

2005 No.522

NATIONAL ASSISTANCE SERVICES

**The National Assistance (Assessment of Resources) Amendment
(No. 2) (Scotland) Regulations 2005**

Made - - - - - *20th October 2005*

Laid before the Scottish Parliament *24th October 2005*

Coming into force - - - *7th November 2005*

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

Citation, commencement and extent

1.—(1) These Regulations may be cited as the National Assistance (Assessment of Resources) Amendment (No. 2) (Scotland) Regulations 2005 and shall come into force on 7th November 2005.

(2) These Regulations extend to Scotland only.

Amendment of Schedule 4 to the National Assistance (Assessment of Resources) Regulations

2. In Schedule 4 to the National Assistance (Assessment of Resources) Regulations 1992(c) (capital to be disregarded), after paragraph 25 (d), insert—

(a) 1948 c.29. Section 22(5) was amended by the Ministry of Social Security Act 1966 (c.20) Schedule 6, paragraph 6(2); the Supplementary Benefits Act 1976 (c.71), Schedule 7, paragraph 3(b); the Social Security Act 1980 (c.30) Schedule 4, paragraph 2(1) and by the Social Security Act 1986 (c.50) Schedule 10, paragraph 32(2). 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).

(b) 1968 c.49 (“the 1968 Act”). Section 87(3) of the 1968 Act was amended by the Social Security Act 1980 (c.30) Schedule 4, paragraph 5(1); the Health and Social Services and Social Security Adjudications Act 1983 (c.41) section 20(2); the Social Security Act 1986 (c.50) Schedule 10, paragraph 41(2); the National Health Service and Community Care Act 1990 (c.19) (“the 1990 Act”) Schedule 9, paragraph 10(13) and by section 28(1) of the Mental Health (Care and Treatment) (Scotland) Act 2003 (asp 13) (“the 2003 Act”). Section 87(4) of the 1968 Act was amended by the 1990 Act Schedule 9, paragraph 10(13) and by section 28(1) of the 2003 Act. By virtue of section 87(3) of the 1968 Act, accommodation provided under that Act or under section 25 of the 2003 Act is regarded as accommodation provided under Part III of the National Assistance Act 1948.

(c) S.I. 1992/2977 (“the principal Regulations”), relevantly amended by S.S.I. 2004/389.

(d) Paragraph 25 was inserted into the principal Regulations by S.S.I. 2004/389, regulation 3.

“26. Any payment made to the resident under regulations made under section 7 of the Age Related Payments Act 2004(a).”.

LEWIS MACDONALD

Authorised to sign by the Scottish Ministers

St Andrew's House,
Edinburgh
20th October 2005

(a) 2004 c.10.

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 (“the 1968 Act”). By virtue of section 87(3) of the 1968 Act, accommodation provided under the 1968 Act or section 25 of the Mental Health (Care and Treatment) (Scotland) Act 2003 (asp 13) shall be regarded as accommodation provided under Part III of the National Assistance Act 1948.

Regulation 2 amends Schedule 4 to the principal Regulations to provide that any payments made under section 7 of the Age Related Payments Act 2004 are to be disregarded as capital in the financial assessment of that person’s resources.

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