

Changes to legislation: There are currently no known outstanding effects for the Adults with Incapacity (Scotland) Act 2000, Paragraph 6. (See end of Document for details)

SCHEDULE 2 MANAGEMENT OF ESTATE OF ADULT

Purchase or disposal of accommodation

- 6 (1) The guardian shall not, without the consent of the Public Guardian—
- (a) in principle; and
 - (b) to the purchase or selling price,
- purchase accommodation for, or dispose of any accommodation used for the time being as a dwelling house by, the adult.
- (2) On receipt of an application for consent in principle under sub-paragraph (1)(a) in the prescribed form, the Public Guardian shall intimate the application to the adult, his nearest relative, his primary carer [^{F1}, his named person] and any person who the Public Guardian considers has an interest in the application and advise them of the prescribed period within which they may object to the granting of the application.
- (3) The Public Guardian shall remit any objection under sub-paragraph (2) for determination by the sheriff (whose decision shall be final) and—
- (a) if the sheriff upholds the objection, shall refuse the application;
 - (b) if the sheriff dismisses the objection, shall grant the application.
- (4) Where the Public Guardian proposes to refuse the application other than under sub-paragraph (3)(a) he shall intimate his decision to the applicant and advise him of the prescribed period within which he may object to the refusal; and he shall not refuse the application without affording the applicant, if he objects, an opportunity of being heard.
- (5) Having heard any objections as mentioned in sub-paragraph (4) or where there is no objection as mentioned in sub-paragraph (2), the Public Guardian may grant the application.
- (6) The Public Guardian may at his own instance or at the instance of any person who objects to the granting or refusal (other than a refusal under sub-paragraph (3)(a)) of the application remit the application to the sheriff for determination by the sheriff, whose decision shall be final.
- (7) If consent in principle to the purchase or disposal of the accommodation is given, the guardian shall apply to the Public Guardian for consent under sub-paragraph (1) (b) to the purchase or selling price.
- (8) A decision of the Public Guardian—
- (a) to grant or to refuse (other than under sub-paragraph (3)(a)) an application; or
 - (b) to refuse to remit an application to the sheriff under sub-paragraph (6),
- may be appealed to the sheriff, whose decision shall be final.
- (9) A decision of the Public Guardian to give or to refuse consent under sub-paragraph (1)(b) shall be final.

Textual Amendments

- F1** Words in [Sch. 2 para. 6\(2\)](#) inserted (5.10.2007) by [Adult Support and Protection \(Scotland\) Act 2007](#) (asp 10), ss. 77(1), 79, [Sch. 1 para. 5\(f\)](#); S.S.I. 2007/334, [art. 2\(b\)](#), [Sch. 2](#) (with savings in arts. 4-6)

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