

# **ADULT SUPPORT AND PROTECTION (SCOTLAND) ACT 2007**

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## **EXPLANATORY NOTES**

### **THE ACT – AN OVERVIEW**

#### **Part 2**

#### **Adults With Incapacity**

#### ***Section 58 – Accounts and funds***

#### **Applications: general**

109. New section 27 covers those aspects of the application procedure which apply to all applications under this Part.
110. New section 27A(1) sets out the new countersigning requirements for applications for authority to obtain information (24C), open an account (24D), intromit (25) and for a joint withdrawer (26B). The countersignatory must have known the applicant for at least a year (this was previously two years), must not fall into one of the excluded categories, and must confirm that s/he believes the information in the application to be true and that the applicant is a fit and proper person to intromit. Section 27A(2) makes provision for the countersigning of reserve withdrawers' applications. Section 27A(3) sets out that applications by organisations do not require to be counter-signed.
111. New section 27B provides for a medical certificate to accompany applications for authority to provide information (24C), to open an account (24D) and to intromit (25). Medical certificates under this section will refer to the adult's ability to manage funds.
112. New section 27C requires all applications to be intimated in the same way as previously: to the adult; the adult's nearest relative; the adult's primary carer; the adult's named person and to any other person the Public Guardian considers has an interest. In cases where the applicant is both the adult's nearest relative and carer or a body other than a local authority, it must also be intimated to the Chief Social Work Officer of the local authority.
113. New section 27D requires the Public Guardian to be satisfied that an applicant, or a proposed reserve withdrawer, is a fit and proper person to intromit with an adult's funds before granting an application under sections 24C, 24D, 25, 26B or 26D. The Public Guardian has a broad discretion in this regard but must take account of any guidance issued by Scottish Ministers.
114. New section 27E provides a requirement that objectors should be heard in relation to all applications and refusals of applications under this Part. Representations may be made orally or in writing.
115. New section 27F provides power for the Public Guardian to refer an application under this Part to the sheriff to be determined. The sheriff's decision is final.

*These notes relate to the Adult Support and Protection (Scotland)  
Act 2007 (asp 10) which received Royal Assent on 21 March 2007*

116. New section 27G(1) provides that where there has been an application for authority to obtain information (24C), open an account (24D) or intromit (25) and where that person makes a further application in relation to the adult, the Public Guardian has the power to dispense with the need for the same information to be provided more than once, or for the application to be countersigned or a medical certificate produced when this has already been done in respect of a previous application in respect of the same adult. Section 27G(2) allows for the issuing of a combined certificate.