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SCOTTISH STATUTORY INSTRUMENTS

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**2004 No. 103**

**NATIONAL ASSISTANCE SERVICES**

**The National Assistance (Assessment of Resources)  
Amendment (Scotland) Regulations 2004**

<i>Made</i>	- - - -	<i>8th March 2004</i>
<i>Laid before the Scottish Parliament</i>	- - - -	<i>10th March 2004</i>
<i>Coming into force</i>	- -	<i>12th April 2004</i>

The Scottish Ministers, in exercise of the powers conferred by section 22(5) of the National Assistance Act 1948(1) (including that provision as applied by section 87(3) and (4) of the Social Work (Scotland) Act 1968(2)), and of all other powers enabling them on that behalf, hereby make the following Regulations:

**Citation, commencement, interpretation and extent**

1.—(1) These Regulations may be cited as the National Assistance (Assessment of Resources) Amendment (Scotland) Regulations 2004 and shall come into force on 12th April 2004.

(2) In these Regulations “the principal Regulations” means the National Assistance (Assessment of Resources) Regulations 1992(3).

(3) These Regulations extend to Scotland only.

**Amendment of regulation 20 of the principal Regulations**

2. In regulation 20 (capital limit) of the principal Regulations, for the amount “£18,500”, substitute the amount “£19,000”(4).

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- (1) 1948 c. 29. Section 22(5) was amended by the Ministry of Social Security Act 1966 (c. 20), section 39(1) and Schedule 6, paragraph 6, the Supplementary Benefits Act 1976 (c. 71), section 35(2) and Schedule 7, paragraph 3(b), the Social Security Act 1980 (c. 30), section 20 and Schedule 4, paragraph 2, and the Social Security Act 1986 (c. 50), section 86 and Schedule 10, paragraph 32. The functions of the Secretary of State so far as they are exercisable in Scotland were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c. 46).
- (2) 1968 c. 49. Section 87(3) was amended by the Social Security Act 1980 (c. 30), Schedule 4, paragraph 5; the Health and Social Services and Social Security Adjudications Act 1983 (c. 41), section 20, the Social Security Act 1986 (c. 50), Schedule 10, paragraph 41 and the National Health Service and Community Care Act 1990 (c. 19), section 66 and Schedule 9, paragraph 10(13). By virtue of section 87(3), accommodation provided under that Act or under section 7 of the Mental Health (Scotland) Act 1984 is regarded as accommodation provided under Part III of the National Assistance Act 1948.
- (3) S.I. 1992/2977 (“the principal Regulations”).
- (4) Regulation 20 of the principal Regulations was amended by S.I. 1996/602 and by S.S.I. 2001/138. The previous amount was set by S.S.I. 2001/138.

### **Amendment of regulation 28(1) of the principal Regulations**

3. In regulation 28(1) (calculation of tariff income from capital) of the principal Regulations—
- (a) for the amount “£11,500” (both times it appears) substitute the amount “£11,750”(5); and
  - (b) for the amount “£18,500” substitute the amount “£19,000”(6).

### **Amendment of Schedule 3 to the principal Regulations**

4. In paragraph 28G of Schedule 3 to the principal Regulations(7) (sums to be disregarded in the calculation of income other than earnings)—

- (a) in sub-paragraphs (1) and (2), for the amount “£4.50” (each time it appears) substitute the amount “£4.65”;
- (b) in sub-paragraph (3), for the amount “£6.75” (each time it appears) substitute the amount “£6.95”; and

(c) for sub-paragraphs (4) and (5) substitute the following sub-paragraphs—

“(4) Subject to sub-paragraph (5) where a resident—

- (a) has a partner;
- (b) has—
  - (i) attained the age of 65; or
  - (ii) has attained the qualifying age and his partner has attained the age of 65;

and

- (c) has qualifying income in excess of the standard minimum guarantee, a sum of £6.95.

(5) Where—

- (a) the sum referred to in sub-paragraph (4) has been disregarded in the assessment of the resident’s partner’s income under these Regulations, or
  - (b) the resident’s partner is in receipt of savings credit,
- sub paragraph (4) does not apply to the resident.”.

### **Revocation**

5. Regulations 3 and 4 of the National Assistance (Assessment of Resources) Amendment (No. 3) (Scotland) Regulations 2001(8) are hereby revoked.

St Andrew’s House, Edinburgh  
8th March 2004

*TOM McCABE*  
Authorised to sign by the Scottish Ministers

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(5) Regulation 28 of the principal Regulations was amended by S.I. 1996/602 and by S.S.I. 2001/138. The previous amount was set by S.S.I. 2001/138.

(6) The previous amount was set by S.S.I. 2001/138.

(7) Paragraph 28G to Schedule 3 to the principal Regulations was inserted by S.S.I. 2003/425.

(8) S.S.I. 2001/138.

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## EXPLANATORY NOTE

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

These Regulations amend the National Assistance (Assessment of Resources) Regulations 1992 (S.I.1992/2977) (the “principal Regulations”). The principal Regulations concern the assessment of a person’s liability to pay for accommodation provided under the Social Work (Scotland) Act 1968 (c. 49) (the “1968 Act”). By virtue of section 87(3) of the 1968 Act, accommodation provided under the 1968 Act or section 7 of the Mental Health (Scotland) Act 1984 (c. 36) shall be regarded as accommodation provided under Part III of the National Assistance Act 1948.

Regulation 2 amends the principal Regulations so that the capital limit set out in regulation 20 is increased from £18,500 to £19,000 Regulation 3 amends the principal Regulations so that the capital limits set out in regulation 28(1) is increased from £11,500 and £18,500 to £11,750 and £19,000.

Regulation 4 provides for an increase to the amount which should be disregarded from the calculation of income other than earnings from the financial assessment where a resident receives savings credit. It amends the principal Regulations so that where a resident has a partner for the purposes of the State Pension Credit Regulations 2002 (S.I. 2002/1792 (as amended)), £6.95 will not be disregarded from the resident’s financial assessment where their qualifying income is in excess of the standard minimum guarantee and the resident’s partner is in receipt of savings credit.

Regulation 5 revokes regulations 3 and 4 of the National Assistance (Assessment of Resources) Amendment (No. 3) (Scotland) Regulations 2001 (S.S.I. 2001/138) which provided the previous capital limits set out in regulations 20 and 28(1) of the principal Regulations.