



## 2016 CHAPTER 18

### **PART 8**

#### RESEARCH

##### *Approved research projects*

##### **Additional safeguards**

**137.**—(1) This section applies in relation to a person (“P”) who is 16 or over and is taking part in a research project approved under section 134 even though P lacks capacity to consent to taking part.

(2) Nothing may be done to, or in relation to, P in the course of the research—

(a) to which P appears to object (whether by showing signs of resistance or otherwise) except where what is being done is intended to protect P from harm or to reduce or prevent pain or discomfort; or

(b) which is the carrying out or continuation of treatment of P and would be contrary to—

(i) an effective advance decision to refuse treatment which has been made by P, or

(ii) any other form of statement made by P and not subsequently withdrawn,

of which the person conducting the research project (“R”) is aware.

(3) The interests of P must be assumed to outweigh those of science and society.

(4) If P indicates (in any way) a wish to be withdrawn from the project P must be withdrawn without delay.

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**Changes to legislation:** *Mental Capacity Act (Northern Ireland) 2016, Section 137 is up to date with all changes known to be in force on or before 22 May 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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(5) P must be withdrawn from the project, without delay, if at any time R has reasonable grounds for believing that any requirement set out in section 134(2) to (7) is no longer met in relation to research being carried out on, or in relation to, P.

(6) Subsections (4) and (5) do not require treatment that P has been receiving as part of the project to be discontinued if the treatment can lawfully be carried out despite P having withdrawn from the project.

(7) In this section—

- (a) “an effective advance decision to refuse treatment” means a decision which, under the common law relating to advance decisions, has the same effect as if at the material time P—
  - (i) refused consent to the treatment's being carried out or continued; and
  - (ii) had capacity to refuse that consent; and
- (b) “the material time” means the time when the question arises whether the treatment should be carried out or continued.

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**Commencement Information**

- II** S. 137 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)

**Changes to legislation:**

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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\(b\)](#)