

2022 No. 72

NATIONAL ASSISTANCE SERVICES

**The National Assistance (Assessment of Resources) Amendment
(Scotland) (No. 2) Regulations 2022**

Made - - - - 23rd February 2022

Laid before the Scottish Parliament 24th February 2022

Coming into force - - 11th April 2022

The Scottish Ministers make the following Regulations 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).

Citation, commencement, interpretation and extent

1.—(1) These Regulations may be cited as the National Assistance (Assessment of Resources) Amendment (Scotland) (No. 2) Regulations 2022 and come into force on 11 April 2022.

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

(3) These Regulations extend to Scotland only.

Amendment to schedule 4 of the principal Regulations

2.—(1) In schedule 4 of the principal Regulations (capital to be disregarded), after paragraph 30(d) insert—

“31. Any payment made under or by an infected blood payment scheme established by, or under arrangements made with, the Scottish Ministers, the Secretary of State, the Welsh Ministers or the Department of Health in Northern Ireland for making *ex gratia* payments to or in respect of persons who have acquired HIV or hepatitis C as a result of treatment with blood or blood products within the national health service.

32. Any payment which would be disregarded under regulation 26 of the Victims’ Payments Regulations 2020(e) (disregard of payments and lump sums for certain purposes).

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- (a) 1948 c. 29 (11 & 12 Geo. 6) (“the 1948 Act”). Section 22(5) was relevantly amended by paragraph 2(1) of schedule 4 of the Social Security Act 1980 (c. 30). The functions of the Secretary of State so far as exercisable within devolved competence were transferred to the Scottish Ministers by 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 section 28(1) of the Mental Health (Care and Treatment) (Scotland) Act 2003 (asp 13) (“the 2003 Act”) and by section 62(2) of the Adult Support and Protection (Scotland) Act 2007 (asp 10). Section 87(4) of the 1968 Act was amended 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 1948 Act.
- (c) S.I. 1992/2977.
- (d) Paragraph 30 was inserted by S.S.I. 2020/55.
- (e) S.I. 2020/103.

33. Any compensation payment made under Part 1 (the Historical Institutional Abuse Redress Board) of the Historical Institutional Abuse (Northern Ireland) Act 2019^(a).

34. An *ex gratia* payment of £20,000 to a former child migrant from the scheme established by Her Majesty's Government for former British child migrants in response to the Investigation Report on Child Migration Programmes^(b) by the Independent Inquiry into Child Sexual Abuse published on 1st March 2018, and which opened for applications on 1st March 2019.”.

HUMZA YOUSAF

A member of the Scottish Government

St Andrew's House,
Edinburgh
23rd February 2022

(a) 2019 c. 31.

(b) ISBN 978-1-5286-0342-3 <https://www.iicsa.org.uk/key-documents/4265/view/child-migration-programmes-investigation-report-march-2018.pdf>. Hard copies may be obtained from Child Migrant Policy, Department of Health and Social Care, 6th Floor, 39 Victoria Street, London, SW1A 0EU.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the National Assistance (Assessment of Resources) Regulations 1992 (“the principal Regulations”). The principal Regulations concern the assessment of the ability of a person 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 is to be regarded as accommodation provided under Part III of the National Assistance Act 1948.

Schedule 4 of the principal Regulations sets out categories of capital which must be disregarded in the financial assessment of the persons resources.

Regulation 2 amends schedule 4 of the principal Regulations to add four additional categories of capital:

- Any payment made under or by an infected blood payment scheme established by, or under arrangements made with, the Scottish Ministers, the Secretary of State, the Welsh Ministers or the Department of Health in Northern Ireland for making *ex gratia* payments to or in respect of persons who have acquired HIV or hepatitis C as a result of treatment with blood or blood products within the national health service.
- Any payments which would have been disregarded under regulation 26 (disregard of payments and lump sums for certain purposes) of the Victims’ Payments Regulations 2020.
- Any compensation payment made under Part 1 (the Historical Institutional Abuse Redress Board) of the Historical Institutional Abuse (Northern Ireland) Act 2019.
- Payments to a former child migrant made from the scheme established by Her Majesty’s Government for former British child migrants in response to the Investigation Report on Child Migration Programmes by the Independent Inquiry into Child Sexual Abuse published on 1 March 2018.

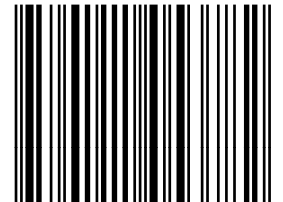
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