



Adults with Incapacity (Scotland) Act 2000

2000 asp 4

PART 1 **S**

GENERAL

Judicial proceedings

4 Power of Court of Session or sheriff with regard to nearest relative **S**

- (1) ^{F1} . . . the court may, having regard to section 1 and being satisfied that to do so will benefit [^{F2}an adult with incapacity], make an order that—
- (a) certain information shall not be disclosed, or intimation of certain applications shall not be given, to the nearest relative of the adult;
 - (b) the functions of the nearest relative of the adult shall, during the continuance in force of the order, be exercised by a person, specified in the [^{F3}order], who is not the nearest relative of the adult but who—
 - (i) is a person who would otherwise be entitled to be the nearest relative in terms of this Act;
 - (ii) in the opinion of the court is a proper person to act as the nearest relative; and
 - (iii) is willing to so act; or
 - (c) no person shall, during the continuance in force of the order, exercise the functions of the nearest relative.
- (2) An order made under subsection (1) shall apply only to the exercise of the functions under this Act of the nearest relative.
- (3) The court may ^{F4} . . . make an order varying the terms of an order granted under subsection (1).
- [^{F5}(3A) The court may make an order under subsection (1) or (3) only on the application of—
- (a) the adult to whom the application relates; or

Changes to legislation: There are currently no known outstanding effects for the Adults with Incapacity (Scotland) Act 2000, Section 4. (See end of Document for details)

- (b) any person claiming an interest in that adult's property, financial affairs or personal welfare.
- (3B) The court may dispose of an application for an order under subsection (1) or (3) by making—
- (a) the order applied for; or
- (b) such other order under this section as it thinks fit.]
- (4) ^{F6}

Textual Amendments

- F1** Words in s. 4(1) repealed (5.10.2007) by [Adult Support and Protection \(Scotland\) Act 2007 \(asp 10\)](#), [ss. 56\(2\)\(a\)](#), 79; [S.S.I. 2007/334](#), [art. 2\(b\)](#), Sch. 2 (with savings in arts. 4-6)
- F2** Words in s. 4(1) substituted (5.10.2007) by [Adult Support and Protection \(Scotland\) Act 2007 \(asp 10\)](#), [ss. 56\(2\)\(b\)](#), 79; [S.S.I. 2007/334](#), [art. 2\(b\)](#), Sch. 2 (with savings in arts. 4-6)
- F3** Words in s. 4(1) substituted (5.10.2007) by [Adult Support and Protection \(Scotland\) Act 2007 \(asp 10\)](#), [ss. 56\(2\)\(c\)](#), 79; [S.S.I. 2007/334](#), [art. 2\(b\)](#), Sch. 2 (with savings in arts. 4-6)
- F4** Words in s. 4(3) repealed (5.10.2007) by [Adult Support and Protection \(Scotland\) Act 2007 \(asp 10\)](#), [ss. 56\(3\)](#), 79; [S.S.I. 2007/334](#), [art. 2\(b\)](#), Sch. 2 (with savings in arts. 4-6)
- F5** S. 4(3A)(3B) inserted (5.10.2007) by [Adult Support and Protection \(Scotland\) Act 2007 \(asp 10\)](#), [ss. 56\(4\)](#), 79; [S.S.I. 2007/334](#), [art. 2\(b\)](#), Sch. 2 (with savings in arts. 4-6)
- F6** S. 4(4) repealed (5.10.2007) by [Adult Support and Protection \(Scotland\) Act 2007 \(asp 10\)](#), [ss. 56\(5\)](#), 79; [S.S.I. 2007/334](#), [art. 2\(b\)](#), Sch. 2 (with savings in arts. 4-6)

Changes to legislation:

There are currently no known outstanding effects for the Adults with Incapacity (Scotland) Act 2000, Section 4.