Community Care (Residential Accommodation) Act 1998

1998 CHAPTER 19

An Act to restrict the amount of a person's capital which may be taken into account by a local authority in determining whether he should be provided with residential accommodation that would be, or would be treated as, provided under Part III of the National Assistance Act 1948. [11th June 1998]

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1 Restriction on capital taken into account when determining need for residential accommodation

In section 21 of the National Assistance Act 1948 (duty of local authorities to provide residential accommodation for elderly persons etc. in need of care and attention), after subsection (2) there shall be inserted—

"(2A) In determining for the purposes of paragraph (a) or (aa) of subsection (1) of this section whether care and attention are otherwise available to a person, a local authority shall disregard so much of the person's capital as does not exceed the capital limit for the purposes of section 22 of this Act.

(2B) For the purposes of subsection (2A) of this section—

(a) a person's capital shall be calculated in accordance with assessment regulations in the same way as if he were a person for whom accommodation is proposed to be provided as mentioned in subsection (3) of section 22 of this Act and whose ability to pay for the accommodation falls to be assessed for the purposes of that subsection; and

(b) "the capital limit for the purposes of section 22 of this Act" means the amount for the time being prescribed in assessment regulations as the

amount which a resident's capital (calculated in accordance with such regulations) must not exceed if he is to be assessed as unable to pay for his accommodation at the standard rate;

and in this subsection "assessment regulations" means regulations made for the purposes of section 22(5) of this Act."

2 Restriction on capital taken into account when determining need for residential accommodation: Scotland

In section 12 of the Social Work (Scotland) Act 1968 (general social welfare services), after subsection (3) there shall be inserted—

"(3A) In determining for the purposes of this section whether to provide assistance by way of residential accommodation to a person, a local authority shall disregard so much of the person's capital as does not exceed the capital limit for the purposes of section 22 of the National Assistance Act 1948.

(3B) For the purposes of subsection (3A) of this section—

(a) a person's capital shall be calculated in accordance with assessment regulations in the same way as if he were a person for whom accommodation is proposed to be provided under this Act and whose ability to pay falls to be assessed for the purposes of section 22(3) of the National Assistance Act 1948; and

(b) "the capital limit for the purposes of section 22 of the National Assistance Act 1948" means the amount for the time being prescribed in assessment regulations as the amount which a resident's capital (calculated in accordance with such regulations) must not exceed if he is to be assessed as unable to pay for his accommodation at the standard rate;

and in this subsection "assessment regulations" means regulations made for the purposes of section 22(5) of the National Assistance Act 1948 or section 87(5) of this Act."

3 Short title, commencement, and extent

(1) This Act may be cited as the Community Care (Residential Accommodation) Act 1998.

(2) This Act shall come into force at the end of the period of two months beginning with the day on which it is passed.

(3) Section 1 extends to England and Wales only.

(4) Section 2 extends to Scotland only.

(5) This section extends to England and Wales and Scotland.