



# Adults with Incapacity (Scotland) Act 2000

2000 asp 4

## ADULTS WITH INCAPACITY (SCOTLAND) ACT 2000

### PART 1

#### GENERAL

##### *General*

- 1 General principles and fundamental definitions

##### *Judicial proceedings*

- 2 Applications and other proceedings and appeals
- 3 Powers of sheriff
- 4 Power of Court of Session or sheriff with regard to nearest relative
- 5 Safeguarding of interests in Court of Session appeals or proceedings

##### *The Public Guardian*

- 6 The Public Guardian and his functions
- 7 The Public Guardian: further provision

##### *Expenses in court proceedings*

- 8 Expenses in court proceedings

##### *The Mental Welfare Commission*

- 9 Functions of the Mental Welfare Commission

##### *Local authorities*

- 10 Functions of local authorities

*Intimation*

- 11 Intimation not required in certain circumstances

*Investigations*

- 12 Investigations

*Codes of practice*

- 13 Codes of practice

*Appeal against decision as to incapacity*

- 14 Appeal against decision as to incapacity

**PART 2****CONTINUING POWERS OF ATTORNEY AND WELFARE POWERS OF ATTORNEY**

- 15 Creation of continuing power of attorney  
16 Creation and exercise of welfare power of attorney  
17 Attorney not obliged to act in certain circumstances  
18 Power of attorney not granted in accordance with this Act  
19 Registration of continuing or welfare power of attorney  
20 Powers of sheriff  
21 Records: attorneys  
22 Notification to Public Guardian  
23 Resignation of continuing or welfare attorney  
24 Termination of continuing or welfare power of attorney

**PART 3****ACCOUNTS AND FUNDS**

- 25 Authority to intromit with funds  
26 Application for authority to intromit  
27 Notification of change of address  
28 Purposes of intromissions with funds  
29 Withdrawal and use of funds  
30 Records and inquiries  
31 Duration and termination of registration  
32 Joint accounts  
33 Transfer of funds  
34 Disapplication of Part 3

**PART 4****MANAGEMENT OF RESIDENTS' FINANCES**

- 35 Application of Part 4  
36 Registration for purposes of managing residents' finances  
37 Residents whose affairs may be managed  
38 Financial procedures and controls in registered establishments  
39 Matters which may be managed  
40 Supervisory bodies  
41 Duties and functions of managers of authorised establishment  
42 Authorisation of named manager to withdraw from resident's account

- 43 Statement of resident's affairs
- 44 Resident ceasing to be resident of authorised establishment
- 45 Appeal, revocation etc
- 46 Disapplication of Part 4

## **PART 5**

### **MEDICAL TREATMENT AND RESEARCH**

- 47 Authority of persons responsible for medical treatment
- 48 Exceptions to authority to treat
- 49 Medical treatment where there is an application for intervention or guardianship order
- 50 Medical treatment where guardian etc. has been appointed
- 51 Authority for research
- 52 Appeal against decision as to medical treatment

## **PART 6**

### **INTERVENTION ORDERS AND GUARDIANSHIP ORDERS**

#### *Intervention orders*

- 53 Intervention orders
- 54 Records: intervention orders
- 55 Notification of change of address
- 56 Registration of intervention order relating to heritable property

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- 57 Application for guardianship order
- 58 Disposal of application
- 59 Who may be appointed as guardian
- 60 Renewal of guardianship order by sheriff
- 61 Registration of guardianship order relating to heritable property

#### *Joint and substitute guardians*

- 62 Joint guardians
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#### *Functions etc. of guardian*

- 64 Functions and duties of guardian
- 65 Records: guardians
- 66 Gifts
- 67 Effect of appointment and transactions of guardian
- 68 Reimbursement and remuneration of guardian
- 69 Forfeiture of guardian's remuneration
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#### *Termination and variation of guardianship and replacement, removal or resignation of guardian*

- 71 Replacement or removal of guardian or recall of guardianship by sheriff
- 72 Discharge of guardian with financial powers
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- 74 Variation of guardianship order
- 75 Resignation of guardian
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*Termination of authority to intervene and guardianship on death of adult*

- 77 Termination of authority to intervene and guardianship on death of adult
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**PART 7**

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- 80 Future appointment of curator bonis etc. incompetent
- 81 Repayment of funds
- 82 Limitation of liability
- 83 Offence of ill-treatment and wilful neglect
- 84 Application to guardians appointed under Criminal Procedure (Scotland) Act 1995
- 85 Jurisdiction and private international law
- 86 Regulations
- 87 Interpretation
- 88 Continuation of existing powers, minor and consequential amendments and repeals
- 89 Citation and commencement

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**SCHEDULE 1 — MANAGERS OF AN ESTABLISHMENT**

- 1 For the purposes of Part 4 “the managers” of an establishment...
- 2 The Scottish Ministers may by regulations amend the list of...

**SCHEDULE 2 — MANAGEMENT OF ESTATE OF ADULT**

- 1 Management plan
- 2 Directions from sheriff
- 3 Inventory of estate
- 4 Money
- 5 Powers relating to investment and carrying on of business by guardian
- 6 Purchase or disposal of accommodation
- 7 Accounting and auditing
- 8 Approval of accounts

**SCHEDULE 3 — JURISDICTION AND PRIVATE INTERNATIONAL LAW**

- 1 General
- 2 Appropriate sheriff
- 3 Applicable law
- 4 (1) The law governing the existence, extent, modification and extinction...
- 5 Nothing in this schedule displaces any enactment or rule of...
- 6 Nothing in this schedule requires or enables the application in...
- 7 Recognition and enforcement
- 8 (1) A measure which is enforceable in the country of...

- 9 (1) For the purposes of recognition or enforcement of a...
- 10 (1) The Scottish Ministers may, by order, provide for the...
- 11 Co-operation, avoidance of conflict of jurisdiction and compliance with the Convention
- 12 General
- 13 Orders or regulations under this schedule shall be made by...
- 14 In this schedule— “the Convention” means the Hague Convention of...

#### SCHEDULE 4 — CONTINUATION OF EXISTING CURATORS, TUTORS, GUARDIANS AND ATTORNEYS UNDER THIS ACT

- 1 Curators and tutors
- 2 Guardians
- 3 Proceedings relating to existing appointments
- 4 Attorneys
- 5 Managers
- 6 Application of Act to persons who become guardians by virtue of this schedule
- 7 Transitional Provisions
- 8 Interpretation

#### SCHEDULE 5 — MINOR AND CONSEQUENTIAL AMENDMENTS

- 1 General
- 2 Defence Act 1842 (c. 94)
- 3 Judicial Factors Act 1849 (c. 51)
- 4 Improvement of Land Act 1864 (c. 114)
- 5 Titles to Land (Consolidation) (Scotland) Act 1868 (c. 101)
- 6 Judicial Factors (Scotland) Act 1889 (c. 39)
- 7 Heritable Securities (Scotland) Act 1894 (c. 44)
- 8 National Assistance Act 1948 (c. 29)
- 9 Offices, Shops and Railway Premises Act 1963 (c. 41)
- 10 Social Work (Scotland) Act 1968 (c. 49)
- 11 In section 68(1) of that Act after “persons” where second...
- 12 Medicines Act 1968 (c. 67)
- 13 Sheriff Courts (Scotland) Act 1971 (c. 58)
- 14 Land Registration (Scotland) Act 1979 (c. 33)
- 15 Solicitors (Scotland) Act 1980 (c. 46)
- 16 Law Reform (Miscellaneous Provisions) (Scotland) Act 1980 (c. 55)
- 17 Mental Health (Scotland) Act 1984 (c. 36)
- 18 Insolvency Act 1986 (c. 45)
- 19 Legal Aid (Scotland) Act 1986 (c. 47)
- 20 Financial Services Act 1986 (c. 60)
- 21 Access to Health Records Act 1990 (c. 23)
- 22 Child Support Act 1991 (c. 48)
- 23 Social Security Administration Act 1992 (c. 5)
- 24 Health Service Commissioners Act 1993 (c. 46)
- 25 Clean Air Act 1993 (c. 11)
- 26 Criminal Procedure (Scotland) Act 1995 (c. 46)

#### SCHEDULE 6 — REPEALS