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SCOTTISH STATUTORY INSTRUMENTS

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**2019 No. 191**

**NATIONAL ASSISTANCE SERVICES**

**The National Assistance (Assessment of Resources)  
Amendment (Scotland) (No. 2) Regulations 2019**

<i>Made</i>	- - - -	<i>28th May 2019</i>
<i>Laid before the Scottish Parliament</i>	- - - -	<i>30th May 2019</i>
<i>Coming into force</i>	- -	<i>28th June 2019</i>

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 22(5) of the National Assistance Act 1948<sup>(1)</sup>, as applied by section 87(3) and (4) of the Social Work (Scotland) Act 1968<sup>(2)</sup>, and all other powers enabling them to do so.

**Citation, commencement, interpretation and extent**

1.—(1) These Regulations may be cited as the National Assistance (Assessment of Resources) Amendment (Scotland) (No. 2) Regulations 2019 and come into force on 28 June 2019.

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

(3) These Regulations extend to Scotland only.

**Amendment to schedule 4 of the principal Regulations**

2. In schedule 4 of the principal Regulations (capital to be disregarded), after paragraph 27<sup>(4)</sup> insert—

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- (1) [1948 c.29](#) (11 and 12 Geo. 6 c.29) (“the 1948 Act”). Section 22(5) was relevantly amended by the Social Security Act [1980 \(c.30\)](#), schedule 4, paragraph 2(1). 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 \(c.46\)](#).
- (2) [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.
- (3) [S.I. 1992/2977](#) relevantly amended by [S.I. 1993/964](#), [1993/2230](#), [1995/858](#), [2005/708](#) and [S.S.I. 2001/138](#), [2003/156](#), [2003/425](#), [2006/113](#) and [2009/381](#).
- (4) Paragraph 27 was inserted by [S.I. 2005/708](#) reg. 6 (April 11, 2005).

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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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“28. Any *ex gratia* payment made at the discretion of the Scottish Ministers from the Advance Payment Scheme which the Scottish Ministers set up in respect of cases of historical child abuse in care.”

St Andrew’s House,  
Edinburgh  
28th May 2019

*JEANE FREEMAN*  
A member of the Scottish Government

## EXPLANATORY NOTE

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

These Regulations amend the National Assistance (Assessment of Resources) Regulations 1992 ([SI 1992/2977](#)) (“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.

Regulation 2 amends schedule 4 of the principal Regulations to provide that an *ex gratia* discretionary payment made to a resident in terms of the Advance Payment Scheme for historical child abuse in care cases shall be disregarded as capital in the financial assessment of the resident’s resources.