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SCOTTISH STATUTORY INSTRUMENTS

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**2002 No. 494**

**The Civil Legal Aid (Scotland) Regulations 2002**

**PART III**

**ASSESSMENT OF RESOURCES**

**Assessment of resources, etc. of person making application in representative, fiduciary, official or other capacity**

14.—(1) Where the applicant is a person who is concerned in the proceedings only in a representative, fiduciary or official capacity, then for the purpose of determining that person's disposable income and disposable capital, and the amount of any contribution required under section 17 of the Act, the personal resources of the applicant shall be disregarded, but regard shall be had to the value of any property or the amount of any fund out of which the applicant is entitled to be indemnified and to the disposable income and disposable capital of any persons (including the applicant if appropriate) who might benefit from the outcome of the proceedings.

(2) Where a person applies for legal aid in connection with any proceedings in which that person is concerned in a representative, fiduciary or official capacity and it appears to the Board that the applicant is entitled, whether by an order of the court or otherwise, to be indemnified in respect of his or her expenses in connection with the proceedings out of a fund or by a third party, it shall not grant legal aid unless it is satisfied that the fund cannot reasonably be expected to bear the expense of the proceedings or, as the case may be, that the third party would, if a party to the proceedings, be entitled to legal aid.

(3) Where the applicant is a person concerned in any of the proceedings set out in paragraph (4) below only as claiming or having an interest in the property, financial affairs or personal welfare of an incapable adult under the Adults with Incapacity (Scotland) Act 2000<sup>(1)</sup> (in this regulation referred to as "the 2000 Act") then for the purpose of determining the applicant's disposable income and disposable capital, and the amount of any contribution required under section 17 of the Act, the personal resources of the applicant shall be disregarded, but regard shall be had to the personal resources of the incapable adult.

(4) The proceedings referred to in paragraph (3) above are proceedings where—

- (a) an application is made to the sheriff under section 3(3) of the 2000 Act;
- (b) a decision as to the incapacity of an adult is appealed under section 14(b) of the 2000 Act;
- (c) an application is made to the sheriff for an order under section 20(2) of the 2000 Act;
- (d) an application is made to the sheriff under section 3(6) of the 2000 Act to vary the terms of an order made under section 20(2) of the 2000 Act;
- (e) an application under section 26(1) of the 2000 Act for authority to intromit with funds is remitted for determination by the sheriff under section 26(8) of the 2000 Act;

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(1) 2000 asp 4.

- (f) a decision of the Public Guardian to grant or refuse an application under section 26(1) of the 2000 Act for authority to intromit with funds is appealed under section 26(9)(a) of the 2000 Act;
- (g) a decision of the Public Guardian to refuse to remit an application to the sheriff under section 26(8) is appealed under section 26(9)(b) of the 2000 Act;
- (h) a decision as to the medical treatment of an adult is appealed under section 50(3) of the 2000 Act;
- (i) an application is made to the Court of Session under section 50(6) of the 2000 Act;
- (j) a decision as to the medical treatment of the adult is appealed under section 52 of the 2000 Act;
- (k) an application is made to the sheriff for an intervention order under section 53(1) of the 2000 Act;
- (l) an application is made for a guardianship order under section 57(1) of the 2000 Act;
- (m) an application is made to the sheriff for the replacement or removal of a guardian, or the recall of a guardianship order, under section 71(1) of the 2000 Act; and
- (n) an application is made to the sheriff for variation of a guardianship order under section 74(1) of the 2000 Act.