



## 2016 CHAPTER 18

### **PART 8**

#### RESEARCH

##### *Transitional cases*

##### **Loss of capacity during research project: transitional cases**

**138.**—(1) This section applies where a person who is 16 or over (“P”)—

- (a) consented to take part in a research project begun before the coming into operation of section 132; and
- (b) before the conclusion of the project, loses capacity to consent to continue to take part in it.

(2) Regulations may provide that, despite P's loss of capacity, research of a prescribed kind may be carried out on, or in relation to, P if—

- (a) the project satisfies prescribed requirements;
- (b) any information or material relating to P which is used in the research is of a prescribed description and was obtained before P's loss of capacity; and
- (c) the person conducting the project takes in relation to P such steps as may be prescribed for the purpose of protecting P.

(3) The regulations may in particular—

- (a) make provision about when, for the purposes of the regulations, a project is to be treated as having begun;
- (b) include provision similar to any made by sections 134 to 137.

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**Changes to legislation:** *Mental Capacity Act (Northern Ireland) 2016, Section 138 is up to date with all changes known to be in force on or before 06 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*

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#### **Commencement Information**

- II** S. 138 in operation at 1.10.2019 for specified purposes by S.R. 2019/163, art. 2(1), **Sch. Pt. 1** (with art. 3) (as amended by S.R. 2019/190, art. 2)

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[View outstanding changes](#)

**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\(b\)](#)