

ADULTS WITH INCAPACITY (SCOTLAND) ACT 2000

EXPLANATORY NOTES

THE ACT

Part 5: Medical Treatment and Research

Section 50: Medical treatment where guardian etc has been appointed **51:**

Authority for research

198. This section provides that research on adults incapable of giving consent to such research may not be carried out except in particular circumstances and subject to conditions. In particular research is not permitted where it could be carried out on adults who are capable of giving consent.
199. Subsection (1) specifies the types of research covered, and provides the general prohibition of such research except in specific circumstances
200. Subsection (2) specifies the circumstances in which research may be carried out. Research must be to obtain knowledge of the causes, diagnosis, treatment or care of the adult's incapacity, or the effect of any treatment or care given to the adult during his incapacity. The further conditions specified in subsection (3) must also be fulfilled.
201. Subsection (3) defines the conditions under which research is permitted, all of which must normally be met. The research must be likely to produce real and direct benefit to the adult and the adult must not show unwillingness to participate. The research must involve only minimal risk or discomfort to the adult and have been approved by the Ethics Committee. Consent must also have been obtained from the patient's guardian or welfare attorney or nearest relative.
202. Subsection (4) provides exceptionally for the possibility that research may be carried out even where it is not likely to produce real and direct benefit to the adult. This is permitted where the research is likely to improve the scientific understanding of the adult's incapacity. The group of people suffering from that incapacity may ultimately benefit from this research. It is still necessary to comply with the conditions in subsections (1), (2) and (3)(b)-(f).
203. Subsection (5) allows the Ethics Committee to attach conditions when granting approval for research.
204. Subsection (6) provides for the regulations establishing the Ethics Committee.
205. Subsection (7) enables the Scottish Ministers to specify in regulations matters which the Ethics Committee must take into account when approving research.