



# Adults with Incapacity (Scotland) Act 2000

2000 asp 4

## PART 6

### INTERVENTION ORDERS AND GUARDIANSHIP ORDERS

#### *Guardianship orders*

#### **59 Who may be appointed as guardian**

- (1) The sheriff may appoint as guardian—
  - (a) any individual whom he considers to be suitable for appointment and who has consented to being appointed;
  - (b) where the guardianship order is to relate only to the personal welfare of the adult, the chief social work officer of the local authority.
- (2) Where the guardianship order is to relate to the property and financial affairs and to the personal welfare of the adult and joint guardians are to be appointed, the chief social work officer of the local authority may be appointed guardian in relation only to the personal welfare of the adult.
- (3) The sheriff shall not appoint an individual as guardian to an adult unless he is satisfied that the individual is aware of—
  - (a) the adult's circumstances and condition and of the needs arising from such circumstances and condition; and
  - (b) the functions of a guardian.
- (4) In determining if an individual is suitable for appointment as guardian, the sheriff shall have regard to—
  - (a) the accessibility of the individual to the adult and to his primary carer;
  - (b) the ability of the individual to carry out the functions of guardian;
  - (c) any likely conflict of interest between the adult and the individual;
  - (d) any undue concentration of power which is likely to arise in the individual over the adult;

**Changes to legislation:** *There are currently no known outstanding effects for the Adults with Incapacity (Scotland) Act 2000, Section 59. (See end of Document for details)*

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- (e) any adverse effects which the appointment of the individual would have on the interests of the adult;
  - (f) such other matters as appear to him to be appropriate.
- (5) Paragraphs (c) and (d) of subsection (4) shall not be regarded as applying to an individual by reason only of his being a close relative of, or person residing with, the adult.

**Changes to legislation:**

There are currently no known outstanding effects for the Adults with Incapacity (Scotland) Act 2000, Section 59.