



Adults with Incapacity (Scotland) Act 2000

2000 asp 4

PART 6

INTERVENTION ORDERS AND GUARDIANSHIP ORDERS

Guardianship orders

60 Renewal of guardianship order by sheriff

- (1) At any time before the end of a period in respect of which a guardianship order has been made or renewed, an application may be made to the sheriff under this section by the guardian for the renewal of such order, and where such an application is so made, the order shall continue to have effect until the application is determined.
- (2) Where it appears to the local authority that an application for renewal of a guardianship order under subsection (1) is necessary but that no such application has been made or is likely to be made, they shall apply under subsection (1) for the renewal of such an order and, where such an application is so made, the order shall continue to have effect until the application is determined.
- [^{F1}(3) There must be lodged in court along with an application under this section—
 - (a) at least one report, in the prescribed form, of an examination and assessment of the adult carried out by a medical practitioner not more than 30 days before the lodging of the application;
 - (b) where the application relates to the adult's personal welfare, a report, in the prescribed form, from the mental health officer (but where it is in jeopardy only because of the adult's inability to communicate, from the chief social work officer), containing the officer's opinion as to—
 - (i) the general appropriateness of continuing the guardianship, based on an interview and assessment of the adult carried out not more than 30 days before the lodging of the application; and
 - (ii) the suitability of the applicant to continue to be the adult's guardian; and

Changes to legislation: There are currently no known outstanding effects for the Adults with Incapacity (Scotland) Act 2000, Section 60. (See end of Document for details)

- (c) where the application relates to the adult's property or financial affairs, a report from the Public Guardian, in the prescribed form, containing the Public Guardian's opinion as to—
- (i) the applicant's conduct as the adult's guardian; and
 - (ii) the suitability of the applicant to continue to be the adult's guardian.
- (3A) In a case where the incapacity is by reason of mental disorder—
- (a) where a single report is lodged under subsection (3)(a), the related examination and assessment must be carried out by a relevant medical practitioner;
 - (b) where 2 or more reports are so lodged, at least one of the related examinations and assessments must be carried out by a relevant medical practitioner.
- “Relevant medical practitioner” has the same meaning in this subsection as it has in section 57(3)(a) (see definition in section 57(6B)).]
- (4) Section 58 shall apply to an application under this section as it applies to an application under section 57; and for the purposes of so applying that section—
- (a) references to the making of a guardianship order and the appointment of a guardian (however expressed) shall be construed as references to, respectively, the renewal of the order and the continuation of appointment;
 - (b) for subsection (4) there shall be substituted—
- “(4) Where the sheriff grants an application under section 60, he may continue the guardianship order for a period of 5 years or for such other period (including an indefinite period) as, on cause shown, he may determine.”.
- [^{F2}(4A) A sheriff may determine an application made under this section without hearing the parties.]
- (5) Where the sheriff refuses an application under this section, the sheriff clerk shall forthwith send a copy of the interlocutor containing the refusal to the Public Guardian who shall—
- (a) enter prescribed particulars in the register maintained by him under section 6(2)(b)(iv); and
 - (b) notify the adult and the local authority and (in a case where the adult's incapacity is by reason of, or reasons which include, mental disorder and the guardianship order relates to the adult's personal welfare or factors which include it) the Mental Welfare Commission.

Textual Amendments

- F1** S. 60(3)(3A) substituted for s. 60(3) (1.4.2008) by [Adult Support and Protection \(Scotland\) Act 2007 \(asp 10\)](#), **ss. 60(3)(a)**, 79(3); S.S.I. 2008/49, art. 2(1)
- F2** S. 60(4A) inserted (1.4.2008) by [Adult Support and Protection \(Scotland\) Act 2007 \(asp 10\)](#), **ss. 60(3)(b)**, 79(3); S.S.I. 2008/49, art. 2(1)

Changes to legislation:

There are currently no known outstanding effects for the Adults with Incapacity (Scotland) Act 2000, Section 60.