

2015 No. 260

ADULTS WITH INCAPACITY

**The Adults with Incapacity (Public Guardian's Fees) (Scotland)
Regulations 2015**

Made - - - - *15th June 2015*

Laid before the Scottish Parliament *17th June 2015*

Coming into force in accordance with regulation 1

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, commencement, effect and interpretation

1.—(1) These Regulations may be cited as the Adults with Incapacity (Public Guardian's Fees) (Scotland) Regulations 2015 and, subject to paragraphs (2) and (3), come into force on 22nd September 2015.

(2) Regulation 2(b) and Schedule 2 come into force, and regulation 2(a) and Schedule 1 cease to have effect, on 1st April 2016.

(3) Regulation 2(c) and Schedule 3 come into force, and regulation 2(b) and Schedule 2 cease to have effect, on 1st April 2017.

(4) In these Regulations, “the Act” means the Adults with Incapacity (Scotland) Act 2000.

Fees payable to the Public Guardian

2. Subject to regulation 3—

- (a) the fees payable to the Public Guardian in respect of the matters specified in column 1 of the Table of Fees in Schedule 1 (table of fees payable from 22nd September 2015) are the fees specified in relation to those matters in column 2 of that Table;
- (b) the fees payable to the Public Guardian in respect of the matters specified in column 1 of the Table of Fees in Schedule 2 (table of fees payable from 1st April 2016) are the fees specified in relation to those matters in column 2 of that Table; and
- (c) the fees payable to the Public Guardian in respect of the matters specified in column 1 of the Table of Fees in Schedule 3 (table of fees payable from 1st April 2017) are the fees specified in relation to those matters in column 2 of that Table.

(a) 2000 asp 4. The 2000 Act was amended by the Adult Support and Protection (Scotland) Act 2007 (asp 10). Section 87(1) of the 2000 Act contains a definition of “prescribe” relevant to the exercise of the statutory powers under which these Regulations are made. Section 87(1A) provides that any power under the 2000 Act to prescribe anything by regulations is exercisable by the Scottish Ministers.

Exemption of certain persons from fees

- 3.—(1) A fee prescribed by these Regulations is not payable by a person if—
- (a) the person or the person’s partner is in receipt of income support under the Social Security Contributions and Benefits Act 1992(a);
 - (b) the person is in receipt of an income-based jobseeker’s allowance under the Jobseekers Act 1995(b);
 - (c) the person is in receipt of universal credit under Part 1 of the Welfare Reform Act 2012(c);
 - (d) the person is in receipt of civil legal aid within the meaning of section 13(2) of the Legal Aid (Scotland) Act 1986(d) in respect of the matter in the Table of Fees in Schedule 1, 2 or 3 in connection with which the fee is payable;
 - (e) the fee is payable in connection with a simplified divorce or dissolution of a civil partnership application and the person is in receipt of advice and assistance from a solicitor under the Legal Aid (Scotland) Act 1986 in respect of that application;
 - (f) the person’s solicitor is undertaking work in relation to the matter in the Table of Fees in Schedule 1, 2 or 3 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;
 - (g) the person or the person’s partner is in receipt of guarantee credit under the State Pension Credit Act 2002(e);
 - (h) the person or the person’s partner is in receipt of working tax credit, provided that—
 - (i) child tax credit is being paid to the party, or otherwise following a claim for child tax credit made jointly by the members of a couple (as defined in section 3(5A) of the Tax Credits Act 2002(f)) which includes the party; or
 - (ii) there is a disability element or severe disability element (or both) to the tax credit received by the party;and that the gross annual income taken into account for the calculation of the working tax credit is £16,642 or less; or
 - (i) the person or the person’s partner is in receipt of income-related employment and support allowance under the Welfare Reform Act 2007(g).

(2) In this regulation, “partner” means a person to whom a person is married or with whom the person is registered as a civil partner in terms of sections 1(1), 85(1) or 137(1) of the Civil Partnership Act 2004(h).

-
- (a) 1992 c.4. Section 124, which provides for income support, was amended by the Jobseekers Act 1995 (c.18), section 41 and Schedules 2 and 3; the Welfare Reform and Pensions Act 1999 (c.30), section 70 and Schedule 8, Part IV, paragraph 28; the State Pension Credit Act 2002 (c.16), Schedules 2 and 3; the Civil Partnership Act 2004 (c.33), Schedule 24; the Welfare Reform Act 2007 (c.5), Schedules 3 and 8; the Welfare Reform Act 2009 (c.24), section 3; and the Welfare Reform Act 2012 (c.5), Schedule 14.
 - (b) 1995 c.18.
 - (c) 2012 c.5.
 - (d) 1986 c.47. Section 13(2) was amended by the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (c.40), section 74 and Schedule 8, paragraph 36(3).
 - (e) 2002 c.16.
 - (f) 2002 c.21. Section 3(5A) was substituted for section 3(5) to (6) by the Civil Partnership Act 2004, Schedule 24, paragraph 144(3).
 - (g) 2007 c.5.
 - (h) 2004 c.33.

Revocations

4. The instruments listed in column 1 of the table in Schedule 4 are revoked to the extent described in column 3 of that table.

St Andrew's House,
Edinburgh
15th June 2015

MICHAEL MATHESON
A member of the Scottish Government

SCHEDULE 1
TABLE OF FEES

Regulation 2(a)

Payable from 22nd September 2015

<i>Column 1 (Matters)</i>	<i>Column 2 (Fee payable) £</i>	<i>Column 3 (Fee formerly payable)(a) £</i>
1. Submission of a document conferring a continuing or welfare power of attorney under section 19 of the Act.	73	70
2. Registration of a deed of amendment to a continuing or welfare power of Attorney under section 19 of the Act.	73	70
3. Provision of a duplicate or replacement of a certificate issued under section 19(2) of the Act.	18	17
4. Audit of accounts submitted by a continuing attorney under section 20(2)(b) of the Act.	115	111
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.	81	78
6. Where there is no application under section 24C, the 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.	81	78
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.	18	17
8. Processing of an application for appointment as a reserve withdrawer under section 26D of the Act.	18	17
9. Provision of a certificate of authority to the reserve withdrawer under section 26E(3)(b) of the Act, where the certificate is not applied for at the same time as the application under section 26D is made.	18	17

(a) Column 3 shows the fees which were payable by virtue of the Schedule to S.S.I. 2008/52 (as substituted by S.S.I. 2012/289) immediately before the coming into force of this Schedule.

<i>Column 1 (Matters)</i>	<i>Column 2 (Fee payable) £</i>	<i>Column 3 (Fee formerly payable)(a) £</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.	18	17
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.	18	17
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) of the Act.	18	17
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.	47	45
14. Provision of a copy of any document—		
(a) up to 10 pages;	6	5
(b) each page thereafter;	0.50	0.50
(c) in electronic form, per document.	6	5
15. Registration under section 6(2) of the Act of—	81	78
(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. Recall of the powers of a guardian under section 73 of the Act—		
(a) for an estate with no heritable property;	52	50
(b) for an estate with heritable property.	115	111

SCHEDULE 2
TABLE OF FEES

Regulation 2(b)

Payable from 1st April 2016

<i>Column 1 (Matters)</i>	<i>Column 2 (Fee payable) £</i>	<i>Column 3 (Fee formerly payable)(a) £</i>
1. Submission of a document conferring a continuing or welfare power of attorney under section 19 of the Act.	74	73
2. Registration of a deed of amendment to a continuing or welfare power of Attorney under section 19 of the Act.	74	73
3. Provision of a duplicate or replacement of a certificate issued under section 19(2) of the Act.	18	18
4. Audit of accounts submitted by a continuing attorney under section 20(2)(b) of the Act.	117	115
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.	83	81
6. Where there is no application under section 24C, the 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.	83	81
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.	18	18
8. Processing of an application for appointment as a reserve withdrawer under section 26D of the Act.	18	18
9. Provision of a certificate of authority to the reserve withdrawer under section 26E(3)(b) of the Act, where the certificate is not applied for at the same time as the application under section 26D is made.	18	18

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

<i>Column 1 (Matters)</i>	<i>Column 2 (Fee payable) £</i>	<i>Column 3 (Fee formerly payable)(a) £</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.	18	18
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.	18	18
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) of the Act.	18	18
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.	48	47
14. Provision of a copy of any document—		
(a) up to 10 pages;	6	6
(b) each page thereafter;	0.50	0.50
(c) in electronic form, per document.	6	6
15. Registration under section 6(2) of the Act of—	83	81
(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. Recall of the powers of a guardian under section 73 of the Act—		
(a) for an estate with no heritable property;	53	52
(b) for an estate with heritable property.	117	115

<i>Column 1 (Matters)</i>	<i>Column 2 (Fee payable) £</i>	<i>Column 3 (Fee formerly payable)(a) £</i>
<p>17. Consideration of guardian's management plan and inventory, in accordance with paragraphs 1 and 3 of schedule 2 to the Act—</p> <p>Estate value (excluding heritable property)</p> <p>£0 to £30,000;</p> <p>£30,001 to £50,000;</p> <p>£50,001 to £250,000;</p> <p>£250,001 to £500,000;</p> <p>£500,001 and over.</p>	<p>53</p> <p>237</p> <p>473</p> <p>786</p> <p>1,182</p>	<p>52</p> <p>232</p> <p>464</p> <p>771</p> <p>1,159</p>
<p>18. Consideration of an application for consent made in accordance with paragraph 6 of schedule 2 to the Act.</p>	56	55
<p>19. Audit (except final audit) of accounts submitted in accordance with paragraph 7 of schedule 2 to the Act—</p> <p>Estate value (excluding heritable property)</p> <p>£0 to £30,000;</p> <p>£30,001 to £50,000;</p> <p>£50,001 to £250,000;</p> <p>£250,001 to £500,000;</p> <p>£500,001 and over.</p>	<p>76</p> <p>195</p> <p>550</p> <p>709</p> <p>946</p>	<p>75</p> <p>191</p> <p>539</p> <p>695</p> <p>927</p>
<p>20. Final audit of accounts submitted in accordance with paragraph 7 of schedule 2 to the Act—</p> <p>Estate value (excluding heritable property)</p> <p>£0 to £30,000;</p> <p>£30,001 to £50,000;</p> <p>£50,001 to £250,000;</p> <p>£250,001 to £500,000;</p> <p>£500,001 and over.</p>	<p>148</p> <p>266</p> <p>621</p> <p>780</p> <p>1,017</p>	<p>145</p> <p>261</p> <p>609</p> <p>765</p> <p>997</p>

SCHEDULE 3
TABLE OF FEES

Regulation 2(c)

Payable from 1st April 2017

<i>Column 1 (Matters)</i>	<i>Column 2 (Fee payable) £</i>	<i>Column 3 (Fee formerly payable)(a) £</i>
1. Submission of a document conferring a continuing or welfare power of attorney under section 19 of the Act.	75	74
2. Registration of a deed of amendment to a continuing or welfare power of Attorney under section 19 of the Act.	75	74
3. Provision of a duplicate or replacement of a certificate issued under section 19(2) of the Act.	18	18
4. Audit of accounts submitted by a continuing attorney under section 20(2)(b) of the Act.	119	117
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.	85	83
6. Where there is no application under section 24C, the 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.	85	83
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.	18	18
8. Processing of an application for appointment as a reserve withdrawer under section 26D of the Act.	18	18
9. Provision of a certificate of authority to the reserve withdrawer under section 26E(3)(b) of the Act, where the certificate is not applied for at the same time as the application under section 26D is made.	18	18

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

<i>Column 1 (Matters)</i>	<i>Column 2 (Fee payable) £</i>	<i>Column 3 (Fee formerly payable)(a) £</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.	18	18
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.	18	18
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) of the Act.	18	18
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.	49	48
14. Provision of a copy of any document—		
(a) up to 10 pages;	6	6
(b) each page thereafter;	0.50	0.50
(c) in electronic form, per document.	6	6
15. Registration under section 6(2) of the Act of—	85	83
(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. Recall of the powers of a guardian under section 73 of the Act—		
(a) for an estate with no heritable property;	54	53
(b) for an estate with heritable property.	119	117

<i>Column 1 (Matters)</i>	<i>Column 2 (Fee payable) £</i>	<i>Column 3 (Fee formerly payable)(a) £</i>
<p>17. Consideration of guardian's management plan and inventory, in accordance with paragraphs 1 and 3 of schedule 2 to the Act—</p> <p>Estate value (excluding heritable property)</p> <p>£0 to £30,000;</p> <p>£30,001 to £50,000;</p> <p>£50,001 to £250,000;</p> <p>£250,001 to £500,000;</p> <p>£500,001 and over.</p>	<p>54</p> <p>242</p> <p>482</p> <p>802</p> <p>1,206</p>	<p>53</p> <p>237</p> <p>473</p> <p>786</p> <p>1,182</p>
<p>18. Consideration of an application for consent made in accordance with paragraph 6 of schedule 2 to the Act.</p>	<p>57</p>	<p>56</p>
<p>19. Audit (except final audit) of accounts submitted in accordance with paragraph 7 of schedule 2 to the Act—</p> <p>Estate value (excluding heritable property)</p> <p>£0 to £30,000;</p> <p>£30,001 to £50,000;</p> <p>£50,001 to £250,000;</p> <p>£250,001 to £500,000;</p> <p>£500,001 and over.</p>	<p>78</p> <p>199</p> <p>561</p> <p>723</p> <p>965</p>	<p>76</p> <p>195</p> <p>550</p> <p>709</p> <p>946</p>
<p>20. Final audit of accounts submitted in accordance with paragraph 7 of schedule 2 to the Act—</p> <p>Estate value (excluding heritable property)</p> <p>£0 to £30,000;</p> <p>£30,001 to £50,000;</p> <p>£50,001 to £250,000;</p> <p>£250,001 to £500,000;</p> <p>£500,001 and over.</p>	<p>151</p> <p>271</p> <p>633</p> <p>796</p> <p>1,037</p>	<p>148</p> <p>266</p> <p>621</p> <p>780</p> <p>1,017</p>

SCHEDULE 4

Regulation 4

Revocations

<i>Column 1 (Instrument)</i>	<i>Column 2 (Citation)</i>	<i>Column 3 (Extent of revocation)</i>
The Adults with Incapacity (Public Guardian's Fees) (Scotland) Amendment Regulations 2002	S.S.I. 2002/131	The whole instrument
The Adults with Incapacity (Public Guardian's Fees) (Scotland) Amendment Regulations 2007	S.S.I. 2007/320	The whole instrument
The Adults with Incapacity (Public Guardian's Fees) (Scotland) Regulations 2008	S.S.I. 2008/52	The whole instrument
The Adults with Incapacity (Public Guardian's Fees) (Scotland) Amendment Regulations 2008	S.S.I. 2008/238	The whole instrument
The Adults with Incapacity (Public Guardian's Fees) (Scotland) Amendment Regulations 2012	S.S.I. 2012/289	The whole instrument

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision for the fees payable to the Public Guardian in Scotland.

Regulation 2 and Schedules 1 to 3 specify fee levels payable to the Public Guardian in respect of certain matters.

- The fee levels for the period from 22nd September 2015 until 31st March 2016 are given effect by the Table of Fees in Schedule 1.
- The fee levels for the period from 1st April 2016 until 31st March 2017 are given effect by substituting the Table of Fees in Schedule 1 with the Table of Fees in Schedule 2.
- The fee levels from 1st April 2017 onwards are given effect by substituting the Table of Fees in Schedule 2 with the Table of Fees in Schedule 3.

Regulation 3 exempts certain persons from payment of fees.

Regulation 4 revokes the Adults with Incapacity (Public Guardian's Fees) (Scotland) Regulations 2008 together with amending Regulations and previous amending Regulations.

A Business and Regulatory Impact Assessment has been prepared for these Regulations and placed in the Scottish Parliament Information Centre. Copies can be obtained from the Scottish Government Justice Directorate, St Andrews House, Edinburgh EH1 3DG.

© Crown copyright 2015

Printed in the UK by The Stationery Office Limited under the authority and superintendence of Carol Tullo, the Queen's Printer for Scotland.

£6.00

S201506165 06/2015 19585

<http://www.legislation.gov.uk/id/ssi/2015/260>

ISBN 978-0-11-102840-7



9 780111 028407