

Status: This version of this provision is prospective.

Changes to legislation: *Mental Capacity Act (Northern Ireland) 2016, Section 240 is up to date with all changes known to be in force on or before 30 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

Powers of Tribunal as to hospital directions and hospital transfer directions

PROSPECTIVE

Section 238: procedure where prevention of serious harm condition is not met

240.—(1) This section applies where, under section 238, the Tribunal notifies the Department of Justice that it is not satisfied that the prevention of serious harm condition is met in respect of a person liable to be detained in a hospital.

(2) The Department of Justice must by warrant direct that the person be removed to any prison in which the person might (but for the relevant direction) be detained, to be dealt with there as if the relevant direction had not been given.

(3) The relevant direction ceases to have effect on the person's arrival in prison.

(4) But subsections (2) and (3) do not apply if the Department of Justice directs that with effect from a specified date—

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- (a) the person is to be treated as if he or she had been removed to the hospital under the relevant provision from a prison specified in the direction under this subsection; and
 - (b) the relevant direction is to cease to have effect.
- (5) In this section—
- (a) any reference to “prison” is to be read, where the person would (but for the relevant direction) be detained in a place of any other description, as a reference to a place of that other description;
 - (b) “the relevant direction” has the same meaning as in section 238;
 - (c) “the relevant provision” means—
 - (i) section 16(2) of the Prison Act (Northern Ireland) 1953; or
 - (ii) if the person would (but for the relevant direction) be detained in a juvenile justice centre, paragraph 3 of Schedule 2 to the Criminal Justice (Children) (Northern Ireland) Order 1998.

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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\(b\)](#)