
SCOTTISH STATUTORY INSTRUMENTS

2008 No. 53

The Adults with Incapacity (Recall of Guardians' Powers) (Scotland) Amendment Regulations 2008

Amendment of the Adults with Incapacity (Recall of Guardians' Powers) (Scotland) Regulations 2002

2.—(1) The Adults with Incapacity (Recall of Guardians' Powers) (Scotland) Regulations 2002⁽¹⁾ are amended as follows.

(2) In Schedule 1 (application to Mental Welfare Commission for recall of powers of a guardian relating to personal welfare)—

(a) at the end of Part B insert—

“Note: The Mental Welfare Commission may not be asked to recall welfare powers other than those granted in cases where the adult’s incapacity is by reason of, or reasons which include, mental disorder.”; and

(b) in Part E after paragraph 3 insert as paragraph 3A the text in the Schedule.

(3) In Schedule 2 (application to local authority for recall of powers of a guardian relating to personal welfare)—

(a) in Part A delete the footnote; and

(b) in Part E after paragraph 3 insert as paragraph 3A the text in the Schedule.

(4) In Schedule 4 (intimation by Mental Welfare Commission of (i) application or (ii) intention to recall powers of a guardian relating to personal welfare) at the end under the heading “Notes on Part A” and after “(c) the adult’s primary carer;” insert “(ca) the adult’s named person;”⁽²⁾.

(5) In Schedule 5 (intimation by local authority of (i) application or (ii) intention to recall powers of a guardian relating to personal welfare) at the end under the heading “Notes on Part A” and after “(c) the adult’s primary carer;” insert “(ca) the adult’s named person;”⁽³⁾.

⁽¹⁾ S.S.I. 2002/97.

⁽²⁾ The Mental Health (Care and Treatment) (Scotland) Act 2003 (Modification of Enactments) Order (S.S.I. 2005/465), Schedule 1, paragraph 28(2) inserted “named person” in section 1(4) of the Adults with Incapacity (Scotland) Act 2000 as one of those persons whose views should be taken account of in determining if an intervention is to be made.

⁽³⁾ The Mental Health (Care and Treatment) (Scotland) Act 2003 (Modification of Enactments) Order (S.S.I. 2005/465), Schedule 1, paragraph 28(2) inserted “named person” in section 73 of the Adults with Incapacity (Scotland) Act 2000 as one of those persons to whom intimation of an application for recall should be given.