



Smoking, Health and Social Care (Scotland) Act 2005

2005 asp 13

PART 6

MISCELLANEOUS

Authorisation of medical treatment

35 Amendment of Adults with Incapacity (Scotland) Act 2000: authorisation of medical treatment

- (1) The Adults with Incapacity (Scotland) Act 2000 (asp 4) is amended as follows.
- (2) In section 47 (authorisation of medical treatment)—
 - (a) in subsection (1)—
 - (i) for the words “the medical practitioner primarily responsible for the medical treatment of an adult” substitute “any of the persons mentioned in subsection (1A)”;
 - (ii) in paragraph (a), for the words “the adult” substitute “an adult”;
 - (b) after that subsection, insert—

“(1A) The persons are—

 - (a) the medical practitioner primarily responsible for the medical treatment of the adult;
 - (b) a person who is—
 - (i) a dental practitioner;
 - (ii) an ophthalmic optician;
 - (iii) a registered nurse; or
 - (iv) an individual who falls within such description of persons as may be prescribed by the Scottish Ministers,

Status: This is the original version (as it was originally enacted).

who satisfies such requirements as may be so prescribed and who is primarily responsible for medical treatment of the kind in question.”;

- (c) in subsection (2)—
- (i) for the words “medical practitioner primarily responsible for the medical treatment of the adult” substitute “person who by virtue of subsection (1) has issued a certificate for the purposes of that subsection”;
 - (ii) for the words “medical treatment” where they second occur substitute “the medical treatment in question”;
- (d) in subsection (3)—
- (i) for the words “medical practitioner primarily responsible for the medical treatment of the adult” substitute “person on whom that authority is conferred”;
 - (ii) for the words “medical treatment”, where they second occur, substitute “the medical treatment in question”;
- (e) in subsection (5)—
- (i) in paragraph (a), for the words “medical practitioner primarily responsible for the medical treatment of the adult” substitute “person who issues the certificate”;
 - (ii) in paragraph (b), for the words “does not exceed one year from” substitute “does not exceed—
 - (i) one year; or
 - (ii) if, in the opinion of the person issuing the certificate any of the conditions or circumstances prescribed by the Scottish Ministers applies as respects the adult, 3 years,
 from”;
- (f) in subsection (6)—
- (i) for the words “medical practitioner primarily responsible for the medical treatment of the adult” substitute “person who issued it”;
 - (ii) in paragraph (b), for the words “not exceeding one year from” substitute “not exceeding—
 - (i) one year; or
 - (ii) if, in the opinion of that person any of the conditions or circumstances prescribed by the Scottish Ministers apply as respects the adult, 3 years,
 from”;
- (g) after subsection (10) insert—
- “(11) In subsection (1A)—
- “dental practitioner” has the same meaning as in section 108(1) of the National Health Service (Scotland) Act 1978 (c. 29);
- “ophthalmic optician” means a person registered in either of the registers kept under section 7 of the Opticians Act 1989 (c. 44) of ophthalmic opticians.”.

- (3) In section 49(1) (medical treatment where there is an application for intervention or guardianship order)—
- (a) for the words “Section 47(2)” substitute “Subsection (2) of section 47”;
 - (b) for the words “medical practitioner primarily responsible for the medical treatment of the adult” substitute “person on whom authority is conferred by that subsection”.
- (4) In section 50 (medical treatment where guardian etc. has been appointed)—
- (a) in subsection (2)—
 - (i) in paragraph (b), for the words “medical practitioner primarily responsible for the medical treatment of the adult” substitute “person who issued the certificate for the purposes of section 47(1)”;
 - (ii) in paragraph (c), for the words “medical practitioner” substitute “person”;
 - (b) in subsection (3)—
 - (i) for the words “medical practitioner primarily responsible for the medical treatment of the adult” substitute “person who issued the certificate for the purposes of section 47(1)”;
 - (ii) for the words “any person having an interest” substitute “the medical practitioner primarily responsible for the medical treatment of the adult (in a case where the person who so issued the certificate was someone other than that practitioner) or any person having an interest”;
 - (c) in subsection (4)—
 - (i) for the words “medical practitioner primarily responsible for the medical treatment of the adult” substitute “person who issued the certificate for the purposes of section 47(1)”;
 - (ii) for the words “medical practitioner”, where they second occur, substitute “person who issued the certificate”;
 - (iii) for the words “a medical practitioner (the “nominated medical practitioner”)” substitute “a practitioner who the Commission consider has professional knowledge or expertise relevant to medical treatment of the kind in question (the “nominated practitioner”)”;
 - (d) in subsection (5)—
 - (i) for the words “nominated medical practitioner” substitute “nominated practitioner”;
 - (ii) for the words “medical practitioner primarily responsible for the medical treatment of the adult” substitute “person who issued the certificate for the purposes of section 47(1)”;
 - (e) in subsection (6)—
 - (i) for the words “nominated medical practitioner” substitute “nominated practitioner”;
 - (ii) after the words “personal welfare of the adult” insert “(including, where the certificate issued for the purposes of section 47(1) was issued by another person, that person)”;
 - (f) in subsection (9)—
 - (i) for the words “medical practitioners” substitute “practitioners”;
 - (ii) for the words “medical practitioner” substitute “practitioner”.