



# Adults with Incapacity (Scotland) Act 2000

2000 asp 4

## PART 1

### GENERAL

#### *The Mental Welfare Commission*

#### **9 Functions of the Mental Welfare Commission**

- (1) <sup>F1</sup> . . . The Mental Welfare Commission shall have the following general functions under this Act in relation to any adult to whom this Act applies by reason of, or by reasons which include, mental disorder—
- (a) <sup>F2</sup> .....
  - (b) <sup>F2</sup> .....
  - (c) to consult the Public Guardian and any local authority on cases or matters relating to the exercise of functions under this Act in which there is, or appears to be, a common interest;
  - (d) where they are not satisfied with any investigation made by a local authority into a complaint made under section 10(1)(c), or where the local authority have failed to investigate the complaint, to receive and investigate any complaints relating to the exercise of functions relating to the personal welfare of the adult made—
    - (i) in relation to welfare attorneys;
    - (ii) in relation to guardians or persons authorised under intervention orders;
  - (e) <sup>F2</sup> .....
  - (f) <sup>F2</sup> .....
  - (g) to provide a guardian, welfare attorney or person authorised under an intervention order, when requested to do so, with information and advice in connection with the performance of his functions in relation to personal welfare under this Act.

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*Changes to legislation: There are currently no known outstanding effects for the Adults with Incapacity (Scotland) Act 2000, Cross Heading: The Mental Welfare Commission. (See end of Document for details)*

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- (2) A guardian or welfare attorney of such an adult or a person authorised under an intervention order in relation to such an adult or the local authority shall afford the Mental Welfare Commission all facilities necessary to enable them to carry out their functions in respect of the adult.
- (3) In subsection (1)(d) any reference to—
- (a) a guardian shall include a reference to a guardian (however called) appointed under the law of any country to, or entitled under the law of any country to act for, an adult during his incapacity, if the guardianship is recognised by the law of Scotland;
  - (b) a welfare attorney shall include a reference to a person granted, under a contract, grant or appointment governed by the law of any country, powers (however expressed) relating to the granter’s personal welfare and having effect during the granter’s incapacity.
- [<sup>F3</sup>(4) In subsection (1)(c), where a function under this Act is delegated by a local authority to a person in pursuance of an integration scheme prepared under section 1 or 2 of the Public Bodies (Joint Working) (Scotland) Act 2014, the reference to a local authority includes a reference to that person.
- (5) In subsection (1)(d), where a function under section 10(1)(c) is delegated by a local authority in pursuance of an integration scheme prepared under section 1 or 2 of the Public Bodies (Joint Working) (Scotland) Act 2014, the references to a local authority are to be read as if they were references to the person to whom the function is delegated.]

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#### Textual Amendments

- F1** Words in s. 9(1) repealed (5.10.2005) by [Mental Health \(Care and Treatment\) \(Scotland\) Act 2003 \(asp 13\)](#), ss. 331, 333(3), [Sch. 5](#); S.S.I. 2005/161, [art. 3](#)
- F2** S. 9(1)(a)(b)(e)(f) repealed (5.10.2005) by [Mental Health \(Care and Treatment\) \(Scotland\) Act 2003 \(asp 13\)](#), ss. 331, 333(3), [Sch. 5](#); S.S.I. 2005/161, [art. 3](#)
- F3** S. 9(4)(5) inserted (1.4.2015) by [The Public Bodies \(Joint Working\) \(Scotland\) Act 2014 \(Consequential Modifications and Saving\) Order 2015 \(S.S.I. 2015/157\)](#), art. 1(1), [sch. para. 4\(3\)](#)
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#### Commencement Information

- I1** S. 9 wholly in force at 1.4.2002; s. 9(1)(a)-(c)(d)(i)(e)(f)(g)(2) in force for specified purposes and s. 9(3)(b) wholly in force at 2.4.2001 by [S.S.I. 2001/81](#), art. 2, [Sch. 1](#); s. 9 in force in so far as not already in force at 1.4.2002 by [S.S.I. 2001/81](#), art. 3, [Sch. 2](#)

**Changes to legislation:**

There are currently no known outstanding effects for the Adults with Incapacity (Scotland) Act 2000, Cross Heading: The Mental Welfare Commission.