



# Adults with Incapacity (Scotland) Act 2000

2000 asp 4

## PART 6

### INTERVENTION ORDERS AND GUARDIANSHIP ORDERS

#### *Functions etc. of guardian*

#### **68 Reimbursement and remuneration of guardian**

- (1) A guardian shall be entitled to be reimbursed out of the estate of the adult for any outlays reasonably incurred by him in the exercise of his functions.
- (2) In subsection (1), “outlays”, in relation to a guardian—
  - (a) who is someone other than the chief social work officer of a local authority, includes payment for items and services other than those items and services which the guardian is expected to provide as part of his functions;
  - (b) who is the chief social work officer of a local authority, includes payment for items and services only if they would not normally be provided free of charge by the local authority to a person who is in similar circumstances but who does not have a guardian.
- (3) The local authority shall, in relation to the cost of any application by them for appointment of their chief social work officer as guardian or of any subsequent application by that officer while acting as guardian—
  - (a) where the application relates to the personal welfare of the adult, meet such cost;
  - (b) where the application relates to the property or financial affairs of the adult, be entitled to recover such cost from the estate of the adult,and where the application relates to the personal welfare and to the property or financial affairs of the adult the sheriff shall, in determining the application, apportion the cost as he thinks fit.
- (4) Remuneration shall be payable out of the adult’s estate—

---

*Changes to legislation: There are currently no known outstanding effects for the Adults with Incapacity (Scotland) Act 2000, Section 68. (See end of Document for details)*

---

- (a) in respect of the exercise of functions relating to the personal welfare of the adult, only in a case where special cause is shown;
- (b) in respect of the exercise of functions relating to the property or financial affairs of the adult, unless the sheriff directs otherwise in the order appointing the guardian,

but shall not be payable to a local authority in respect of the exercise by their chief social work officer of functions relating to the personal welfare of the adult.

- (5) In determining whether or not to make a direction under subsection (4)(b), the sheriff shall take into account the value of the estate and the likely difficulty of managing it.
- (6) Any remuneration payable to the guardian and the amount of outlays to be allowed under subsection (1) shall be fixed by the Public Guardian—
  - (a) in a case where the guardian is required to submit accounts, when the guardian's accounts for that period are audited;
  - (b) in any other case, on an application by the guardian,and in fixing the remuneration to be paid to the guardian the Public Guardian shall take into account the value of the estate.
- (7) The Public Guardian may allow payments to account to be made by way of remuneration during the accounting period if it would be unreasonable to expect the guardian to wait for payment until the end of an accounting period.
- (8) A decision by the Public Guardian—
  - (a) under subsection (6) as to the remuneration payable and the outlays allowable to the guardian;
  - (b) under subsection (7) as to payments to account to the guardianmay be appealed to the sheriff, whose decision shall be final.

**Changes to legislation:**

There are currently no known outstanding effects for the Adults with Incapacity (Scotland) Act 2000, Section 68.