



# Adults with Incapacity (Scotland) Act 2000

2000 asp 4

## [<sup>F1</sup>PART 3

### ACCOUNTS AND FUNDS

#### *[<sup>F1</sup>Transition from guardianship*

#### **Textual Amendments**

- F1** Pt. 3 substituted (1.4.2008) by [Adult Support and Protection \(Scotland\) Act 2007 \(asp 10\)](#), **ss. 58, 79(3)**; [S.S.I. 2008/49](#), **art. 2(1)** (with **arts. 34**)

#### **31E Transition from guardianship**

- (1) This section applies where—
  - (a) there is a guardian with powers relating to the property or financial affairs of an adult; and
  - (b) an application is made under section 25 in relation to the adult's funds.
- (2) Section 27A does not apply to the application if it is made by the adult's guardian.
- (3) The Public Guardian may disapply section 27B to the application.
- (4) Where—
  - (a) it appears to the Public Guardian that, if the application were granted, the adult's interests in the adult's property and affairs can be satisfactorily safeguarded or promoted otherwise than by the existing guardianship; and
  - (b) the Public Guardian proposes to grant the application,the Public Guardian must initiate the recall of the guardianship under section 73.
- (5) The Public Guardian may not grant the application unless the guardianship is recalled.

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

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- (6) Where the Public Guardian grants the application, the withdrawal certificate issued to the withdrawer is valid for such period as the Public Guardian specifies at the time the Public Guardian grants the application.
- (7) This section does not apply, and no application under this Part may be made, in the case of an adult if there is a person who is—
  - (a) appointed or otherwise entitled under the law of any country other than Scotland to act as a guardian (however called) in relation to the adult's property and financial affairs during the adult's incapacity; and
  - (b) recognised by the law of Scotland as the adult's guardian.
- (8) Despite subsection (7), no liability is incurred by any person who acts in good faith under this Part in ignorance of any guardian of the type mentioned in that subsection.]

**Changes to legislation:**

There are currently no known outstanding effects for the Adults with Incapacity (Scotland) Act 2000, Cross Heading: Transition from guardianship.