Adults with Incapacity (Scotland) Act 2000

2000 asp 4

PART 4

MANAGEMENT OF RESIDENTS' FINANCES

41 Duties and functions of managers of authorised establishment

The managers of an authorised establishment shall, in relation to residents whose affairs they are managing under section 39—

(a) claim, receive and hold any pension, benefit, allowance or other payment to which the resident is entitled other than under the Social Security Contributions and Benefits Act 1992 (c.4)**[**[F1], the State Pensions Credit Act 2002 (c. 16)**][**[F2], Part 1 of the Welfare Reform Act 2007 or Part 1 or 4 of the Welfare Reform Act 2012**]**;

(b) keep the funds of residents separate from the funds of the establishment;

(c) comply with any requirements of the supervisory body as respects keeping the funds of residents separate or distinguishable from each other;

(d) ensure that where, at any time, the total amount of funds held on behalf of any resident exceeds such sum as may from time to time be prescribed they shall be placed so as to earn interest;

(e) keep records of all transactions made in relation to the funds held by them in respect of each resident for whose benefit the funds are held and managed and, in particular, ensure that details of the balance and any interest due to each resident can be ascertained at any time;

(f) produce such records when requested to do so by the resident, his nearest relative**[**[F3], his named person**]** or the supervisory body;

(g) spend money only on items or services which are of benefit to the resident on whose behalf the funds are held;

(h) not spend money on items or services which are provided by the establishment to or for such resident as part of its normal service;

(i) make proper provision for indemnifying residents against any loss attributable to—

(i) any act or omission on the part of the managers of the establishment in exercising the powers conferred by this Part or of others for whom the managers are responsible or attributable to any expenditure in breach of paragraph (g);

(ii) any breach of duty, misuse of funds or failure to act reasonably and in good faith on the part of the managers.

Textual Amendments

F1 Words in s. 41(a) inserted (5.10.2007) by Adult Support and Protection (Scotland) Act 2007 (asp 10), ss. 77(1), 79, **Sch. 1 para. 5(c)**; S.S.I. 2007/334, **art. 2(b)**, Sch. 2 (with savings in arts. 4-6)

F2 Words in s. 41(a) substituted (29.4.2013) by The Welfare Reform (Consequential Amendments) (Scotland) (No. 2) Regulations 2013 (S.S.I. 2013/137), regs. 1, **6(3)**

F3 Words in s. 41(f) inserted (27.9.2005) by The Mental Health (Care and Treatment) (Scotland) Act 2003 (Modification of Enactments) Order 2005 (S.S.I. 2005/465), art. 2, **Sch. 1 para. 28(5)**

Commencement Information

I1 S. 41 wholly in force at 1.10.2003; s. 41 not in force at Royal Assent; s. 41(d) in force for specified purposes at 6.3.2003 by S.S.I. 2003/136, **art. 2**; s. 41(d) in force for further specified purposes at 29.5.2003 by S.S.I. 2003/267, **art. 2(1)**; s. 41 in force in so far as not already in force at. 1.10.2003 by S.S.I. 2003/267, **art. 2(2)**

Changes to legislation:
There are currently no known outstanding effects for the Adults with Incapacity (Scotland) Act 2000, Section 41.