

## **EXECUTIVE NOTE**

### **NATIONAL HEALTH SERVICE, SCOTLAND**

#### **The Adults with Incapacity (Requirements for Signing Medical Treatment Certificates) (Scotland) Regulations 2007 S.S.I. 2007/105**

This instrument was made in exercise of the powers conferred by section 47 (1A)(b) of the Adults with Incapacity (Scotland) Act 2000. It is subject to negative resolution procedure.

#### **Background**

The Adults with Incapacity (Scotland) Act 2000 (“the Act”) allows an adult who is not capable of giving informed consent to be given necessary medical treatment, provided that a certificate under section 47(1) of the Act has been issued. The Act originally required that a registered medical practitioner sign the certificate.

A consultation on the operation of the Act in practice suggested that it would be appropriate to allow dental practitioners, ophthalmic opticians, registered nurses and other clinicians who have received training in the assessment of incapacity to sign certificates. The Act was therefore amended by the Smoking, Health and Social Care (Scotland) Act 2005 to allow in addition to general medical practitioners, dental practitioners, ophthalmic opticians, registered nurses and any other class of individual as may be prescribed in regulations by the Scottish Ministers, who have received appropriate training, to sign certificates.

#### **Policy Objectives**

The purpose of this instrument is to lay down the training requirements to be satisfied by relevant health professionals so that they may sign certificates under Section 47(1) of the Act to allow incapable persons to be given necessary medical treatment. This will increase the number of practitioners who are able to sign certificates and reduce the workload of general medical practitioners in connection with Section 47 (1).

#### **Consultation**

The amendments to the Act were introduced after consultation with the NHS and other stakeholders on the operation of the Act in practice. Since the Regulations implement the outcome of that consultation no further consultation has been carried out.

#### **Financial Effects**

There will be minimal financial effects for the NHS.

Scottish Executive Health Department  
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