
SCOTTISH STATUTORY INSTRUMENTS

2008 No. 238

ADULTS WITH INCAPACITY

The Adults with Incapacity (Public Guardian's Fees) (Scotland) Amendment Regulations 2008

Made - - - - 6th June 2008
Laid before the Scottish
Parliament - - - - 6th June 2008
Coming into force in accordance with regulation 1

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 7(2) of the Adults with Incapacity (Scotland) Act 2000⁽¹⁾ and of other powers enabling them to do so.

Citation and commencement

1.—(1) These Regulations may be cited as the Adults with Incapacity (Public Guardian's Fees) (Scotland) Amendment Regulations 2008 and, subject to paragraphs (2) and (3), shall come into force on 1st August 2008.

(2) Regulation 2(3)(b) and Schedule 2 shall come into force, and regulation 2(3)(a) and Schedule 1 shall cease to have effect, on 1st April 2009.

(3) Regulation 2(3)(c) and Schedule 3 shall come into force, and regulation 2(3)(b) and Schedule 2 shall cease to have effect, on 1st April 2010.

Amendment of the Adults with Incapacity (Public Guardian's Fees) (Scotland) Regulations 2008

2.—(1) The Adults with Incapacity (Public Guardian's Fees) (Scotland) Regulations 2008⁽²⁾ shall be amended in accordance with the following paragraphs.

(2) For regulation 2 (fees payable to Public Guardian), substitute—

“2. The fees payable to the Public Guardian in respect of matters specified in column 1 of the Table of Fees in the Schedule shall be the fees specified in relation to those matters in column 2 of that Table (the previous fees payable being shown in column 3 of that Table).”

(1) 2000 asp 4 as amended by the Adult Support and Protection (Scotland) Act 2007 (asp 10). See section 87(1) and (1A) for the definition of “prescribe” and section 86(1) as to power to make regulations.
(2) S.S.I. 2008/52.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

- (3) The Table of Fees in the Schedule(3) shall be substituted by—
- (a) the Table of Fees in Schedule 1 to these Regulations on 1st August 2008;
 - (b) the Table of Fees in Schedule 2 to these Regulations on 1st April 2009; and
 - (c) the Table of Fees in Schedule 3 to these Regulations on 1st April 2010.

St Andrew's House,
Edinburgh
6th June 2008

KENNY MACASKILL
A member of the Scottish Executive

SCHEDULE 1

Regulation 2(3)(a), as read with regulation 1

TABLE OF FEES PAYABLE TO PUBLIC GUARDIAN

Fees payable from 1st August 2008

<i>Column 1 (Matters)</i>	<i>Column 2 (Fee payable)£ £</i>	<i>Column 3 (Fee formerly payable)(4) £</i>
1. Search of registers under section 6(2)(b) of the Act (per half hour or any part thereof)	15	8
2. Submission of a document conferring a continuing or welfare power of attorney under section 19 of the Act	65	60
3. Provision of a duplicate or replacement of a certificate issued under section 19(2) of the Act	10	11
4. Audit of accounts submitted by a continuing attorney under section 20(2)(b) of the Act	95	87
5. Processing of an application for authorisation to obtain information about the adult's funds under section 24C of the Act, and where such an application is granted, the issue of a certificate authorising any fundholder to provide the applicant with such information	65	60
6. Where there is no application under section 24C or where the certificate granted under section 24C is more than 4 months old, processing of an application for authorisation to intromit with funds under section 25 of the Act, and where such an application is granted, the issue of a certificate of authority to the withdrawer	65	60

(4) Column 3 shows the fees which were payable under [S.S.I. 2008/52](#) immediately before the coming into force of this Schedule. Where there is no entry in column 3 but an entry in column 2 the matter is new or has been amended such that no direct comparison can be made with the fee formerly payable.

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<i>Column 1 (Matters)</i>	<i>Column 2 (Fee payable)£ £</i>	<i>Column 3 (Fee formerly payable)(4) £</i>
7. Processing of an application for appointment as a joint withdrawer under section 26B of the Act, and where such an application is granted, the issue of a certificate of authority to the joint withdrawer	10	11
8. Processing of an application for appointment as a reserve withdrawer under section 26D	10	11
9. Provision of a certificate of authority to the reserve withdrawer under section 26E(3)(b) where the certificate is not applied for at the same time as the application under section 26D is made	10	11
10. Processing of an application for variation of a withdrawal certificate under section 26F of the Act, and where such an application is granted, the issue of a varied withdrawal certificate to the withdrawer	10	11
11. Where an application for authority to transfer a specified sum under section 26G of the Act is not made at the same time as an application under section 25, processing of an application under section 26G, and where such an application is granted, the issue of a certificate to the applicant	10	11
12. Provision of a duplicate or replacement of a certificate of authority issued under sections 24C(3), 24D(3), 25(4)(b), 26B(4)(b), 26E(3)(b), 26F(3)(b) or 26G(4)(b)	10	11

(4) Column 3 shows the fees which were payable under [S.S.I. 2008/52](#) immediately before the coming into force of this Schedule. Where there is no entry in column 3 but an entry in column 2 the matter is new or has been amended such that no direct comparison can be made with the fee formerly payable.

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<i>Column 1 (Matters)</i>	<i>Column 2 (Fee payable)£ £</i>	<i>Column 3 (Fee formerly payable)(4) £</i>
13. Processing of an application for renewal of authority to intromit with funds under section 31B of the Act, and where such an application is granted, the issue of a certificate of authority to the joint withdrawer	40	35
14. Provision of a copy of any document–		
(a) (a) up to 10 pages	5	–
(b) (b) each page thereafter	0.50	0.20
(c) (c) on a computer disc or in other electronic form per document	5	3
15. Registration under section 6(2) of the Act of–	65	60
(a) (a) a guardianship order;		
(b) (b) an intervention order;		
(c) (c) a variation of a guardianship order;		
(d) (d) a variation of an intervention order; or		
(e) (e) a renewal of a guardianship order, made under Part 6 of the Act (including, where appropriate, checking caution or other security and issuing certificates)		
16. Authorisation of a gift out of the adult’s estate under section 66(1) of the Act, where the gift has a value in excess of £2,500	45	41

(4) Column 3 shows the fees which were payable under [S.S.I. 2008/52](#) immediately before the coming into force of this Schedule. Where there is no entry in column 3 but an entry in column 2 the matter is new or has been amended such that no direct comparison can be made with the fee formerly payable.

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<i>Column 1</i> <i>(Matters)</i>	<i>Column 2</i> <i>(Fee payable)£</i> £	<i>Column 3</i> <i>(Fee formerly payable)(4)</i> £
17. Recall of the powers of a guardian under section 73 of the Act—		
(a) (a) for an estate with no heritable property	45	41
(b) (b) for an estate with heritable property	95	87
18. Approval of guardian's management plan and inventory, in accordance with paragraphs 1 and 3 of schedule 2 to the Act—		
Estate value (excluding heritable property)		
£0 to £30,000	45	41
£30,001 to £50,000	190	174
£50,001 to £100,000	375	348
£100,001 to £500,000	630	580
£500,001 and over	945	870
19. Granting an application for consent made in accordance with paragraph 6 of schedule 2 to the Act	125	116
20. Audit (except final audit) of accounts submitted in accordance with paragraph 7 of schedule 2 to the Act—		
Estate value (excluding heritable property)		
£0 to £30,000	65	58
£30,001 to £50,000	160	145
£50,001 to £100,000	440	406
£100,001 to £250,000	565	522
£250,001 to £750,000	755	696
£750,001 to £2,000,000	1,510	1,392

(4) Column 3 shows the fees which were payable under [S.S.I. 2008/52](#) immediately before the coming into force of this Schedule. Where there is no entry in column 3 but an entry in column 2 the matter is new or has been amended such that no direct comparison can be made with the fee formerly payable.

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<i>Column 1 (Matters)</i>	<i>Column 2 (Fee payable)£ £</i>	<i>Column 3 (Fee formerly payable)(4) £</i>
£2,000,001 and over	2,200	2,030
21. Final audit of accounts submitted in accordance with paragraph 7 of schedule 2 to the Act—		
Estate value (excluding heritable property)		
£0 to £30,000	115	108
£30,001 to £50,000	210	195
£50,001 to £100,000	495	456
£100,001 to £250,000	620	572
£250,001 to £750,000	810	746
£750,001 to £2,000,000	1,565	1,442
£2,000,001 and over	2,255	2,080

SCHEDULE 2

Regulation 2(3)(b), as read with regulation 1

TABLE OF FEES PAYABLE TO PUBLIC GUARDIAN

Fees payable from 1st April 2009

<i>Column 1 (Matters)</i>	<i>Column 2 (Fee payable) £</i>	<i>Column 3 (Fee formerly payable)(5) £</i>
1. Search of registers under section 6(2)(b) of the Act (per half hour or any part thereof)	15	15
2. Submission of a document conferring a continuing or welfare power of attorney under section 19 of the Act	65	65
3. Provision of a duplicate or replacement of a certificate	10	10

(4) Column 3 shows the fees which were payable under [S.S.I. 2008/52](#) immediately before the coming into force of this Schedule. Where there is no entry in column 3 but an entry in column 2 the matter is new or has been amended such that no direct comparison can be made with the fee formerly payable.

(5) Column 3 shows the fees which were payable by virtue of Schedule 1 to these Regulations immediately before the coming into force of this Schedule.

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<i>Column 1</i> <i>(Matters)</i>	<i>Column 2</i> <i>(Fee payable)</i> £	<i>Column 3</i> <i>(Fee formerly payable)(5)</i> £
issued under section 19(2) of the Act		
4. Audit of accounts submitted by a continuing attorney under section 20(2)(b) of the Act	95	95
5. Processing of an application for authorisation to obtain information about the adult's funds under section 24C of the Act, and where such an application is granted, the issue of a certificate authorising any fundholder to provide the applicant with such information	65	65
6. Where there is no application under section 24C or where the certificate granted under section 24C is more than 4 months old, processing of an application for authorisation to intromit with funds under section 25 of the Act, and where such an application is granted, the issue of a certificate of authority to the withdrawer	65	65
7. Processing of an application for appointment as a joint withdrawer under section 26B of the Act, and where such an application is granted, the issue of a certificate of authority to the joint withdrawer	10	10
8. Processing of an application for appointment as a reserve withdrawer under section 26D	10	10
9. Provision of a certificate of authority to the reserve withdrawer under section 26E(3)(b) where the certificate is not applied for at the same time as the application under section 26D is made	10	10

(5) Column 3 shows the fees which were payable by virtue of Schedule 1 to these Regulations immediately before the coming into force of this Schedule.

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<i>Column 1 (Matters)</i>	<i>Column 2 (Fee payable) £</i>	<i>Column 3 (Fee formerly payable)(5) £</i>
10. Processing of an application for variation of a withdrawal certificate under section 26F of the Act, and where such an application is granted, the issue of a varied withdrawal certificate to the withdrawer	10	10
11. Where an application for authority to transfer a specified sum under section 26G of the Act is not made at the same time as an application under section 25, processing of an application under section 26G, and where such an application is granted, the issue of a certificate to the applicant	10	10
12. Provision of a duplicate or replacement of a certificate of authority issued under sections 24C(3), 24D(3), 25(4)(b), 26B(4)(b), 26E(3)(b), 26F(3)(b) or 26G(4)(b)	10	10
13. Processing of an application for renewal of authority to intromit with funds under section 31B of the Act, and where such an application is granted, the issue of a certificate of authority to the joint withdrawer	40	40
14. Provision of a copy of any document—		
(a) (a) up to 10 pages	5	5
(b) (b) each page thereafter	0.50	0.50
(c) (c) on a computer disc or in other electronic form per document	5	5
15. Registration under section 6(2) of the Act of—	65	65

(5) Column 3 shows the fees which were payable by virtue of Schedule 1 to these Regulations immediately before the coming into force of this Schedule.

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<i>Column 1 (Matters)</i>	<i>Column 2 (Fee payable) £</i>	<i>Column 3 (Fee formerly payable)(5) £</i>
(a) (a) a guardianship order;		
(b) (b) an intervention order;		
(c) (c) a variation of a guardianship order;		
(d) (d) a variation of an intervention order; or		
(e) (e) a renewal of a guardianship order, made under Part 6 of the Act (including, where appropriate, checking caution or other security and issuing certificates)		
16. Authorisation of a gift out of the adult's estate under section 66(1) of the Act, where the gift has a value in excess of £2,500	45	45
17. Recall of the powers of a guardian under section 73 of the Act—		
(a) (a) for an estate with no heritable property	45	45
(b) (b) for an estate with heritable property	95	95
18. Approval of guardian's management plan and inventory, in accordance with paragraphs 1 and 3 of schedule 2 to the Act—		
Estate value (excluding heritable property)		
£0 to £30,000	45	45
£30,001 to £50,000	195	190
£50,001 to £100,000	390	375

(5) Column 3 shows the fees which were payable by virtue of Schedule 1 to these Regulations immediately before the coming into force of this Schedule.

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<i>Column 1 (Matters)</i>	<i>Column 2 (Fee payable) £</i>	<i>Column 3 (Fee formerly payable)(5) £</i>
£100,001 to £500,000	650	630
£500,001 and over	970	945
19. Granting an application for consent made in accordance with paragraph 6 of schedule 2 to the Act	130	125
20. Audit (except final audit) of accounts submitted in accordance with paragraph 7 of schedule 2 to the Act— Estate value (excluding heritable property)		
£0 to £30,000	65	65
£30,001 to £50,000	160	160
£50,001 to £100,000	455	440
£100,001 to £250,000	580	565
£250,001 to £750,000	775	755
£750,001 to £2,000,000	1,555	1,510
£2,000,001 and over	2,265	2,200
21. Final audit of accounts submitted in accordance with paragraph 7 of schedule 2 to the Act— Estate value (excluding heritable property)		
£0 to £30,000	120	115
£30,001 to £50,000	220	210
£50,001 to £100,000	510	495
£100,001 to £250,000	640	620
£250,001 to £750,000	835	810
£750,001 to £2,000,000	1,610	1,565
£2,000,001 and over	2,320	2,255

(5) Column 3 shows the fees which were payable by virtue of Schedule 1 to these Regulations immediately before the coming into force of this Schedule.

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SCHEDULE 3

Regulation 2(3)(c), as read with regulation 1

TABLE OF FEES PAYABLE TO PUBLIC GUARDIAN

Fees payable from 1st April 2010

<i>Column 1 (Matters)</i>	<i>Column 2 (Fee payable) £</i>	<i>Column 3 (Fee formerly payable)(6) £</i>
1. Search of registers under section 6(2)(b) of the Act (per half hour or any part thereof)	15	15
2. Submission of a document conferring a continuing or welfare power of attorney under section 19 of the Act	70	65
3. Provision of a duplicate or replacement of a certificate issued under section 19(2) of the Act	15	10
4. Audit of accounts submitted by a continuing attorney under section 20(2)(b) of the Act	100	95
5. Processing of an application for authorisation to obtain information about the adult's funds under section 24C of the Act, and where such an application is granted, the issue of a certificate authorising any fundholder to provide the applicant with such information	70	65
6. Where there is no application under section 24C or where the certificate granted under section 24C is more than 4 months old, processing of an application for authorisation to intromit with funds under section 25 of the Act, and where such an application is granted, the issue of a certificate of authority to the withdrawer	70	65

(6) Column 3 shows the fees which were payable by virtue of Schedule 2 to these Regulations immediately before the coming into force of this Schedule.

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<i>Column 1 (Matters)</i>	<i>Column 2 (Fee payable) £</i>	<i>Column 3 (Fee formerly payable)(6) £</i>
7. Processing of an application for appointment as a joint withdrawer under section 26B of the Act, and where such an application is granted, the issue of a certificate of authority to the joint withdrawer	15	10
8. Processing of an application for appointment as a reserve withdrawer under section 26D	15	10
9. Provision of a certificate of authority to the reserve withdrawer under section 26E(3)(b) where the certificate is not applied for at the same time as the application under section 26D is made	15	10
10. Processing of an application for variation of a withdrawal certificate under section 26F of the Act, and where such an application is granted, the issue of a varied withdrawal certificate to the withdrawer	15	10
11. Where an application for authority to transfer a specified sum under section 26G of the Act is not made at the same time as an application under section 25, processing of an application under section 26G, and where such an application is granted, the issue of a certificate to the applicant	15	10
12. Provision of a duplicate or replacement of a certificate of authority issued under sections 24C(3), 24D(3), 25(4)(b), 26B(4)(b), 26E(3)(b), 26F(3)(b) or 26G(4)(b)	15	10
13. Processing of an application for renewal of	40	40

(6) Column 3 shows the fees which were payable by virtue of Schedule 2 to these Regulations immediately before the coming into force of this Schedule.

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<i>Column 1 (Matters)</i>	<i>Column 2 (Fee payable) £</i>	<i>Column 3 (Fee formerly payable)(6) £</i>
authority to intromit with funds under section 31B of the Act, and where such an application is granted, the issue of a certificate of authority to the joint withdrawer		
14. Provision of a copy of any document—		
(a) (a) up to 10 pages	5	5
(b) (b) each page thereafter	0.50	0.50
(c) (c) on a computer disc or in other electronic form per document	5	5
15. Registration under section 6(2) of the Act of—	70	65
(a) (a) a guardianship order;		
(b) (b) an intervention order;		
(c) (c) a variation of a guardianship order;		
(d) (d) a variation of an intervention order; or		
(e) (e) a renewal of a guardianship order,		
made under Part 6 of the Act (including, where appropriate, checking caution or other security and issuing certificates)		
16. Authorisation of a gift out of the adult’s estate under section 66(1) of the Act, where the gift has a value in excess of £2,500	45	45
17. Recall of the powers of a guardian under section 73 of the Act—		

(6) Column 3 shows the fees which were payable by virtue of Schedule 2 to these Regulations immediately before the coming into force of this Schedule.

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<i>Column 1</i> <i>(Matters)</i>	<i>Column 2</i> <i>(Fee payable)</i> £	<i>Column 3</i> <i>(Fee formerly payable)(6)</i> £
(a) (a) for an estate with no heritable property	45	45
(b) (b) for an estate with heritable property	100	95
18. Approval of guardian's management plan and inventory, in accordance with paragraphs 1 and 3 of schedule 2 to the Act—		
Estate value (excluding heritable property)		
£0 to £30,000	45	45
£30,001 to £50,000	200	195
£50,001 to £100,000	400	390
£100,001 to £500,000	665	650
£500,001 and over	1000	970
19. Granting an application for consent made in accordance with paragraph 6 of schedule 2 to the Act	135	130
20. Audit (except final audit) of accounts submitted in accordance with paragraph 7 of schedule 2 to the Act—		
Estate value (excluding heritable property)		
£0 to £30,000	65	65
£30,001 to £50,000	165	160
£50,001 to £100,000	465	455
£100,001 to £250,000	600	580
£250,001 to £750,000	800	775
£750,001 to £2,000,000	1,600	1,555
£2,000,001 and over	2,335	2,265
21. Final audit of accounts submitted in accordance with		

(6) Column 3 shows the fees which were payable by virtue of Schedule 2 to these Regulations immediately before the coming into force of this Schedule.

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<i>Column 1 (Matters)</i>	<i>Column 2 (Fee payable) £</i>	<i>Column 3 (Fee formerly payable)(6) £</i>
paragraph 7 of schedule 2 to the Act—		
Estate value (excluding heritable property)		
£0 to £30,000	125	120
£30,001 to £50,000	225	220
£50,001 to £100,000	525	510
£100,001 to £250,000	660	640
£250,001 to £750,000	860	835
£750,001 to £2,000,000	1,660	1,610
£2,000,001 and over	2,395	2,320

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Adults with Incapacity (Public Guardian’s Fees) (Scotland) Regulations 2008 (“the 2008 Regulations”). New fee levels payable to the Public Guardian from 1st August 2008 are specified and reflect on average an increase of 8%. Fee levels were prescribed by the 2008 Regulations on 1st April 2008. The new fees are found in the Table of Fees in Schedule 1 to these Regulations.

These Regulations also specify new fee levels which will be applicable from 1st April 2009 and reflect on average an increase of 3%. These fees are found in the Table of Fees in Schedule 2 to these Regulations.

These Regulations further specify new fee levels which will be applicable from 1st April 2010 and reflect on average an increase of 3%. These fees are found in the Table of Fees in Schedule 3 to these Regulations.

(6) Column 3 shows the fees which were payable by virtue of Schedule 2 to these Regulations immediately before the coming into force of this Schedule.