

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

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## **EXPLANATORY NOTES**

### **THE ACT**

#### **Part 5: Medical Treatment and Research**

##### ***Section 47: Authority of persons responsible for medical treatment***

169. This section provides authority to give to an adult with incapacity medical treatment aimed at maintaining or improving the physical or mental health of that adult.
170. Subsection (1) applies this section where the doctor who has overall responsibility for the medical treatment of an adult has certified that that adult is incapable in relation to a particular decision about medical treatment.
171. Subsection (2) provides that, during the validity of the certificate of incapacity, the doctor primarily responsible shall have authority to do what is reasonable in the circumstances, in relation to the medical treatment, to safeguard or promote the physical or mental health of the adult.
172. Subsection (3) permits the general authority to treat to be conferred also on any other person who is acting on behalf of the medical practitioner primarily responsible, under his instructions, or otherwise with his approval or agreement.
173. Subsection (4) defines medical treatment as including any procedure or treatment designed to safeguard or promote physical or mental health.
174. Subsection (5) makes provision regarding the certificate of incapacity. The certificate will be valid for a year, or for a shorter period, depending on the individual circumstances. Such a certificate shall be in a form to be prescribed by the Scottish Ministers in regulations.
175. Subsection (6) allows for a certificate of incapacity to be revoked, or revoked and replaced by a new certificate, if the condition or circumstances of the adult have changed.
176. Subsection (7) provides that the general authority to treat shall not allow the use of force or detention unless it is immediately necessary, and then only for as long as it is necessary. This subsection also makes clear that the general authority does not authorise any action which is contrary to a court decision, nor does it allow an adult to be placed in hospital for the treatment of mental disorder against his will.
177. Subsection (8) excludes from the general authority to treat certain treatments to be specified in regulations under section 48.
178. Subsection (9) restricts the general authority, in cases where a legal challenge has been mounted to that authority, to life saving treatment or treatment to prevent a serious deterioration in health.

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

179. Subsection (10) withdraws the general authority for a particular treatment in all cases and in all circumstances where a court order prohibiting treatment is in force.