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SCOTTISH STATUTORY INSTRUMENTS

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**2003 No. 266**

**The Adults with Incapacity (Management of Residents' Finances) (No. 2) (Scotland) Regulations 2003**

**Evidence to be taken into account under section 37(8) of the Act**

3.—(1) The evidence which the supervisory body shall take into account in reaching a decision under section 37(8) of the Act (as to whether a direction should be given authorising the managers of an authorised establishment to dispense with certain matters) shall be the evidence provided in two certificates, each signed by a medical practitioner certifying as to whether or not, in the opinion of that medical practitioner, it would pose a serious risk to the health of the resident for the resident to be—

- (a) notified that the resident is to be examined under section 37(2) of the Act;
- (b) sent a copy of the certificate issued by a medical practitioner under that section (certificate of incapacity of managing affairs); or
- (c) notified that the managers of the authorised establishment intend to manage the resident's affairs.

(2) A certificate granted under paragraph (1) shall be in the form set out in Schedule 2 to these Regulations.

(3) Each certificate under paragraph (1) shall be prepared and signed by a medical practitioner who has examined the resident outwith the presence of the other medical practitioner.

(4) Section 37(6) applies to a medical practitioner who certifies under paragraph (1) as it applies to a medical practitioner who certifies under section 37.

(5) In any case in which the resident's incapacity is wholly or partly by reason of mental disorder, at least one of the certificates under paragraph (1) shall be signed by a medical practitioner who is a practitioner approved for the purposes of section 20 of the Mental Health (Scotland) Act 1984(1) as having special experience in the diagnosis or treatment of mental disorder.