

Status: This version of this cross heading contains provisions that are prospective.
Changes to legislation: *Mental Capacity Act (Northern Ireland) 2016, Cross Heading: Effect of conditional discharge from public protection order with restrictions is up to date with all changes known to be in force on or before 10 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 8

RIGHTS OF REVIEW OF DETENTION UNDER PART 10

PROSPECTIVE

Effect of conditional discharge from public protection order with restrictions

Effect of conditional discharge

235.—(1) Where a person liable to be detained under a public protection order with restrictions is conditionally discharged by the Tribunal under section 232—

- (a) section 192 (power of the Department of Justice to recall person who has been conditionally discharged) applies as if the person had been conditionally discharged under section 191; and
- (b) the person must comply with any conditions imposed at the time of discharge by the Tribunal or at any later time by the Department of Justice.

(2) The Department of Justice may from time to time vary any condition imposed under subsection (1) (whether imposed by the Tribunal or the Department of Justice).

(3) If—

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- (a) a public protection order with restrictions provides that the order is to be treated as a public protection order with restrictions for a specified period (“the restricted period”), and
- (b) the restricted period ends at a time when the person has been conditionally discharged under section 232 and has not been recalled by virtue of this section,

the person is to be treated as absolutely discharged when the restricted period ends (and accordingly ceases at that time to be liable to be detained under the public protection order).

Applications and references to Tribunal where person recalled

236.—(1) This section applies where a person liable to be detained under a public protection order with restrictions—

- (a) has been conditionally discharged under section 191 or 232; and
- (b) is subsequently recalled under section 192.

(2) The Department of Justice must, within the period of one month beginning with the return date, refer to the Tribunal the question whether the person should be discharged from being liable to be detained under the public protection order.

(3) A qualifying person may apply to the Tribunal within any relevant period.

(4) Sections 228(3) and 227 (visiting and examination powers) apply in relation to references and applications under this section as they apply in relation to references under section 228 and applications under section 225.

(5) See also section 232 (Tribunal's powers on a reference or application).

(6) No application under section 225 may be made in respect of the order.

(7) In this section—

“a qualifying person” has the meaning given by section 226;

“relevant period” means—

- (a) the period of 6 months beginning with the return date (“the initial period”);
- (b) the period of 6 months immediately following the initial period; or
- (c) any period of 12 months which begins with an anniversary of the return date;

“the return date” means the date on which the person returns or is returned to the establishment specified in the warrant recalling the person.

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Applications to Tribunal where person has not been recalled

237.—(1) This section applies where a person liable to be detained under a public protection order with restrictions has been conditionally discharged under section 191 or 232 (and has not been recalled under section 192).

(2) A qualifying person (see section 226) may apply to the Tribunal—

- (a) within the period of 12 months beginning with the date on which the person was conditionally discharged; and
- (b) within any period of 12 months which begins with an anniversary of that date.

(3) On an application under this section the Tribunal must do one of the following (and may do things mentioned in both paragraphs (a) and (b))—

- (a) vary any condition to which the person is subject in connection with the discharge;
- (b) impose any condition that might have been imposed in connection with the discharge;
- (c) discharge the person from liability to be detained under the public protection order;
- (d) decide to take no action.

(4) No application under section 225 may be made in respect of the order.

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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\(b\)](#)