

*These notes relate to the Adults with Incapacity (Scotland)  
Act 2000 (asp 4) which received Royal Assent on 9 May 2000*

# **ADULTS WITH INCAPACITY (SCOTLAND) ACT 2000**

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## **EXPLANATORY NOTES**

### **THE ACT**

#### **Part 7: Miscellaneous**

##### ***Section 87: Interpretation***

401. This section provides definitions of various terms used within the Act and includes cross-references to sections of the Act where terms are defined.
402. The definition of nearest relative is based on that in the Mental Health (Scotland) Act 1984. The nearest relative is the person first listed among the adult's spouse or partner, child, father or mother, brother or sister, grandparent, grandchild, uncle or aunt, nephew or niece.
403. Subsections (2) and (3) allow a same-sex partner to be treated as the adult's nearest relative, in the same way as the Mental Health (Scotland) Act 1984 allows an unmarried opposite-sex partner to be so treated.
404. Subsection (4) defines when a person is held to be bankrupt for the purposes of the legislation. Under common law a financial power of attorney falls on the bankruptcy of either the granter of the power or the attorney. Section 16 (7) of the Act clarifies, however, that a welfare power need not terminate if the attorney becomes bankrupt.