



Adult Support and Protection (Scotland) Act 2007

2007 asp 10

PART 3

ADULT SUPPORT ETC.: MISCELLANEOUS AMENDMENTS AND REPEALS

64 **Power to help incapable adults to benefit from social services etc.**

After section 13 of Social Work (Scotland) Act 1968 (c. 49) insert—

“13ZA Provision of services to incapable adults

- (1) Where—
 - (a) a local authority have decided under section 12A of this Act that an adult’s needs call for the provision of a community care service; and
 - (b) it appears to the local authority that the adult is incapable in relation to decisions about the service,the local authority may take any steps which they consider would help the adult to benefit from the service.
- (2) Without prejudice to the generality of subsection (1) above, steps that may be taken by the local authority include moving the adult to residential accommodation provided in pursuance of this Part.
- (3) The principles set out in subsection (2) to (4) of section 1 of the 2000 Act apply in relation to any steps taken under subsection (1) above as they apply to interventions in the affairs of an adult under or in pursuance of that Act.
- (4) Subsection (1) does not authorise a local authority to take steps if they are aware that—
 - (a) there is a guardian or welfare attorney with powers relating to the proposed steps;
 - (b) an intervention order has been granted relating to the proposed steps; or

Status: This is the original version (as it was originally enacted).

- (c) an application has been made (but not yet determined) for an intervention order or guardianship order under Part 6 of the 2000 Act relating to the proposed steps.

(5) In this section—

- (a) “the 2000 Act” means the Adults with Incapacity (Scotland) Act 2000 (asp 4);
- (b) “adult” has the meaning given in section 1(6) of the 2000 Act;
- (c) “community care service” has the meaning given in section 5A of this Act;
- (d) “incapable” has the meaning given in section 1(6) of the 2000 Act;
- (e) “intervention order” is to be construed in accordance with section 53 of the 2000 Act”;
- (f) the reference to a guardian includes a reference to—
 - (i) a guardian appointed under the 2000 Act; and
 - (ii) a guardian (however called) appointed under the law of any country to, or entitled under the law of any country to act for, an adult during his incapacity, if the guardianship is recognised by the law of Scotland;
- (g) the reference to a welfare attorney includes a reference to—
 - (i) a welfare attorney within the meaning of section 16 of the 2000 Act; and
 - (ii) a person granted, under a contract, grant or appointment governed by the law of any country, powers (however expressed) relating to the granter’s personal welfare and having effect during the granter’s incapacity.”.