

*These notes relate to the Adults with Incapacity (Scotland)  
Act 2000 (asp 4) which received Royal Assent on 9 May 2000*

# **ADULTS WITH INCAPACITY (SCOTLAND) ACT 2000**

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## **EXPLANATORY NOTES**

### **THE ACT**

#### **Part 1: General**

#### **Local authorities**

#### ***Section 10: Functions of local authorities***

47. This section sets out the major role of the local authority in looking after the welfare of adults with incapacity. For example, subsection (1)(a) gives the local authority a duty to monitor the actions of welfare guardians to ensure that they use their powers properly. The local authority is further required to consult the Public Guardian and the Mental Welfare Commission where these authorities share common concerns about matters under the legislation. The local authority is to investigate complaints and suspicious circumstances about the exercise of welfare powers.
48. Subsection (1)(d) and subsection (2) provide for either the local authority where the adult lives or the authority in whose area they are at any time to investigate any potential risk to the adult's personal welfare of which the authority is aware.
49. Subsection (3) creates a power to make regulations about how local authorities supervise welfare attorneys and guardians and those acting under intervention orders. This corresponds to the current power under section 43 of the 1984 Act to make regulations about guardianship under that Act. The current regulations require the local authority, among other things, to visit people under guardianship at least once every 3 months.
50. Subsection (4) clarifies that local authorities can investigate complaints about the exercise of welfare powers by guardians and attorneys appointed under the law of another country, provided that their powers are recognised in Scotland and the adult either lives or is present and at risk in Scotland.