S C O T T I S H S T A T U T O R Y I N S T R U M E N T S

2001 No. 80

ADULTS WITH INCAPACITY

The Adults with Incapacity (Certificates in Relation to Powers of Attorney) (Scotland) Regulations 2001

Made	*7th March 2001*
Laid before the Scottish Parliament	*8th March 2001*
Coming into force	*2nd April 2001*

The Scottish Ministers, in exercise of the powers conferred by sections 15(3)(c) and 16(3)(c) of the Adults with Incapacity (Scotland) Act 2000(**a**) and of all other powers enabling them in that behalf, hereby make the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Adults with Incapacity (Certificates in Relation to Powers of Attorney) (Scotland) Regulations 2001 and shall come into force on 2nd April 2001.

(2) In these Regulations, "the Act" means the Adults with Incapacity (Scotland) Act 2000**.**

Certificates for use in connection with continuing and welfare powers of attorney

2. For the purposes of section 15(3)(c) of the Act, the certificate to be incorporated in a written document granting a continuing power of attorney shall be in the form set out in Schedule 1.

3. For the purposes of section 16(3)(c) of the Act, the certificate to be incorporated in a document granting a welfare power of attorney shall be in the form set out in Schedule 2.

Classes of persons for the purposes of sections 15(3)(c) or 16(3)(c) of the Act

4. For the purposes of sections 15(3)(c) and 16(3)(c) of the Act, the following classes are hereby prescribed:–

(a) practising members of the Faculty of Advocates; and

(b) registered medical practitioners.

JAMES R WALLACE
A member of the Scottish Executive

St. Andrew's House,
Edinburgh
7th March 2001

(a) 2000 asp 4. See section 87(1) for the definition of "prescribe" and section 86(1) as to power to make regulations.

Regulation 2

SCHEDULE 1

CERTIFICATE UNDER SECTION 15(3)(c) OF THE ADULTS WITH INCAPACITY (SCOTLAND) ACT 2000 TO BE INCORPORATED IN A DOCUMENT GRANTING A CONTINUING POWER OF ATTORNEY

Insert names and date

This certificate is incorporated in the document subscribed by

_____ ("the granter") on

_____ that confers a continuing power of attorney on

_____

_____

_____

_____

I certify that:

Insert date

A. I interviewed the granter on _____ immediately before he/she subscribed this continuing power of attorney

AND

B. I am satisfied that, at the time this continuing power of attorney was granted, the granter understood its nature and extent

I have satisfied myself of this:

Delete either (a) or (b) if not applicable. Both may apply but one must apply

(a) because of my own knowledge of the granter;

(b) because I have consulted the following persons, who have knowledge of the granter on the matter:

Insert names, designations, addresses and relationship with granter, if any

_____

_____

_____

_____

_____

_____

AND

C. I have no reason to believe that the granter was acting under undue influence or that any other factor vitiates the granting of this continuing power of attorney

Include full name, and state whether address given is business or personal

Signed: _____ Date: _____

Print name: _____

Profession: _____

Address: _____

_____

_____

Note: any person signing this certificate should not be the person to whom this continuing power of attorney has been granted.

Regulation 3

SCHEDULE 2

CERTIFICATE UNDER SECTION 16(3)(c) OF THE ADULTS WITH INCAPACITY (SCOTLAND) ACT TO BE INCORPORATED IN A DOCUMENT GRANTING A WELFARE POWER OF ATTORNEY

Insert names and date

This certificate is incorporated in the document subscribed by

_____ ("the granter") on

_____ that confers a welfare power of attorney on

_____

_____

_____

_____

I certify that:

Insert date

A. I interviewed the granter on _____ immediately before he/she subscribed this welfare power of attorney

AND

B. I am satisfied that, at the time this welfare power of attorney was granted, the granter understood its nature and extent

I have satisfied myself of this:

Delete either (a) or (b) if not applicable. Both may apply but one must apply

(a) because of my own knowledge of the granter;

(b) because I have consulted the following persons, who have knowledge of the granter on the matter:

Insert names, designations, addresses and relationship with granter, if any

_____

_____

_____

_____

_____

_____

AND

C. I have no reason to believe that the granter was acting under undue influence or that any other factor vitiates the granting of this welfare power of attorney

Include full name, and state whether address given is business or personal

Signed: _____ Date: _____

Print name: _____

Profession: _____

Address: _____

_____

_____

Note: any person signing this certificate should not be the person to whom this welfare power of attorney has been granted.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations prescribe certificates for use in connection with the grant of continuing powers of attorney under section 15 of the Adults with Incapacity (Scotland) Act 2000, and in connection with welfare powers of attorney under section 16 of that Act. The certificates are set out as Schedules to these Regulations.

Regulation 4 prescribes the classes of persons, in addition to solicitors, who may issue a certificate under section 15 or 16.

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