

ADULTS WITH INCAPACITY (SCOTLAND) ACT 2000

EXPLANATORY NOTES

THE ACT

Part 4: Management of Residents' Finances

Section 35: Application of Part 4

139. Subsection (1) sets out the categories of establishment which will be able to manage the finances of residents with incapacity.
140. Subsection (2) distinguishes between “registered establishments” and “unregistered establishments”. “Registered establishments” includes those which currently have to register with local authorities or health boards in order to operate as care establishments (most independent sector care homes, nursing homes), and will also include those which have applied for and been granted the new form of limited registration under section 36 for the specific purpose of managing residents’ finances. “Unregistered establishments” are those which are presently exempt from registration (local authority homes, NHS hospitals). Both registered and unregistered establishments will be able to manage residents’ finances and are collectively referred to in the Act as “authorised establishments”. The references to paragraphs (ca) and (cb) of subsection (1) are to an earlier version of the Act and may be ignored as they are now meaningless. Under subsection (3), registered establishments, but not unregistered establishments, may opt out of managing their residents' finances. Subsection (4) allows regulations to be made to amend the list of authorised establishments.
141. Subsection (5) provides definitions of “the managers”, by reference to schedule 1, and of “resident” as someone whose current main residence is the care establishment or someone who has been detained under the Mental Health (Scotland) Act 1984.