, has the meaning given by subsection (2).

(2) The criteria for continuation are—

- (a) that there is an impairment of, or disturbance in the functioning of, the mind or brain of the person;
- (b) that appropriate care or treatment is available for the person in the establishment concerned;
- (c) that failure to detain the person in circumstances amounting to a deprivation of liberty in an appropriate establishment in which appropriate care or treatment is available for the person would create a risk, linked to the impairment or disturbance, of serious physical or psychological harm to other persons; and

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(d) that detaining the person in the establishment concerned, in circumstances amounting to a deprivation of liberty, would be a proportionate response to—

- (i) the likelihood of the harm concerned; and
- (ii) the seriousness of that harm.

(3) In this section “the establishment concerned” means the establishment in which the person would be liable to be detained if the period of the order were extended.

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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\(b\)](#)