

*These notes refer to the Mental Capacity Act (Northern Ireland)
2016 (c.18) which received Royal Assent on 9 May 2016*

Mental Capacity Act (Northern Ireland) 2016

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 10 – Criminal Justice

Chapter 3 – Detention under a Public Protection Order Without Restrictions

Section 187 - Permission for absence

This section provides that a responsible medical practitioner may give permission to a person detained under a protection order without restrictions to be absent from the establishment where he or she is detained. Any conditions considered necessary by the practitioner for the health and safety of the offender or the protection of others can be imposed.

Permission to be absent can be given for a specified occasion or for a specified period. Where the permission is in respect of a specified period, the period can be extended by a further permission, given in the person's absence.

The responsible medical practitioner may also direct that the person is to remain in custody during his or her absence. Such a direction can only be given if the practitioner thinks that this is necessary for the health and safety of the offender or for the protection of other persons. In these cases, the offender may be kept in the custody of a person on the staff of the establishment concerned, or in the custody of any other person authorised in writing by the managing authority of the establishment.

The section also provides that where a person is given permission to be absent for more than 28 days under this section, or a period of permitted absence is extended for more than 28 days, the managing authority of the establishment must notify RQIA of the address where the offender is staying within 14 days of the permission being given or on the day when the period is extended. The managing authority must also notify RQIA of the person's return to the establishment within 14 days of his or her arrival back in the establishment.

Where a person is absent under this section and it appears to the responsible medical practitioner that it is necessary to do so for the health and safety of the offender, the protection of other persons, or because the offender is not receiving proper care, the practitioner may revoke the permission and recall the offender to the establishment concerned.

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Notice of revocation of the permission must be in writing. An offender may not be recalled after ceasing to be liable to be detained under the public protection order.