

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

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## **EXPLANATORY NOTES**

### **THE ACT**

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

#### ***Schedule 6: Repeals***

448. The repeals at schedule 6 are mainly required as a consequence of the replacement of the existing offices of curator bonis, tutor-dative, tutor-at-law and Mental Health Act guardian by the new form of guardianship under this legislation. Most of the repeals are self-explanatory but specific reference is made in these Notes to the changes to the Judicial Factors Acts, the Trusts (Scotland) Act 1921 and the Mental Health (Scotland) Act 1984.
449. The repeals of provisions in the Judicial Factors Acts 1849, 1880 and 1889 remove references to curators and tutors from the Acts and the detailed accounting regime imposed on curators bonis and tutors with financial powers. This regime is replaced by the more flexible regime, provided in Part 6 and schedule 2 of the Act, tailored to the needs of each adult and supervised by the Public Guardian.
450. The repeals of references to tutors and curators in the Trusts (Scotland) Act 1921 are required because, under that Act, these office holders were treated as trustees. This Act does not confer trustee status on guardians with financial powers as it is intended that guardians should be regulated in the exercise of their powers solely by the provisions of the new legislation. References to guardians are also repealed as they were not intended to refer to guardians under this Act, nor do they refer to any other type of guardian.
451. The repeal of sections 36 to 52 of the Mental Health (Scotland) Act 1984 has the effect of abolishing Mental Health Act guardianship which is replaced by the new form of guardianship. The protective and supervisory roles of the Mental Welfare Commission and local authorities in relation to guardianship under the 1984 Act are being replaced by similar roles in relation to welfare guardians under the new legislation. The powers of hospital managers to look after money and valuables belonging to in-patients with mental disorder are being repealed, and replaced with powers in Part 4.