

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

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## **EXPLANATORY NOTES**

### **THE ACT**

#### **Part 7: Miscellaneous**

##### ***Schedule 1: Managers of an Establishment***

411. This schedule set out in detail the definition of manager as used in relation to the establishments referred to in Part 4 of the Act.
412. [Paragraph 1](#) identifies the “managers” of a given establishment.
413. Sub-paragraph (a) provides that for a hospital managed by a Health Board (rather than a NHS Trust) the Health Board responsible for that hospital constitutes the “managers” as referred to in Part 4.
414. Sub-paragraph (b) provides that where a NHS Trust exists to run a hospital, the managers are the directors of the Trust.
415. Sub-paragraph (c) provides that in the case of a State hospital, depending upon the arrangements in place for its management, the “managers” are either the Scottish Ministers, a State Hospital Management Committee or one of the bodies referred to in (c) (iii) to whom management responsibility may be delegated. There is currently only one such establishment in Scotland, the State hospital at Carstairs which is managed by a Special Health Board, the State Hospitals Board for Scotland.
416. Sub-paragraph (d) provides that in the case of a private hospital registered under the Mental Health (Scotland) Act 1984 or an unregistered hospital, the “managers” are either the persons operating the business in question or someone appointed manager of the establishment by them. There are currently no such establishments in Scotland.
417. Sub-paragraph (e) provides that for local authority residential establishments either the local authority in question or anyone appointed by them to manage the establishment constitutes the “managers”.
418. Sub-paragraphs (f) and (g) provide that for an independent sector care establishment registered with the local authority and a nursing home registered with the Health Board respectively the “managers” shall be the individual registered as running the establishment or anyone they appoint managers so long as that person is named in the application for registration.
419. [Paragraph 2](#) provides that the Scottish Ministers may amend this list in Regulations.