



# Adults with Incapacity (Scotland) Act 2000

2000 asp 4

## PART 6

### INTERVENTION ORDERS AND GUARDIANSHIP ORDERS

#### *Functions etc. of guardian*

#### **70 Non-compliance with decisions of guardian with welfare powers**

- (1) Where any decision of a guardian with powers relating to the personal welfare of the adult is not complied with by the adult <sup>F1</sup> . . . , and the adult <sup>F2</sup> . . . might reasonably be expected to comply with the decision, the sheriff may, on an application by the guardian—
  - (a) make an order ordaining the adult <sup>F3</sup> . . . to implement the decision of the guardian;
  - (b) where the non-compliance relates to a decision of the guardian as to the place of residence of the adult, grant a warrant authorising a constable—
    - (i) to enter any premises where the adult is, or is reasonably supposed to be;
    - (ii) to apprehend the adult and to remove him to such place as the guardian may direct.
- (2) Where any decision of a guardian with powers relating to the personal welfare of the adult is not complied with by any person other than the adult, and that person might reasonably be expected to comply with the decision, the sheriff may, on an application by the guardian make an order ordaining the person named in the order to implement the decision of the guardian.
- (3) On receipt of an application in the prescribed form for an order or warrant under subsection (1) or for an order under subsection (2), the court shall intimate the application to the adult or, as the case may be, to the person named in the application as a person against whom the order or warrant is sought and shall advise them of the prescribed period within which they may object to the granting of the application; and

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*Changes to legislation: There are currently no known outstanding effects for the Adults with Incapacity (Scotland) Act 2000, Section 70. (See end of Document for details)*

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the sheriff shall not grant the order or warrant without affording to any objector an opportunity of being heard.

(4) Having heard any objections as mentioned in subsection (3), the sheriff may grant the application.

[<sup>F4</sup>(4A) The sheriff may, on cause shown, disapply or modify the application of—

- (a) subsection (3); and
- (b) subsection (4) in so far as it requires the sheriff to hear objections.]

(5) A constable executing a warrant under subsection (1)(b) may use such force as is reasonable in the circumstances and shall be accompanied by the guardian or such person as the guardian may authorise in writing.

(6) In this section any reference to a guardian shall include a reference to a guardian (however called) appointed under the law of any country to, or entitled under the law of any country to act for, an adult during his incapacity, if the guardianship is recognised by the law of Scotland.

#### Textual Amendments

- F1** Words in s. 70(1) repealed (5.10.2007) by [Adult Support and Protection \(Scotland\) Act 2007 \(asp 10\)](#), [ss. 60\(8\)\(a\)](#), 79; [S.S.I. 2007/334](#), [art. 2\(b\)](#), Sch. 2 (with savings in arts. 4-6)
- F2** Words in s. 70(1) repealed (5.10.2007) by [Adult Support and Protection \(Scotland\) Act 2007 \(asp 10\)](#), [ss. 60\(8\)\(a\)](#), 79; [S.S.I. 2007/334](#), [art. 2\(b\)](#), Sch. 2 (with savings in arts. 4-6)
- F3** Words in s. 70(1) repealed (5.10.2007) by [Adult Support and Protection \(Scotland\) Act 2007 \(asp 10\)](#), [ss. 60\(8\)\(a\)](#), 79; [S.S.I. 2007/334](#), [art. 2\(b\)](#), Sch. 2 (with savings in arts. 4-6)
- F4** S. 70(4A) inserted (5.10.2007) by [Adult Support and Protection \(Scotland\) Act 2007 \(asp 10\)](#), [ss. 60\(8\)\(b\)](#), 79; [S.S.I. 2007/334](#), [art. 2\(b\)](#), Sch. 2 (with savings in arts. 4-6)

**Changes to legislation:**

There are currently no known outstanding effects for the Adults with Incapacity (Scotland) Act 2000, Section 70.