



Adults with Incapacity (Scotland) Act 2000

2000 asp 4

PART 4

MANAGEMENT OF RESIDENTS' FINANCES

37 Residents whose affairs may be managed

- (1) The managers of an authorised establishment shall be entitled to manage on behalf of any resident in the establishment in relation to whom a certificate has been issued under subsection (2) any of the matters set out in section 39.
- (2) Where the managers of an authorised establishment, having considered all other appropriate courses of action, have decided that management on behalf of the resident of the matters set out in section 39 by them is the most appropriate course of action, they shall cause to be examined by a medical practitioner any resident in the establishment who they believe may be incapable in relation to decisions as to, or of safeguarding his interest in, any of the resident's affairs referred to in section 39; and if the medical practitioner finds that the resident is so incapable he shall issue a certificate in prescribed form to that effect.
- (3) Subject to subsection (8), the managers of the authorised establishment shall intimate their intention of requiring an examination under subsection (2) to the resident and to the resident's nearest relative [^{F1}and named person].
- (4) Subject to subsection (8), the managers of the authorised establishment shall—
 - (a) send a copy of the certificate to the resident and to the supervisory body, who shall notify the resident's nearest relative [^{F2}and named person];
 - (b) notify the resident and the supervisory body that they intend to manage the resident's affairs.
- (5) Notification under subsection (4)(b) shall include a statement as to what other courses of action had been considered and why they were not considered appropriate.
- (6) The medical practitioner who certifies under this section shall not—

Changes to legislation: There are currently no known outstanding effects for the Adults with Incapacity (Scotland) Act 2000, Section 37. (See end of Document for details)

- (a) be related to the resident or to any of the managers of the authorised establishment;
 - (b) have any direct or indirect financial interest in the authorised establishment.
- (7) A certificate—
- (a) shall be reviewed where it appears to the managers of the authorised establishment, the medical practitioner who certifies under this section or any person having an interest in any of the resident's affairs mentioned in section 39 that there has been any change in the condition or circumstances of the resident bearing on the resident's incapacity; and
 - (b) shall expire 3 years after it was issued.
- (8) If the managers of the authorised establishment consider that intimation to the resident under subsection (3) or any action under subsection (4) would be likely to pose a serious risk to the health of the resident they may apply to the supervisory body for a direction that they need not make the intimation or take the action.
- (9) The Scottish Ministers may prescribe the evidence which the supervisory body shall take into account in reaching a decision under subsection (8).

Textual Amendments

- F1** Words in s. 37(3) inserted (27.9.2005) by [The Mental Health \(Care and Treatment\) \(Scotland\) Act 2003 \(Modification of Enactments\) Order 2005 \(S.S.I. 2005/465\)](#), art. 2, **Sch. 1 para. 28(4)(a)**
- F2** Words in s. 37(4)(a) inserted (27.9.2005) by [The Mental Health \(Care and Treatment\) \(Scotland\) Act 2003 \(Modification of Enactments\) Order 2005 \(S.S.I. 2005/465\)](#), **art. 2** {Sch. 1 para. 28(4)(b)};

Modifications etc. (not altering text)

- C1** S. 37(6) applied (1.10.2003) by [The Adults with Incapacity \(Management of Residents' Finances\) \(No. 2\) \(Scotland\) Regulations 2003 \(S.S.I. 2003/266\)](#), **reg. 3(4)**

Commencement Information

- I1** S. 37 wholly in force at 1.10.2003; s. 37 not in force at Royal Assent see s. 89(2); s. 37(2)(9) in force for specified purposes at 6.3.2003 by [S.S.I. 2003/136](#), **art. 2**; s. 37(2)(9) in force for further specified purposes at 29.5.2003 by [S.S.I. 2003/267](#), **art. 2(1)**; s. 37 in force in so far as not already in force at 1.10.2003 by [S.S.I. 2003/267](#), **art. 2(2)**

Changes to legislation:

There are currently no known outstanding effects for the Adults with Incapacity (Scotland) Act 2000, Section 37.