
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 a person’s ability to pay for accommodation arranged by a local authority 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. Schedule 2 and 3 to those Regulations set out sums to be disregarded in calculating a person’s income.

Regulation 3 replaces the provision in Schedule 2 to the principal Regulations specifying a disregard relating to sickness benefit, invalidity pension or severe disablement allowance with one which relates to incapacity benefit or severe disablement allowance. This is as a result of the coming into force of the Social Security (Incapacity for Work) Act 1994 which replaces sickness and invalidity benefits with incapacity benefit. In order to have an amount disregarded in the calculation of his earnings a person is required to have provided, in support of a claim for incapacity benefit or severe disablement allowance, medical evidence at least 28 weeks previously without it having been determined that he is not entitled to the benefit or allowance. Regulation 2 is consequential on regulation 3.

Regulation 4 removes a provision whereby fuel charges included in the housing costs of a person temporarily in accommodation arranged by the local authority could be disregarded only if the temporary resident intended to return to the dwelling in respect of which they were payable.