

*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 3: Accounts and Funds

Section 32: Joint accounts

133. This section applies to “either/or survivor” joint accounts, in other words those enabling any account holder to operate the account without a signature being required from the other holder(s). It does not apply to joint accounts where all the joint account holders have to sign every cheque or withdrawal document. The purpose of the provision is to ensure that one holder of such an account can continue to operate the account if the other holder becomes incapable of doing so, unless the account holders have specifically agreed to opt out of this provision. The purpose is to ensure that fundholders do not freeze a joint account on becoming aware of the incapacity of one of the account holders, thus preventing any withdrawals from the account and requiring the appointment of a guardian to gain access to the funds held.
134. The continued authority to operate will not apply if the joint account holders have previously agreed to opt out of the scheme by confirming with the fundholder that the incapacity of one of them should terminate the authority of the other account holder(s) to operate the account. Nor will the provision apply where the account holder(s) with capacity is/are prevented by a court order from operating the account.