

*These notes relate to the Adults with Incapacity (Scotland)
Act 2000 (asp 4) which received Royal Assent on 9 May 2000*

ADULTS WITH INCAPACITY (SCOTLAND) ACT 2000

EXPLANATORY NOTES

THE ACT

Part 1: General

Expenses in court proceedings

Section 8: Expenses in court proceedings

41. The Public Guardian, Mental Welfare Commission or the relevant local authority may need to initiate legal proceedings to protect an adult's financial affairs or welfare. These statutory authorities may also become involved in existing proceedings to argue for the adoption of a particular course of action or put forward their views. This section provides that the statutory authorities should be entitled to be awarded their expenses by the court. The exception to this provision is that the local authority is required by section 68 to meet the costs of applications where the local authority itself is to act as welfare guardian.
42. Where the statutory authorities are involved in proceedings in order to protect the adult's own interests, expenses are to be awardable out of the adult's resources or against any person whose conduct necessitated the application. Where the statutory authorities are representing the public interest expenses are to be awardable against anyone whose actions have prompted the proceedings or who has behaved unreasonably during them. It is possible, but unlikely, that expenses might be awarded against the adult in such cases.