

2008 No. 52

ADULTS WITH INCAPACITY

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

Made - - - - - *20th February 2008*

Laid before the Scottish Parliament *21st February 2008*

Coming into force - - - *1st April 2008*

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 7(2) and 86(2) of the Adults with Incapacity (Scotland) Act 2000(a) and all 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) Regulations 2008 and come into force on 1st April 2008.

(2) In these Regulations, "the Act" means the Adults with Incapacity (Scotland) Act 2000 and references to sections are references to sections in that Act.

Fees payable to Public Guardian

2. The fees payable to the Public Guardian in respect of matters specified in column 1 of the Schedule shall be the fees specified in relation to those matters in column 2 of that Schedule.

Exemption from fees

3. A fee regulated by these Regulations shall not be payable by a person if—
- (a) the person is in receipt of legal aid within the meaning of section 13(2) of the Legal Aid (Scotland) Act 1986(b) in respect of the matter in the Table of Fees in connection with which the fee is payable; or
 - (b) the person's solicitor is undertaking work in relation to the matter in the Table of Fees in connection with which the fee is payable on the basis of any regulations made under section 36 of the Legal Aid (Scotland) Act 1986 providing for legal aid in a matter of special urgency.

(a) 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.
(b) 1986 (c.47). Section 13(2) was amended by section 74 of and paragraph 36(3) of Schedule 8 to the Law Reform (Miscellaneous Provisions) (Scotland) Act (c.40).

Revocation of the Adults with Incapacity (Public Guardian's Fees) (Scotland) Regulations 2001

4. The Adults with Incapacity (Public Guardian's Fees) (Scotland) Regulations 2001(a) are revoked.

FERGUS EWING

Authorised to sign on behalf of the Scottish Ministers

St Andrew's House,
Edinburgh
20th February 2008

(a) S.S.I. 2001/725, as amended by S.S.I. 2002/131 and 2007/320.

SCHEDULE

Regulation 2

TABLE OF FEES PAYABLE TO PUBLIC GUARDIAN

<i>Column 1 (Matters)</i>	<i>Column 2 (Fee payable)</i>
1. Search of registers under section 6(2)(b) of the Act (per half hour or any part thereof)	£8
2. Submission of a document conferring a continuing or welfare power of attorney under section 19 of the Act	£60
3. Provision of a duplicate or replacement of a certificate issued under section 19(2) of the Act	£11
4. Audit of accounts submitted by a continuing attorney under section 20(2)(b) of the Act	£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	£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	£60
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	£11
8. Processing of an application for appointment as a reserve withdrawer under section 26D	£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	£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	£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	£11

<i>Column 1 (Matters)</i>	<i>Column 2 (Fee payable)</i>
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)	£11
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	£35
14. Provision of a copy–	
(a) per page	£0.20
(b) on a computer disc or in other electronic form	£3
15. Registration under section 6(2) of the Act of–	£60
(a) a guardianship order;	
(b) an intervention order;	
(c) a variation of a guardianship order;	
(d) a variation of an intervention order; or	
(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	£41
17. Recall of the powers of a guardian under section 73 of the Act–	
(a) for an estate with no heritable property	£41
(b) for an estate with heritable property	£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	£41
£30,001 to £50,000	£174
£50,001 to £100,000	£348
£100,001 to £500,000	£580
£500,001 and over	£870
19. Granting an application for consent made in accordance with paragraph 6 of schedule 2 to the Act	£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	£58
£30,001 to £50,000	£145

<i>Column 1 (Matters)</i>	<i>Column 2 (Fee payable)</i>
£50,001 to £100,000	£406
£100,001 to £250,000	£522
£250,001 to £750,000	£696
£750,001 to £2,000,000	£1,392
£2,000,001 and over	£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	£108
£30,001 to £50,000	£195
£50,001 to £100,000	£456
£100,001 to £250,000	£572
£250,001 to £750,000	£746
£750,001 to £2,000,000	£1,442
£2,000,001 and over	£2,080

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations consolidate the Regulations setting out the Public Guardian's fees for providing certain services under the Adults with Incapacity (Scotland) Act 2000 (asp 4) ("the Act") and introduce the changes described below in consequence of the coming into force of section 58 of Part 2 of the Adult Support and Protection (Scotland) Act 2007 (asp 10). Section 58 of that Act substitutes a new Part 3 (accounts and funds) in the Act. Regulation 4 revokes the previous Regulations.

The changes in the Schedule are in numbers 5 to 13. Numbers 5 and 6 reflect the new type of application in section 24C of the Act (i.e. an application to obtain a certificate authorising any fundholder to provide information about funds) and the new numbering of the section under which applications may be made for authority to intromit with an adult's funds (i.e. it was section 26 of the Act and is now section 25). Numbers 7 to 11 introduce new fees for the new arrangements concerning joint and reserve withdrawers, variation of a withdrawal certificate and authority to transfer a specified sum. Number 12 is not a new fee but updates the references to section numbers to reflect the new certificates. Number 13 introduces a new fee for the new arrangement concerning the renewal of authority to intromit. The remaining fees are unchanged.

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