



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.

Changes to legislation: *Mental Capacity Act (Northern Ireland) 2016, Cross Heading: Transitional cases is up to date with all changes known to be in force on or before 05 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*

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\(b\)](#)