

*These notes relate to the Adults with Incapacity (Scotland)  
Act 2000 (asp 4) which received Royal Assent on 9 May 2000*

# **ADULTS WITH INCAPACITY (SCOTLAND) ACT 2000**

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## **EXPLANATORY NOTES**

### **THE ACT**

#### **Part 2: Continuing Powers of Attorney and Welfare Powers of Attorney**

##### ***Section 24: Termination of continuing or welfare power of attorney***

98. Subsection (1) provides that, where the granter and attorney are married, the appointment as attorney will be automatically revoked on a decree of separation, divorce or declarator of nullity, unless the power of attorney states otherwise.
99. Subsection (2) establishes that where a guardian is appointed to deal with the same matters as a continuing or welfare attorney, the authority of the guardian shall supersede that of the attorney, whose appointment in that area is effectively terminated. The Public Guardian will be aware of this through notification of the appointment of the guardian, and will be able to amend the relevant register.
100. Subsection (3) provides that foreign attorneys' authority should also be superseded by the appointment of a guardian by a Scottish court.
101. Subsection (4) protects people who deal with attorneys without realising that their powers have terminated, particularly where the person concerned has acquired heritable property, unaware of circumstances provided in subsections (4)(a) and (b). Subsection (4)(a) provides for the situation where the attorney's appointment has terminated because their marriage to the granter has ended. Subsection (4)(b) provides for circumstances in which the attorney has been superseded by a guardian.