

**2002 No. 98**

**ADULTS WITH INCAPACITY**

**The Adults with Incapacity (Non-compliance with Decisions  
of Welfare Guardians) (Scotland) Regulations 2002**

*Made* 5th March 2002

*Laid before the Scottish Parliament* 7th March 2002

*Coming into force* 1st April 2002

The Scottish Ministers, in exercise of the powers conferred by section 70(3) 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 and commencement**

1. These Regulations may be cited as the Adults with Incapacity (Non-compliance with Decisions of Welfare Guardians) (Scotland) Regulations 2002 and shall come into force on 1st April 2002.

**Form of application**

2. An application for an order or warrant under section 70(1), or an order under section 70(2), of the Adults with Incapacity (Scotland) Act 2000 shall be in the form set out in the Schedule to these Regulations.

**Period for objection**

3. The period for the purposes of section 70(3) of the Adults with Incapacity (Scotland) Act 2000 shall be 21 days beginning with the date of receipt of intimation under that subsection.

*JAMES R WALLACE*  
A member of the Scottish Executive

St Andrew's House,  
Edinburgh  
5th March 2002

SCHEDULE

Court ref no:

APPLICATION UNDER SECTION 70 OF THE ADULTS WITH INCAPACITY  
(SCOTLAND) ACT 2000

SHERIFFDOM OF (*insert name of sheriffdom*)

AT (*insert place of Sheriff Court*)

Name and address of applicant (who must be the guardian of the adult):

Name and address of adult:

If applicable, name and address of any person other than the adult who is failing to comply with the guardian's decision

ORDER OR WARRANT SOUGHT

(State here the order or warrant that you seek from the sheriff – delete as appropriate)

- an order under section 70(1)(a) – requiring the the adult to comply with a decision of the guardian
- an order under section 70(2) – requiring a person other than the adult to comply with a decision of the guardian
- a warrant under section 70(1)(b) – authorising a constable:
  - (i) to enter any premises where the adult is, or is reasonably supposed to be;
  - (ii) to apprehend the adult and to remove him/her to such place as the guardian may direct

REASON FOR APPLICATION

Explain why you are seeking this order or warrant. Include here: details of the decision by the guardian which is not being complied with; a statement as to who is not complying (ie the adult or another person named above); details of action

already taken to try to effect compliance. If the decision relates to the place of residence of the adult, the adult's current whereabouts must be stated, if different from the address given above.

*(insert place and date)*

*(signed)*

..... (applicant)

or

.....(solicitor for applicant)

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations prescribe the form of applications for orders or warrants under section 70 (non-compliance with decisions of guardian with welfare powers) of the Adults with Incapacity (Scotland) Act 2000 (“the Act”) (regulation 2 and Schedule).

The Regulations also provide that the period within which a person named in an application under section 70 of the Act may object to the granting of that application shall be 21 days beginning with the date on which that person receives intimation of the application (regulation 3).

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