



# Adults with Incapacity (Scotland) Act 2000

2000 asp 4

## PART 7

### MISCELLANEOUS

#### 87 Interpretation

(1) In this Act, unless the context otherwise requires—

- “adult” shall be construed in accordance with section 1;
- “continuing attorney” shall be construed in accordance with section 15;
- “guardianship order” shall be construed in accordance with section 58;
- “incapable” and “incapacity” shall be construed in accordance with section 1;
- “intervention order” shall be construed in accordance with section 53;
- “local authority” means a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994 (c.39), and references to a local authority shall be construed as references to the local authority for the area in which the adult resides;
- “managers of an establishment” shall be construed in accordance with schedule 1;
- “mental disorder” [<sup>F1</sup>has the meaning given by section 328 of the 2003 Act];
- [<sup>F2</sup>“mental health officer” has the meaning given by section 329 of the 2003 Act;]
- “Mental Welfare Commission” means the Mental Welfare Commission for Scotland continued in being by [<sup>F3</sup>section 4 of the 2003 Act];
- [<sup>F4</sup>“named person” has the meaning given by section 329 of the 2003 Act;]
- “nearest relative” [<sup>F5</sup>has the meaning given by section 254 of the 2003 Act];
- “office holder”, in relation to a guardian, means the chief social work officer of the local authority;
- “person claiming an interest” includes the local authority, the Mental Welfare Commission and the Public Guardian;
- “power of attorney” includes a factory and commission;
- [<sup>F6</sup>“practising solicitor” means a solicitor holding a practising certificate issued in accordance with Part 2 of the Solicitors (Scotland) Act 1980 (c. 46);]

*Changes to legislation: There are currently no known outstanding effects for the Adults with Incapacity (Scotland) Act 2000, Section 87. (See end of Document for details)*

“prescribe”, except for the purposes of anything which may be or is to be prescribed by the Public Guardian, means prescribe by regulations; and “prescribed” shall be construed accordingly;

“primary carer” in relation to an adult, means the person or organisation primarily engaged in caring for him;

“Public Guardian” shall be construed in accordance with section 6;

“State hospital” shall be construed in accordance with section 102 of the National Health Service (Scotland) Act 1978 (c.29);

“substitute guardian” shall be construed in accordance with section 63;

“welfare attorney” shall be construed in accordance with section 16;

“withdrawer” shall be construed in accordance with section 26;

“the 1984 Act” means the Mental Health (Scotland) Act 1984 (c.36).

[<sup>F7</sup>“the 2003 Act” means the Mental Health (Care and Treatment)(Scotland) Act 2003 (asp 13).]

- [<sup>F8</sup>(1A) Any power under this Act to prescribe anything by regulations is exercisable by the Scottish Ministers.]
- (2) <sup>F9</sup> .....
- (3) <sup>F10</sup> .....
- (4) For the purposes of this Act, a person is bankrupt if his estate has been sequestrated for insolvency or he has granted a trust deed which has become a protected trust deed under Schedule [<sup>F11</sup>4 of the Bankruptcy (Scotland) Act 2016], or he has been adjudged bankrupt in England and Wales, or he has become bankrupt (however expressed) under the law of any other country.

#### Textual Amendments

- F1** S. 87(1): words in definition of "mental disorder" substituted (5.10.2005) by [Mental Health \(Care and Treatment\) \(Scotland\) Act 2003 \(asp 13\)](#), ss. 331(1), 333(2)-(4), **Sch. 4 para. 9(5)(a)**; S.S.I. 2005/161, **art. 3**
- F2** S. 87(1): definition of "mental health officer" inserted (5.10.2005) by [Mental Health \(Care and Treatment\) \(Scotland\) Act 2003 \(asp 13\)](#), ss. 331(1), 333(2)-(4), **Sch. 4 para. 9(5)(b)**; S.S.I. 2005/161, **art. 3**
- F3** S. 87(1): words in definition of "Mental Welfare Commission" substituted (5.10.2005) by [Mental Health \(Care and Treatment\) \(Scotland\) Act 2003 \(asp 13\)](#), ss. 331(1), 333(2)-(4), **Sch. 4 para. 9(5)(c)**; S.S.I. 2005/161, **art. 3**
- F4** S. 87(1): definition of "named person" inserted (27.9.2005) by [The Mental Health \(Care and Treatment\) \(Scotland\) Act 2003 \(Modification of Enactments\) Order 2005 \(S.S.I. 2005/ 465\)](#), arts. 1, 2, {Sch. 1 para. 28(9)}
- F5** S. 87(1): words in definition of "nearest relative" substituted (5.10.2005) by [Mental Health \(Care and Treatment\) \(Scotland\) Act 2003 \(asp 13\)](#), ss. 331(1), 333(2)-(4), **Sch. 4 para. 9(5)(d)**; S.S.I. 2005/161, **art. 3**
- F6** S. 87(1): definition of "practising solicitor" inserted (5.10.2007) by [Adult Support and Protection \(Scotland\) Act 2007 \(asp 10\)](#), **ss. 57(9)**, 79; S.S.I. 2007/334, **art. 2(b)**, Sch. 2 (with savings in arts. 4-6)
- F7** S. 87(1): definition of "the 2003 Act" inserted (5.10.2005) by [Mental Health \(Care and Treatment\) \(Scotland\) Act 2003 \(asp 13\)](#), ss. 331(1), 333(2)-(4), **Sch. 4 para. 9(5)(e)**; S.S.I. 2005/161, **art. 3**
- F8** S. 87(1A) inserted (5.10.2007) by [Adult Support and Protection \(Scotland\) Act 2007 \(asp 10\)](#), ss. 77(1), 79, **Sch. 1 para. 5(e)**; S.S.I. 2007/334, **art. 2(b)**, Sch. 2 (with savings in arts. 4-6)

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- F9** S. 87(2)(3) repealed (5.10.2005) by Mental Health (Care and Treatment) (Scotland) Act 2003 (asp 13), ss. 331(1), 333(2)-(4), **Sch. 5**; S.S.I. 2005/161, **art. 3**; S. 87(2)(3) expressed to be repealed by Civil Partnership Act 2004 (c. 33), ss. 261(4), 263, **Sch. 30**; S.S.I. 2005/604, **art. 2**
- F10** S. 87(2)(3) repealed (5.10.2005) by Mental Health (Care and Treatment) (Scotland) Act 2003 (asp 13), ss. 331(1), 333(2)-(4), **Sch. 5**; S.S.I. 2005/161, **art. 3**; S. 87(2)(3) expressed to be repealed by Civil Partnership Act 2004 (c. 33), ss. 261(4), 263, **Sch. 30**; S.S.I. 2005/604, **art. 2**
- F11** Words in s. 87(4) substituted (30.11.2016) by Bankruptcy (Scotland) Act 2016 (asp 21), s. 237(2), **sch. 8 para. 16** (with ss. 232, 234(3), 235, 236); S.S.I. 2016/294, reg. 2

**Changes to legislation:**

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