



# Adults with Incapacity (Scotland) Act 2000

2000 asp 4

## PART 7

### MISCELLANEOUS

#### **84 Application to guardians appointed under Criminal Procedure (Scotland) Act 1995**

- (1) Parts 1, 5, 6 and 7 shall apply to a guardian appointed under section 57(2)(c) or section 58(1) of the Criminal Procedure (Scotland) Act 1995 (c.46) (“the 1995 Act”) as they apply to a guardian with powers relating to the personal welfare of an adult appointed under Part 6; and accordingly the 1995 Act shall be amended as follows.
- (2) After section 58 there shall be inserted—

#### **“58A Application of Adults with Incapacity (Scotland) Act 2000**

- (1) Subject to the provisions of this section, the provisions of Parts 1, 5, 6 and 7 of the Adults with Incapacity (Scotland) Act 2000 (asp 4) (“the 2000 Act”) apply—
  - (a) to a guardian appointed by an order of the court under section 57(2)(c), 58(1) or 58(1A) of this Act (in this section referred to as a “guardianship order”) whether appointed before or after the coming into force of these provisions, as they apply to a guardian with powers relating to the personal welfare of an adult appointed under section 58 of that Act;
  - (b) to a person authorised under an intervention order under section [F160B] of this Act as they apply to a person so authorised under section 53 of that Act.
- (2) In making a guardianship order the court shall have regard to any regulations made by the Scottish Ministers under section 64(11) of the 2000 Act and—
  - (a) shall confer powers, which it shall specify in the order, relating only to the personal welfare of the person;

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*Changes to legislation: There are currently no known outstanding effects for the Adults with Incapacity (Scotland) Act 2000, Section 84. (See end of Document for details)*

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- (b) may appoint a joint guardian;
  - (c) may appoint a substitute guardian;
  - (d) may make such consequential or ancillary order, provision or direction as it considers appropriate.
- (3) Without prejudice to the generality of subsection (2), or to any other powers conferred by this Act, the court may—
- (a) make any order granted by it subject to such conditions and restrictions as appear to it to be appropriate;
  - (b) order that any reports relating to the person who will be the subject of the order be lodged with the court or that the person be assessed or interviewed and that a report of such assessment or interview be lodged;
  - (c) make such further inquiry or call for such further information as appears to it to be appropriate;
  - (d) make such interim order as appears to it to be appropriate pending the disposal of the proceedings.
- (4) Where the court makes a guardianship order it shall forthwith send a copy of the interlocutor containing the order to the Public Guardian who shall—
- (a) enter prescribed particulars of the appointment in the register maintained by him under section 6(2)(b)(iv) of the 2000 Act;
  - (b) unless he considers that the notification would be likely to pose a serious risk to the person’s health notify the person of the appointment of the guardian; and
  - (c) notify the local authority and the Mental Welfare Commission of the terms of the interlocutor.
- (5) A guardianship order shall continue in force for a period of 3 years or such other period (including an indefinite period) as, on cause shown, the court may determine.
- (6) Where any proceedings for the appointment of a guardian under section 57(2) (c) or 58(1) of this Act have been commenced and not determined before the date of coming into force of section 84 of, and paragraph 26 of schedule 5 to, the Adults with Incapacity (Scotland) Act 2000 (asp 4) they shall be determined in accordance with this Act as it was immediately in force before that date.”.

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#### Textual Amendments

- F1** Words in s. 84(2) substituted (1.4.2002) by 2001 asp 8, ss. 79, 81(2), Sch. 3 para. 23(5); S.S.I. 2002/162, art. 2 (subject to arts. 3-13)

**Changes to legislation:**

There are currently no known outstanding effects for the Adults with Incapacity (Scotland) Act 2000, Section 84.