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SCOTTISH STATUTORY INSTRUMENTS

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**2007 No. 102**

**NATIONAL ASSISTANCE SERVICES**

**The National Assistance (Assessment of Resources)  
Amendment (Scotland) Regulations 2007**

*Made* - - - - 21st February 2007  
*Laid before the Scottish  
Parliament* - - - - 22nd February 2007  
*Coming into force* - - 9th April 2007

The Scottish Ministers, in exercise of the powers conferred by section 22(5) of the National Assistance Act 1948(1), as applied by section 87(3) and (4) of the Social Work (Scotland) Act 1968(2), and of all other powers enabling them in 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 2007 and shall come into force on 9th April 2007.

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

(3) These Regulations extend to Scotland only.

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- (1) 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).
- (2) 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 the Mental Health (Care and Treatment) (Scotland) Act 2003 (asp 13) (“the 2003 Act”), section 28(1). Section 87(4) of the 1968 Act was amended by the 1990 Act, Schedule 9, paragraph 10(13) and by the 2003 Act, section 28(1). 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. 29).
- (3) S.I. 1992/2977 (“the principal Regulations”); relevantly amended by S.I. 1996/602 and 1997/485 and by S.S.I. 2001/105 and 138, 2003/425, 2004/103, 2005/82 and 2006/113.

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

2. In regulation 20 (capital limit) of the principal Regulations, for the amount “£20,000”, substitute “£20,750”(4).

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

3. In regulation 28(1) (calculation of tariff income from capital)(5) of the principal Regulations—
- (a) for the amount “£12,250” (both times it appears), substitute the amount “£12,500”(6); and
  - (b) for the amount “£20,000”, substitute the amount “£20,750”(7).

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

4.—(1) Schedule 3 to the principal Regulations (sums to be disregarded in the calculation of income other than earnings) is amended as follows.

(2) For paragraph 28A (child benefit)(8), substitute—

“(1) Any child benefit, except in circumstances where a resident is accompanied by the child or qualifying young person in respect of whom the child benefit is payable and accommodation is provided for that child or qualifying young person under Part III of the Act.

(2) In this paragraph, “child” and “qualifying young person” have the same meaning as in section 142 of the Contributions and Benefits Act(9).”.

(3) In paragraph 28G (savings credit)(10)—

- (a) in sub paragraphs (1) and (2), for the amount “£5.05” (each time it appears), substitute the amount “£5.25”; and
- (b) in sub paragraphs (3) and (4), for the amount “£7.50” (each time it appears), substitute the amount “£7.85”.

### **Revocation**

5. Regulations 3, 4 and 5(4) of the National Assistance (Assessment of Resources) Amendment (Scotland) Regulations 2006(11) are revoked.

St Andrew’s House,  
Edinburgh  
21st February 2007

*LEWIS MACDONALD*  
Authorised to sign by the Scottish Ministers

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(4) Regulation 20 of the principal Regulations was amended by S.I. 1996/602 and S.S.I. 2001/105 and 138, 2004/103, 2005/82, and 2006/113. The previous amount was set by S.S.I. 2006/113.

(5) Regulation 28 of the principal Regulations was amended by S.I. 1996/602 and S.S.I. 2001/105 and 138, 2004/103, 2005/82, and 2006/113.

(6) The previous amount was set by S.S.I. 2006/113.

(7) The previous amount was set by S.S.I. 2006/113.

(8) Paragraph 28A of Schedule 3 to the principal Regulations was inserted by S.I. 1993/2230.

(9) Regulation 2(1) of the principal Regulations defined “the Contributions and Benefits Act” as meaning the Social Security Contributions and Benefits Act 1992 (c. 4). Section 142 of that Act was amended by the Child Benefit Act 2005 (c. 6).

(10) Paragraph 28G of Schedule 3 to the principal Regulations was inserted by S.S.I. 2003/425 and amended by S.S.I. 2004/103, 2005/82 and 2006/113. The previous amounts were set by S.S.I. 2006/113.

(11) S.S.I. 2006/113.

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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 (“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 the principal Regulations so that the capital limit set out in regulation 20 is increased from £20,000 to £20,750.

Regulation 3 amends the principal Regulations so that the capital limits set out in regulation 28(1) are increased from £12,250 and £20,000 to £12,500 and £20,750 respectively.

Regulation 4 provides for an increase to the amount set out in paragraph 28G of Schedule 3 to the principal Regulations which should be disregarded from the calculation of income other than earnings in the financial assessment when a resident receives savings credit. Regulation 4 also provides for child benefit to be disregarded in the calculation of income, except in certain circumstances. The amendment adds references to “qualifying young person” in order to reflect the amendment to the Social Security Contributions and Benefits Act 1992 by the Child Benefit Act 2005, which provides that child benefit is now payable in respect of both children and young persons.

Regulation 5 revokes regulations 3 and 4 of the National Assistance (Assessment of Resources) Amendment (Scotland) Regulations 2006 (S.S.I. 2006/113) (“the 2006 Regulations”) which provided the previous capital limits set out in regulations 20 and 28(1) of the principal Regulations. It also revokes regulation 5(4) of the 2006 Regulations which provided the previous amounts disregarded from income as respects savings credit in paragraph 28G of Schedule 3 to the principal Regulations.