

Status: Point in time view as at 02/04/2001.

Changes to legislation: There are currently no known outstanding effects for the Adults with Incapacity (Scotland) Act 2000, Paragraph 7. (See end of Document for details)

SCHEDULE 3 JURISDICTION AND PRIVATE INTERNATIONAL LAW

Commencement Information

- II** Sch. 3 wholly in force at 4.11.2003; Sch. 3 not in force at Royal Assent see s. 89(2); Sch. 3 in force for specified purposes at 2.4.2001 by S.S.I. 2001/81, art. 2, Sch. 1; Sch. 3 in force in so far as not already in force at 4.11.2003 by S.S.I. 2003/516, art. 2

Recognition and enforcement

- 7 (1) Any measure taken under the law of a country other than Scotland for the personal welfare or the protection of property of an adult with incapacity shall, if one of the conditions specified in sub-paragraph (2) is met, be recognised by the law of Scotland.
- (2) These conditions are—
- (a) that the jurisdiction of the authority of the other country was based on the adult's habitual residence there;
 - (b) that the United Kingdom and the other country were, when the measure was taken, parties to the Convention and the jurisdiction of the authority of the other country was based on a ground of jurisdiction provided for in the Convention.
- (3) Recognition of a measure may, however, be refused—
- (a) if, except in a case of urgency—
 - (i) the authority which took it did so without the adult to whom it related being given an opportunity to be heard; and
 - (ii) these circumstances constituted a breach of natural justice;
 - (b) if it would be manifestly contrary to public policy to recognise the measure;
 - (c) if the measure conflicts with any enactment or rule of law of Scotland which is mandatory whatever law would otherwise be applicable;
 - (d) if the measure is incompatible with a later measure taken in Scotland or recognised by the law of Scotland;
 - (e) if the measure would have the effect of placing the adult in an establishment in Scotland and—
 - (i) the Scottish Central Authority has not previously been provided with a report on the adult and a statement of the reasons for the proposed placement and has not been consulted on the proposed placement; or
 - (ii) where the Authority has been provided with such a report and statement and so consulted, it has, within a reasonable time thereafter, declared that it disapproves of the proposed placement.

Commencement Information

- II** Sch. 3 para. 7 wholly in force at 4.11.2003; Sch. 3 para. 7 not in force at Royal Assent see s. 89(2); Sch. 3 para. 7(1)(2)(a)(3)(a)-(d) in force at 2.4.2001 by S.S.I. 2001/81, art. 2, Sch. 1; Sch. 3 para. 7 in force in so far as not already in force at 4.11.2003 by S.S.I. 2003/516, art. 2

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