



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” [^{F1}has the meaning given by section 328 of the 2003 Act];

[^{F2}“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 [^{F3}section 4 of the 2003 Act];

[^{F4}“named person” has the meaning given by section 329 of the 2003 Act;]

“nearest relative” [^{F5}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;

[^{F6}“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).

[^{F7}“the 2003 Act” means the Mental Health (Care and Treatment)(Scotland) Act 2003 (asp 13).]

[^{F8}(1A) Any power under this Act to prescribe anything by regulations is exercisable by the Scottish Ministers.]

(2) ^{F9}

(3) ^{F10}

(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 [^{F11}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)

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)*

- 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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