



# Adults with Incapacity (Scotland) Act 2000

2000 asp 4

## PART 2

### CONTINUING POWERS OF ATTORNEY AND WELFARE POWERS OF ATTORNEY

#### 15 Creation of continuing power of attorney

- (1) Where an individual grants a power of attorney relating to his property or financial affairs in accordance with the following provisions of this section that power of attorney shall, notwithstanding any rule of law, continue to have effect in the event of the granter's becoming incapable in relation to decisions about the matter to which the power of attorney relates.
- (2) In this Act a power of attorney granted under subsection (1) is referred to as a "continuing power of attorney" and a person on whom such power is conferred is referred to as a "continuing attorney".
- (3) A continuing power of attorney shall be valid only if it is expressed in a written document which—
  - (a) is subscribed by the granter;
  - (b) incorporates a statement which clearly expresses the granter's intention that the power be a continuing power;
  - (c) incorporates a certificate in the prescribed form by a solicitor or by a member of another prescribed class that—
    - (i) he has interviewed the granter immediately before the granter subscribed the document;
    - (ii) he is satisfied, either because of his own knowledge of the granter or because he has consulted other persons (whom he names in the certificate) who have knowledge of the granter, that at the time the continuing power of attorney is granted the granter understands its nature and extent;
    - (iii) he has no reason to believe that the granter is acting under undue influence or that any other factor vitiates the granting of the power.

*Status: This is the original version (as it was originally enacted).*

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- (4) A solicitor or member of another prescribed class may not grant a certificate under subsection (3)(c) if he is the person to whom the power of attorney has been granted.