

ADULT SUPPORT AND PROTECTION (SCOTLAND) ACT 2007

EXPLANATORY NOTES

THE ACT – AN OVERVIEW

Schedule 1 – Minor and consequential amendments

Paragraph 1

183. This paragraph provides necessary consequential amendments to the National Assistance Act 1948 as a result of the repeal of the ‘liable relatives rule’ in section 62(1) of the Act.

Paragraph 2

184. This paragraph provides minor consequential amendments to the Disabled Persons (Services, Consultation and Representation) Act 1986 to amend references in that Act from the Mental Health (Scotland) Act 1984 to the Mental Health (Care and Treatment) (Scotland) Act 2003.

Paragraph 3

185. Subsection (a) amends the Legal Aid (Scotland) Act 1986 (“the 1986 Act”) to extend the circumstances in which the Scottish Legal Aid Board may disclose information held by it without committing an offence to include information disclosed in response to a request from a council officer under section 10(1) of the Act.
186. Subsection (b) amends the 1986 Act to permit amending regulations to be made so that free civil legal aid will be available for intervention or guardianship orders which relate to the personal welfare of the adult, in cases where the application is made by the adult him or herself.

Paragraph 4

187. Subparagraph (a) amends the Criminal Procedure (Scotland) Act 1995 (“the 1995 Act”) to provide that a guardianship order cannot be made under the 1995 Act if there is an existing guardianship order made under the 2000 Act which makes the same provision as that applied for. Subparagraph (b)(i) clarifies that section 58(7) of the 1995 Act applies only to guardianship orders made under section 58. Subparagraph (b) (ii) removes the limited application of the provision to offenders. Subparagraph (c) is consequential on the repeal of section 58(1) of the 1995 Act in the Mental Health (Care and Treatment) (Scotland) Act 2003.

Paragraph 5

188. Subparagraph (a) amends section 6(2)(b)(iii) of the 2000 Act to take account of the wider range of authorities which can be granted under Part 3 of the 2000 Act as a consequence of the amendments in section 58 to that part. Subparagraphs (b) and

These notes relate to the Adult Support and Protection (Scotland) Act 2007 (asp 10) which received Royal Assent on 21 March 2007

(c) are consequential changes on the State Pensions Credit Act 2002 and exclude state pensions credit from the list of funds which can be managed under Part 4 of the 2000 Act. Subparagraph (d) is to improve the readability only of section 47(2). Subparagraph (e) clarifies the regulation making power in section 87(1) of the 2000 Act. Subparagraph (f) is consequential on Chapter 1 of Part 17 of the Mental Health (Care and Treatment) (Scotland) Act 2003. Subparagraph (g) is to correct a numbering error. Subparagraph (h) is a clarificatory amendment.

Paragraph 6

189. This paragraph amends the Mental Health (Care and Treatment) (Scotland) Act 2003 to reduce the minimum number of medical commissioners which the Commission is required to appoint to one. This change reflects the Commission's reduced role in relation to the discharge of patients under the Act.