



Adults with Incapacity (Scotland) Act 2000

2000 asp 4

PART 5

MEDICAL TREATMENT AND RESEARCH

47 Authority of persons responsible for medical treatment

- (1) This section applies where the medical practitioner primarily responsible for the medical treatment of an adult—
 - (a) is of the opinion that the adult is incapable in relation to a decision about the medical treatment in question; and
 - (b) has certified in accordance with subsection (5) that he is of this opinion.
- (2) Without prejudice to any authority conferred by any other enactment or rule of law, and subject to sections 49 and 50 and to the following provisions of this section, the medical practitioner primarily responsible for the medical treatment of the adult shall have, during the period specified in the certificate, authority to do what is reasonable in the circumstances, in relation to the medical treatment, to safeguard or promote the physical or mental health of the adult.
- (3) The authority conferred by subsection (2) shall be exercisable also by any other person who is authorised by the medical practitioner primarily responsible for the medical treatment of the adult to carry out medical treatment and who is acting—
 - (a) on his behalf under his instructions; or
 - (b) with his approval or agreement.
- (4) In this Part “medical treatment” includes any procedure or treatment designed to safeguard or promote physical or mental health.
- (5) A certificate for the purposes of subsection (1) shall be in the prescribed form and shall specify the period during which the authority conferred by subsection (2) shall subsist, being a period which—
 - (a) the medical practitioner primarily responsible for the medical treatment of the adult considers appropriate to the condition or circumstances of the adult; but

Status: This is the original version (as it was originally enacted).

- (b) does not exceed one year from the date of the examination on which the certificate is based.
- (6) If after issuing a certificate, the medical practitioner primarily responsible for the medical treatment of the adult is of the opinion that the condition or circumstances of the adult have changed he may—
- (a) revoke the certificate;
 - (b) issue a new certificate specifying such period not exceeding one year from the date of revocation of the old certificate as he considers appropriate to the new condition or circumstances of the adult.
- (7) The authority conferred by subsection (2) shall not authorise—
- (a) the use of force or detention, unless it is immediately necessary and only for so long as is necessary in the circumstances;
 - (b) action which would be inconsistent with any decision by a competent court;
 - (c) placing an adult in a hospital for the treatment of mental disorder against his will.
- (8) The authority conferred by subsection (2) shall not authorise medical treatment prescribed in regulations made under section 48.
- (9) Subject to subsection (10), where any question as to the authority of any person to provide medical treatment in pursuance of subsection (2)—
- (a) is the subject of proceedings in any court (other than for the purposes of any application to the court made under regulations made under section 48); and
 - (b) has not been determined,
- medical treatment authorised by subsection (2) shall not be given unless it is authorised by any other enactment or rule of law for the preservation of the life of the adult or the prevention of serious deterioration in his medical condition.
- (10) Nothing in subsection (9) shall authorise the provision of any medical treatment where an interdict has been granted and continues to have effect prohibiting the provision of such medical treatment.