



What are the Financial Provisions of the Adults with Incapacity (Scotland) Act 2000?



What is it?

The Adults with Incapacity (Scotland) Act 2000 (the Act) was passed by the Scottish Parliament to help people who live or have property in Scotland.

What does it do?

The Act gives various options to allow other people to make decisions for a person who either is or who may become incapable of looking after their own affairs.

The Act may make it possible for you to decide who you want to look after your financial affairs if you become unable or incapable of making decisions for yourself.

What does incapable mean?

Your capacity could be impaired gradually, or suddenly as a result of an accident or illness. A registered and licensed medical doctor will be able to say whether or not you are incapable.

In what ways can the Act help?

It allows you to:

- Create a Power of Attorney
- Apply to access money using the Access to Funds Scheme
- Apply to make a financial Intervention
- Apply to be a Financial Guardian

Whatever is right for you.

Creating a Power of Attorney (POA)

You can draw up a Continuing POA when you are capable to make sure that someone you trust is appointed to make decisions about your property or financial affairs. For example this may be paying your bills, or dealing with your allowances or pension, or perhaps managing your money or investments. This person is known as an Attorney. The Attorney will look after your affairs for you if you become unable or incapable of dealing with your own affairs.

The POA lets you plan what kind of things you want someone to do for you in the future. Welfare POA can also be made. This lets you decide who you wish to make welfare and health care decisions for you if you cannot do so for yourself due to incapacity.

A solicitor can help you draw up a POA. There are examples of POAs on the OPG website.

Applying to Access Funds

This scheme allows individuals or an organisation to continue to pay bills and meet regular expenses for a person who can no longer do so for himself or herself.

Relatives or/and friends can make an application to the Public Guardian to pay bills from the person's bank or building society account. Organisations can also apply to the Public Guardian for authority to access an adult's funds.

Applying for Financial Intervention

This option is available when a person needs authority to be able to make a **one off action** or make a decision on behalf of someone who is no longer capable of doing so for himself or herself. An example of a one off action would be signing legal documents or perhaps selling a home.

Applying to be a Financial Guardian

This option is available when a person needs authority to be able to make decisions on an **ongoing basis** to manage the financial affairs of a person who is no longer capable of doing so for himself or herself. The application for a guardianship order is made to the local sheriff court. Your local solicitor, Citizens Advice bureau or the OPG should be able to help you.

Where can I get further help or information?

Staff at the OPG will be happy to answer any enquiry on how to go about making a continuing power of attorney or making an application to the Access to Funds Scheme, or applying for a Financial Intervention order or a Guardianship Order. However if you need legal advice you should contact a solicitor.

Forms and information booklets are available from the OPG and can be downloaded from our website.

How can I contact the OPG?

Office of the Public Guardian (Scotland)
Hadrian House
Callendar Business Park
Callendar Road
FALKIRK
FK1 1XR

DX: 550360 Falkirk 3
LP: LP-17 Falkirk

- Telephone: 01324 678300
- Fax: 01324 678301
- Email: opg@scotcourts.gov.uk
- Website: www.publicguardian-scotland.gov.uk

The Office of the Public Guardian is open to the Public from: 09:00-17:00 Mondays to Friday.