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STATUTORY INSTRUMENTS

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**1998 No. 1730**

**NATIONAL ASSISTANCE SERVICES**

**The National Assistance (Assessment of Resources) (Amendment No. 2) Regulations 1998**

<i>Made</i>	- - - -	<i>16th July 1998</i>
<i>Laid before Parliament</i>		<i>20th July 1998</i>
<i>Coming into force</i>	- -	<i>11th August 1998</i>

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) of the Social Work (Scotland) Act 1968(2), and of all other powers enabling me in that behalf, I hereby make the following Regulations:—

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the National Assistance (Assessment of Resources) (Amendment No. 2) Regulations 1998 and shall come into force on 11th August 1998.

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

**Amendment of regulation 2 of the principal Regulations**

2.—(1) In regulation 2(1) of the principal Regulations (interpretation)—

(a) in the definition of “less dependent resident”—

after the words “means a resident” there shall be inserted the words “who is in, or for whom accommodation is proposed to be provided in,”;

at the beginning of sub-paragraphs (a) and (b) the word “in” shall be deleted;

(b) for the definition of “resident” there shall be substituted the following definitions—

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(1) 1948 c. 29; section 22(5) of the National Assistance Act 1948 was amended by section 39(1) of and paragraph 6 of Schedule 6 to the Ministry of Social Security Act 1966 (c. 20), by section 35(2) of and paragraph 3(b) of Schedule 7 to the Supplementary Benefits Act 1976 (c. 71), by section 20 of and paragraph 2 of Schedule 4 to the Social Security Act 1980 (c. 30), and by section 86 of and paragraph 32 of Schedule 10 to the Social Security Act 1986 (c. 50).

(2) 1968 c. 49; section 87 was amended by paragraph 10(13) of Schedule 9 to the National Health Service and Community Care Act 1990 (c. 19).

(3) S.I.1992/2977; relevant amending instrument is S.I. 1994/825.

““prospective resident” means a person for whom accommodation is proposed to be provided under Part III of the Act(4);

“resident” means a person who is provided with accommodation under Part III of the Act or is a prospective resident;”.

(2) At the end of regulation 2 of the principal Regulations there shall be added the following paragraph—

“(4) In these Regulations, unless the context otherwise requires, any reference to a resident’s accommodation, or to accommodation provided for a resident, shall be construed in the case of a resident who is a prospective resident as a reference to accommodation which is proposed to be provided for him under Part III of the Act.”.

### **Amendment of regulation 23 of the principal Regulations**

3. In regulation 23(2)(a) of the principal Regulations (calculation of capital in the United Kingdom), there shall be added at the beginning the words—

“except in the case of a prospective resident;”.

### **Amendment of regulation 29 of the principal Regulations**

4. In regulation 29 of the principal Regulations (liable relatives—interpretation) in the definition of “periodical payment” there shall be inserted after the words “before the resident” the words “, if he is a prospective resident, is actually provided with his accommodation or, if he is not a prospective resident;”.

### **Amendment of Schedule 4 to the principal Regulations**

5. In Schedule 4 to the principal Regulations (capital to be disregarded)—

(a) in paragraph 1—

(i) for the words from “The value of” to “temporary resident” there shall be substituted the words—

“(1) In the case of a temporary resident who is not a prospective resident, the value of one dwelling (and not more than one dwelling);”;

(ii) there shall be added at the end the following sub-paragraph—

“(2) In the case of a temporary resident who is a prospective resident, the value of one dwelling (and not more than one dwelling) in circumstances where he intends, on being provided in fact with accommodation under that Part of the Act—

(a) to take reasonable steps to dispose of the dwelling in order that he may acquire another dwelling which he intends to occupy as his home; or

(b) to return to occupy that dwelling as his home; and the dwelling to which he intends to return is available to him.”;

(b) in paragraph 5, for the words

“the words “the accommodation was initially provided” there shall be substituted the following—

“(a) in the case of a resident other than a prospective resident the words “the accommodation was initially provided”;

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(4) 1948 c. 29; see regulation 2(1) of S.I. 1992/2977 for definition of “the Act”. As respects Scotland, see section 65(f) of the Act, as amended by paragraph 5(9) of Schedule 9 to the National Health Service and Community Care Act 1990, and section 87(3) of the Social Work (Scotland) Act 1968.

- (b) in the case of a prospective resident, the words “the local authority began to assess his ability to pay for his accommodation under these Regulations”.””

16th July 1998

*Frank Dobson*  
One of Her Majesty’s Principal Secretaries of  
State (Department of Health)

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**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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## EXPLANATORY NOTE

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

These Regulations make further amendments to the National Assistance (Assessment of Resources) Regulations 1992 (“the principal Regulations”). The principal Regulations concern the assessment of the ability of a person (“a resident”) to pay for accommodation arranged by local authorities under Part III of the National Assistance Act 1948, the Social Work (Scotland) Act 1968 or section 7 of the Mental Health (Scotland) Act 1984.

These Regulations amend the principal Regulations so that the definition of “resident” includes a person who it is proposed to provide with accommodation under Part III of the National Assistance Act 1948, the Social Work (Scotland) Act 1968 or the Mental Health (Scotland) Act 1984. They make consequential amendments and enable a local authority to calculate a person’s capital when determining, in accordance with the Community Care (Residential Accommodation) Act 1998, whether care and attention are otherwise available to the person.