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STATUTORY INSTRUMENTS

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**1992 No. 2977**

**The National Assistance (Assessment  
of Resources) Regulations 1992**

**PART I  
GENERAL**

**Citation and Commencement**

1. These Regulations may be cited as the National Assistance (Assessment of Resources) Regulations 1992 and shall come into force on 1st April 1993.

**Interpretation**

2.—(1) In these Regulations, unless the context otherwise requires—

“the Act” means the National Assistance Act 1948;

“attendance allowance” has the same meaning as in the Income Support Regulations;

“the Contributions and Benefits Act” means the Social Security Contributions and Benefits Act 1992(1);

“council tax” shall be construed in accordance with section 1(1) of the Local Government Finance Act 1992(2);

“council tax benefit” means council tax benefit under the Contributions and Benefits Act(3);

“couple” has the same meaning as in the Income Support Regulations;

“disability living allowance” means a disability living allowance under the Contributions and Benefits Act(4);

“disability working allowance” means a disability working allowance under the Contributions and Benefits Act(5);

“dwelling” has the meaning prescribed in section 137(1) of the Contributions and Benefits Act;

“employed earner” shall be construed in accordance with section 2(1)(a) of the Contributions and Benefits Act;

“the Fund” has the same meaning as in the Income Support Regulations(6);

“income support” means income support under the Contributions and Benefits Act(7);

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(1) 1992 c. 4.

(2) 1992 c. 14.

(3) See sections 131 to 133 of that Act, as amended by section 103 of and paragraphs 4 to 6 of Schedule 9 to the Local Government Finance Act 1992.

(4) See sections 71 to 76 of that Act.

(5) See section 129 of that Act.

(6) As amended by regulation 6(2)(b) of S.I.1992/1101.

(7) See sections 124 to 127 of that Act.

“the Income Support Regulations” means the Income Support (General) Regulations 1987<sup>(8)</sup>;  
 “the Independent Living Fund” has the same meaning as in the Income Support Regulations<sup>(9)</sup>;  
 “invalidity pension” means an invalidity pension under the Contributions and Benefits Act<sup>(10)</sup>;  
 “less dependent resident” means a resident—

- (a) in premises which are neither owned nor managed by a local authority<sup>(11)</sup> and which are not registered (as respects England and Wales) under the Registered Homes Act 1984<sup>(12)</sup> or (as respects Scotland) under Part IV of the Social Work (Scotland) Act 1968<sup>(13)</sup>; or
- (b) in premises which are either owned or managed or owned and managed by a local authority but at which residents are not provided with board,

and in this context “board” means at least some cooked or prepared meals which are both cooked or prepared, by a person other than the resident or a member of his family, and consumed at those premises or in associated premises, if the cost of those meals is accounted for as part of the standard rate for the accommodation at those premises;

“liable relative” means a spouse or former spouse of a resident;

“the Macfarlane (Special Payments) Trust”, “the Macfarlane (Special Payments) (No.2) Trust” and “the Macfarlane Trust” have the same meaning as in the Income Support Regulations<sup>(14)</sup>;

“mobility supplement” has the same meaning as in the Income Support Regulations;

“partner” has the same meaning as in the Income Support Regulations;

“resident” means a person provided with accommodation under Part III of the Act<sup>(15)</sup>;

“self-employed earner” shall be construed in accordance with section 2(1)(b) of the Contributions and Benefits Act;

“severe disablement allowance” means a severe disablement allowance under the Contributions and Benefits Act<sup>(16)</sup>;

“sickness benefit” means sickness benefit under the Contributions and Benefits Act<sup>(17)</sup>;

“standard rate” means a standard rate fixed in accordance with section 22(2) of the Act<sup>(18)</sup>;

“student” has the meaning prescribed in regulation 61 of the Income Support Regulations<sup>(19)</sup> (interpretation);

“temporary resident” means a resident whose stay is—

- (a) unlikely to exceed 52 weeks, or
- (b) in exceptional circumstances, unlikely substantially to exceed that period.

(2) Where reference is made in these Regulations to the application of a provision in the Income Support Regulations, any reference to “claimant” in the provision of the Income Support Regulations so applied shall be construed as a reference to a resident.

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<sup>(8)</sup> S.I. 1987/1967, as amended.

<sup>(9)</sup> As amended by regulation 4 of S.I. 1988/999.

<sup>(10)</sup> See section 33 of that Act.

<sup>(11)</sup> See section 33(1) of the Act, as amended by section 195(6) of, and paragraph 2(6) of Schedule 23 to, the Local Government Act 1972 (c. 70), section 214 of, and paragraph 89 of Schedule 27 to, the Local Government (Scotland) Act 1973 (c. 65), and section 11(5) of and Schedule 2 to the Residential Homes Act 1980 (c. 7).

<sup>(12)</sup> 1984 c. 23.

<sup>(13)</sup> 1968 c. 49.

<sup>(14)</sup> As amended by regulation 2(1) of S.I. 1988/663, regulation 3(2) of S.I. 1991/127 and regulation 5(2) of S.I. 1991/1175.

<sup>(15)</sup> 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.

<sup>(16)</sup> See sections 68 and 69 of that Act.

<sup>(17)</sup> See sections 31 and 32 of that Act.

<sup>(18)</sup> As respects England and Wales, see also section 26(3) of the Act; as respects Scotland, see also section 87(4) of the Social Work (Scotland) Act 1968.

<sup>(19)</sup> As amended by regulation 10(c) of S.I. 1991/1559, and regulation 5(1) of S.I. 1992/468.

- (3) In these Regulations, unless the context otherwise requires, a reference—
- (a) to a numbered Part is to the Part of these Regulations bearing that number;
  - (b) to a numbered regulation or Schedule is to the regulation in or Schedule to these Regulations bearing that number;
  - (c) in a regulation or Schedule to a numbered paragraph is to the paragraph in that regulation or Schedule bearing that number;
  - (d) in a paragraph to a lettered or numbered sub-paragraph is to the sub-paragraph in that paragraph bearing that letter or number.

#### **Assessing a resident's ability to pay**

3. For the purposes of section 22(3) of the Act<sup>(20)</sup> the regulations to which a local authority shall give effect in assessing a resident's ability to pay are those set out in these Regulations.

#### **Rounding of fractions**

4. Where any calculation under these Regulations of a resident's ability to pay results in a fraction of a penny, that fraction shall, if it would be to the resident's advantage, be treated as a penny, otherwise it shall be disregarded.

#### **Payment by less dependent residents**

5. In assessing a less dependent resident's ability to pay for his accommodation, a local authority need not apply Parts II to V of these Regulations (treatment of income, treatment of capital, liable relatives and students) if they consider it reasonable in the circumstances not to do so.

#### **Liable relatives**

6. Regulations 10 to 19 (income, except calculation of income), 21 to 27 (capital, except capital limit and tariff income) and Part V (students) shall not apply to any payment which is to be calculated in accordance with Part IV (liable relatives).

#### **Students**

7. The provisions of Parts II and III (income and capital) shall have effect in relation to students subject to the modifications set out in Part V (students).

#### **Transitional provisions**

8. The transitional provisions set out in Schedule 1 shall have effect.

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(20) Amended by section 31(1) of, and paragraph 3 of Schedule 7 to, the Supplementary Benefits Act 1976, and section 86 of, and paragraph 32 of Schedule 10 to, the Social Security Act 1986. *See also* section 87(3) of the Social Work (Scotland) Act 1968.