



# Adults with Incapacity (Scotland) Act 2000

2000 asp 4

## PART 1

### GENERAL

#### *Judicial proceedings*

#### **3 Powers of sheriff**

- (1) In an application or any other proceedings under this Act, the sheriff may make such consequential or ancillary order, provision or direction as he considers appropriate.
- (2) Without prejudice to the generality of subsection (1) or to any other powers conferred by this Act, the sheriff may—
  - (a) make any order granted by him subject to such conditions and restrictions as appear to him to be appropriate;
  - (b) order that any reports relating to the person who is the subject of the application or proceedings be lodged with the court or that the person be assessed or interviewed and that a report of such assessment or interview be lodged;
  - (c) make such further inquiry or call for such further information as appears to him to be appropriate;
  - (d) make such interim order as appears to him to be appropriate pending the disposal of the application or proceedings.
- (3) On an application by any person (including the adult himself) claiming an interest in the property, financial affairs or personal welfare of an adult, the sheriff may give such directions to any person exercising—
  - (a) functions conferred by this Act; or
  - (b) functions of a like nature conferred by the law of any country,as to the exercise of those functions and the taking of decisions or action in relation to the adult as appear to him to be appropriate.

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*Changes to legislation: There are currently no known outstanding effects for the Adults with Incapacity (Scotland) Act 2000, Section 3. (See end of Document for details)*

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- (4) In an application or any other proceedings under this Act, the sheriff—
- (a) shall consider whether it is necessary to appoint a person for the purpose of safeguarding the interests of the person who is the subject of the application or proceedings; and
  - (b) without prejudice to any existing power to appoint a person to represent the interests of the person who is the subject of the application or proceedings may, if he thinks fit, appoint a person to act for the purpose specified in paragraph (a).
- (5) Safeguarding the interests of a person shall, for the purposes of subsection (4), include conveying his views so far as they are ascertainable to the sheriff; but if the sheriff considers that it is inappropriate that a person appointed to safeguard the interests of another under this section should also convey that other's views to the sheriff, the sheriff may appoint another person for that latter purpose only.
- [<sup>F1</sup>(5A) In determining an application or any other proceedings under this Act, the sheriff shall, without prejudice to the generality of section 1(4)(a), take account of the wishes and feelings of the adult who is the subject of the application or proceedings so far as they are expressed by a person providing independent advocacy services.
- (5B) In subsection (5A), “independent advocacy services” has the same meaning as it has in section 259(1) of the Mental Health (Care and Treatment) (Scotland) Act 2003 (asp 13).]
- (6) The sheriff may, on an application by—
- (a) the person authorised under the order;
  - (b) the adult; or
  - (c) any person entitled to apply for the order,
- make an order varying the terms of an order granted under subsection (2)(a).

#### Textual Amendments

**F1** S. 3(5A)(5B) inserted (5.10.2007) by Adult Support and Protection (Scotland) Act 2007, {ss. 55}, 79; S.S.I. 2007/334, **art. 2(b)**, Sch. 2 (with savings in arts. 4-6)

**Changes to legislation:**

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