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SCOTTISH STATUTORY INSTRUMENTS

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**2001 No. 82**

**LEGAL AID AND ADVICE**

**The Civil Legal Aid (Scotland) Amendment Regulations 2001**

<i>Made</i>	- - - -	<i>7th March 2001</i>
<i>Laid before the Scottish Parliament</i>	- - - -	<i>8th March 2001</i>
<i>Coming into force</i>	- -	<i>2nd April 2001</i>

The Scottish Ministers, in exercise of the powers conferred by section 36(1), (2)(h) and (3)(bb) of the Legal Aid (Scotland) Act 1986<sup>(1)</sup> and of all other powers enabling them in that behalf, hereby make the following Regulations:

**Citation and commencement**

1. These Regulations may be cited as the Civil Legal Aid (Scotland) Amendment Regulations 2001 and shall come into force on 2nd April 2001.

**Amendment of the Civil Legal Aid (Scotland) Regulations 1996**

2. After regulation 14 of the Civil Legal Aid (Scotland) Regulations 1996<sup>(2)</sup> there shall be inserted—

“**14A.**—(1) Where the applicant is a person concerned in any of the proceedings set out in paragraph (2) below only as claiming or having an interest in the property, financial affairs or personal welfare of an incapable adult under the Adults with Incapacity (Scotland) Act 2000<sup>(3)</sup> (in this regulation referred to as “the 2000 Act”) then for the purpose of determining his disposable income and disposable capital, and the amount of any contribution required under section 17 of the Act, the personal resources of the applicant shall be disregarded, but regard shall be had to the personal resources of the incapable adult.

(2) The proceedings referred to in paragraph (1) above are proceedings where—

(a) an application is made to the sheriff under section 3(3) of the 2000 Act;

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(1) 1986 c. 47; section 36(3)(bb) was inserted by the [Adults with Incapacity \(Scotland\) Act 2000 \(asp 4\)](#), Schedule 5, paragraph 19. Section 37 was amended by S.I.1999/1820, Schedule 2, paragraph 86(4). The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c. 46).

(2) S.I. 1996/2444, as amended by S.I. 1997/727, 1998/725 and 1999/1042, and S.S.I. 2000/182.

(3) 2000 asp 4.

- (b) a decision as to the incapacity of an adult is appealed under section 14(b) of the 2000 Act;
- (c) an application is made to the sheriff for an order under section 20(2) of the 2000 Act;
- (d) an application is made to the sheriff under section 3(6) of the 2000 Act to vary the terms of an order made under section 20(2) of that Act;
- (e) an application under section 26(1) of the 2000 Act for authority to intromit with funds is remitted for determination by the sheriff under section 26(8) of that Act;
- (f) the decision of the Public Guardian to grant or refuse an application under section 26(1) of the 2000 Act for authority to intromit with funds is appealed under section 26(9)(a) of the 2000 Act;
- (g) the decision of the Public Guardian to refuse to remit an application to the sheriff under section 26(8) is appealed under section 26(9)(b) of the 2000 Act.”.

St Andrew’s House,  
Edinburgh  
7th March 2001

*JAMES R WALLACE*  
A member of the Scottish Executive

## **EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations amend the Civil Legal Aid (Scotland) Regulations 1996 so as to make provision for the availability of civil legal aid to a person claiming or having an interest in the property, financial affairs or personal welfare of an incapable adult, based on the resources of that adult. This shall only apply for the purposes of certain proceedings under the Adults with Incapacity (Scotland) Act 2000 (regulation 2).