



**Scottish Executive  
Adults with Incapacity (Scotland) Act 2000 –  
Consultation on Draft Regulations**

**The Law Society of Scotland's Response**

**November 2007**

## **INTRODUCTION**

The Mental Health and Disability Law Sub-Committee of the Law Society of Scotland (“the Committee”) welcomes the opportunity to consider the Adults with Incapacity (Scotland) Act 2000 Draft Regulations and wishes to make the following comments.

### **Schedule 1**

Regarding the form of certificate in Schedule 1, at item 4 the Committee suggests that the instruction in italics is not sufficiently clear as to precisely what is required. The Committee suggests that a better instruction would read as follows: “Insert name of attorney. Where there is more than one attorney, insert the name of each and mark against each name “single”, “joint”, “substitute”, or “joint substitute” as appropriate”. The use ‘single’ may be appropriate where there is a single first attorney, together with one or more substitutes. An alternative formulation might be: “Insert name(s) of attorney(s), indicating against each “single”, “joint”, “substitute”, “joint substitute”, as appropriate”. Where there are joint attorneys and/or joint substitutes, there will often be three or four names altogether, therefore the box should be larger.

### **Schedule 2**

The form of certificate in Schedule 2 covers revocation of either the entire Power of Attorney or specific powers granted in it, but does not cover revocation of the appointment of one or more individual attorneys named in the power. That does require to be covered. At item 4, the same comments apply as for item 4 of the draft certificate in Schedule 1.

### **Schedule 3**

The style of certificate by the Public Guardian in Schedule 5 to the proposed “The Adults with Incapacity (Reports in relation to Guardianship and Intervention Orders) (Scotland) Amendment Regulations 2008”. The Committee would suggest that after the “opinion” box it would be helpful to have a further box: “where appropriate, state here any reasons for the

opinion, or other relevant comments". In some cases this would enable the Public Guardian to provide reasons and/or comments which ought reasonably to be made available to the sheriff in determining the application (or, perhaps, in determining whether to dispense with a hearing).



**For further information and alternative formats please contact:**

Tel: 0131 226 7411

Email: [lawreform@lawscot.org.uk](mailto:lawreform@lawscot.org.uk)

The Law Society of Scotland

26 Drumsheugh Gardens

Edinburgh

EH3 7YR

[www.lawscot.org.uk](http://www.lawscot.org.uk)