



2016 CHAPTER 18

PART 10

CRIMINAL JUSTICE

CHAPTER 8

RIGHTS OF REVIEW OF DETENTION UNDER PART 10

Powers of Tribunal as to hospital directions and hospital transfer directions

Powers of Tribunal as to hospital directions and hospital transfer directions

238.—(1) This section applies where an application or reference to the Tribunal is made under this Chapter by or in respect of a person who is liable to be detained in hospital under a hospital direction or hospital transfer direction (“the relevant direction”).

- (2) The Tribunal must—
- (a) decide whether it is satisfied that the prevention of serious harm condition is met; and
 - (b) notify the Department of Justice whether it is so satisfied.
- (3) The prevention of serious harm condition is that—
- (a) the person has the disorder in respect of which the relevant direction was given;
 - (b) effective treatment for the disorder can be given to the person in the hospital where he or she is detained; and
 - (c) it is more likely than not that, if the person were transferred to prison, serious physical or psychological harm to the person or serious physical

harm to other persons would result from the person's ceasing to be provided with treatment for the disorder as an in-patient in hospital.

(4) In this section the reference to "prison" is to be read, where the person would (but for the relevant direction) be liable to be detained in a place of any other description, as a reference to a place of that other description.