



# Adults with Incapacity (Scotland) Act 2000

2000 asp 4

## PART 6

### INTERVENTION ORDERS AND GUARDIANSHIP ORDERS

#### *Termination and variation of guardianship and replacement, removal or resignation of guardian*

#### **72 Discharge of guardian with financial powers**

- (1) At any time after—
- (a) the recall of a guardianship order appointing a guardian with powers relating to the property or financial affairs of an adult;
  - [<sup>F1</sup>(aa) the expiry of such a guardianship order;]
  - (b) the resignation, removal or replacement of such a guardian; or
  - (c) the death of the adult,
- the Public Guardian may, on an application by the former guardian or, if the former guardian has died, his representative, grant a discharge in respect of the former guardian's actings and intromissions with the estate of the adult.
- (2) On receipt of an application in the prescribed form, the Public Guardian shall intimate the application to the adult, his nearest relative, his primary carer, [<sup>F2</sup>his named person] and any other person who the Public Guardian considers has an interest in the application and advise them of the prescribed period within which they may object to the granting of the application; and he shall not grant the application without affording to any objector an opportunity of being heard.
- (3) Having heard any objections as mentioned in subsection (2) the Public Guardian may grant the application.
- (4) Where the Public Guardian proposes to refuse the application he shall intimate his decision to the applicant and advise him of the prescribed period within which he may object to the refusal; and he shall not refuse the application without affording to the applicant, if he objects, an opportunity of being heard.

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*Changes to legislation: There are currently no known outstanding effects for the Adults with Incapacity (Scotland) Act 2000, Section 72. (See end of Document for details)*

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- (5) The Public Guardian may at his own instance or at the instance of the applicant or of any person who objects to the granting of the application remit the application for determination by the sheriff, whose decision shall be final.
- (6) A decision of the Public Guardian—
- (a) to grant a discharge under subsection (1) or to refuse a discharge;
  - (b) to grant an application under subsection (3) or to refuse an application;
  - (c) to refuse to remit an application to the sheriff under subsection (5)
- may be appealed to the sheriff, whose decision shall be final.

#### Textual Amendments

- F1** S. 72(1)(aa) inserted (5.10.2007) by [Adult Support and Protection \(Scotland\) Act 2007 \(asp 10\)](#), [ss. 60\(10\)](#), 79; [S.S.I. 2007/334](#), [art. 2\(b\)](#), [Sch. 2](#) (with savings in arts. 4-6)
- F2** Words in s. 72(2) 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\(7\)](#)

**Changes to legislation:**

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