



# Adults with Incapacity (Scotland) Act 2000

2000 asp 4

## PART 6

### INTERVENTION ORDERS AND GUARDIANSHIP ORDERS

#### *Functions etc. of guardian*

#### **67 Effect of appointment and transactions of guardian**

- (1) The adult shall have no capacity to enter into any transaction in relation to any matter which is within the scope of the authority conferred on the guardian except in a case where he has been authorised by the guardian under section 64(1)(e); but nothing in this subsection shall be taken to affect the capacity of the adult in relation to any other matter.
- (2) Where the guardian has powers relating to the property or financial affairs of the adult, the certificate of appointment issued to him by the Public Guardian shall, subject to the terms of the order appointing him, have the effect of—
  - (a) authorising the guardian to take possession of, manage and deal with any moveable or immoveable estate (wherever situated) of the adult;
  - (b) requiring any payment due to the adult to be made to the guardian,in so far as the estate, payment or matter falls within the scope of the guardian's authority.
- (3) A guardian having powers relating to the personal welfare of an adult may exercise these powers in relation to the adult whether or not the adult is in Scotland at the time of the exercise of the powers.
- (4) The guardian shall be personally liable under any transaction entered into by him—
  - (a) without disclosing that he is acting as guardian of the adult; or
  - (b) which falls outwith the scope of his authority,but where a guardian has acted as mentioned in paragraph (a) and is not otherwise in breach of any requirement of this Act relating to such guardians, he shall be entitled

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*Changes to legislation: There are currently no known outstanding effects for the Adults with Incapacity (Scotland) Act 2000, Section 67. (See end of Document for details)*

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to be reimbursed from the estate of the adult in respect of any loss suffered by him in consequence of a claim made upon him personally by virtue of this subsection.

- (5) Where a third party with whom the adult entered into a transaction was aware at the date of entering into the transaction that authority had been granted by the guardian under section 64(1)(e), the transaction shall not be void only on the ground that the adult lacked capacity.
- (6) A transaction for value between the guardian purporting to act as such and a third party acting in good faith shall not be invalid on the ground only that—
- (a) the guardian acted outwith the scope of his authority; or
  - (b) the guardian failed to observe any requirement, whether substantive or procedural, imposed by or under this Act, or by the sheriff or by the Public Guardian; or
  - (c) there was any irregularity whether substantive or procedural in the appointment of the guardian.
- (7) In subsections (3) and (4) any reference to a guardian shall include a reference to a guardian (however called) appointed under the law of any country to, or entitled under the law of any country to act for, an adult during his incapacity, if the guardianship is recognised by the law of Scotland.

**Changes to legislation:**

There are currently no known outstanding effects for the Adults with Incapacity (Scotland) Act 2000, Section 67.