SCOTTISH STATUTORY INSTRUMENTS

2003 No. 577

NATIONAL ASSISTANCE SERVICES

The National Assistance (Assessment of Resources) Amendment (No. 4) (Scotland) Regulations 2003

Made - - - -	*26th November 2003*
Laid before the Scottish Parliament - - - -	*27th November 2003*
Coming into force - -	*22nd December 2003*

The Scottish Ministers, 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) and (4) of the Social Work (Scotland) Act 1968(**2**)), and of all other powers enabling them in that behalf, hereby make the following Regulations:

Citation, commencement, interpretation and extent

1.—(1) These Regulations may be cited as the National Assistance (Assessment of Resources) Amendment (No. 4) (Scotland) Regulations 2003 and shall come into force on 22nd December 2003.

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

(3) These Regulations extend to Scotland only.

Amendment of regulation 2 of the principal Regulations

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

(a) in the definition of "guardian's allowance", omit "2002"; and

(**1**) 1948 c. 29. Section 22(5) was amended by the Ministry of Social Security Act 1966 (c. 20), section 39(1) and Schedule 6, paragraph 6, the Supplementary Benefits Act 1976 (c. 71), section 35(2) and Schedule 7, paragraph 3(b), the Social Security Act 1980 (c. 30), section 20 and Schedule 4, paragraph 2, and the Social Security Act 1986 (c. 50), section 86 and Schedule 10, paragraph 32. The functions of the Secretary of State so far as they are exercisable in Scotland were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c. 46).

(**2**) 1968 c. 49. Section 87(3) was amended by the Social Security Act 1980 (c. 30), Schedule 4, paragraph 5; the Health and Social Services and Social Security Adjudications Act 1983 (c. 41), section 20, the Social Security Act 1986 (c. 50), Schedule 10, paragraph 41 and the National Health Service and Community Care Act 1990 (c. 19), section 66 and Schedule 9, paragraph 10(13). By virtue of section 87(3), accommodation provided under that Act or under section 7 of the Mental Health (Scotland) Act 1984 is regarded as accommodation provided under Part III of the National Assistance Act 1948.

(**3**) S.I. 1992/2977 ("the principal Regulations").

(b) in the definition of "less dependant resident", in paragraph (a)–

(i) for "and which are not registered (as respects England and Wales) under the Registered Homes Act 1984" substitute "which are not (as respects England and Wales) an establishment which is carried on or managed by a person who is registered under Part II of the Care Standards Act 2000(**4**)"; and

(ii) for "under Part IV of the Social Work (Scotland) Act 1968" substitute "as care homes under the Regulation of Care (Scotland) Act 2001(**5**)".

Amendment of regulation 16 of the principal Regulations

3. After regulation 16(4) of the principal Regulations(**6**) (capital treated as income), insert–

"(5) Where an agreement or court order provides that payments shall be made to the resident in consequence of any personal injury to the resident and that such payments are to be made, wholly or partly, by way of periodical payments, any such periodical payments received by the resident, to the extent that they are not a payment of income, shall be treated as income.".

Amendment of Schedule 3 to the principal Regulations

4.—(1) In paragraph 10 of Schedule 3 to the principal Regulations (sums to be disregarded in the calculation of income other than earnings)–

(a) in sub-paragraph (1), for "(charitable or voluntary payments) of any charitable payment or of any voluntary payment" substitute "(relevant payments) of any relevant payment";

(b) in sub-paragraph (2), for "charitable payment or voluntary payment" substitute "relevant payment"; and

(c) after sub-paragraph (2), insert–

"(3) In this paragraph, "relevant payment" means–

(a) a charitable payment;

(b) a voluntary payment;

(c) a payment (not falling within sub-paragraph (a) or (b)) from a trust whose funds are derived from a payment made in consequence of any personal injury to the resident;

(d) a payment under an annuity purchased–

(i) pursuant to any agreement or court order to make payments to the resident; or

(ii) from funds derived from a payment made,

in consequence of any personal injury to the resident; or

(e) a payment (not falling within sub-paragraphs (a) to (d)) received by virtue of any agreement or court order to make payments to the resident in consequence of any personal injury to the resident.".

(2) After paragraph 28H(**7**) of Schedule 3 to the principal Regulations, insert–

(**4**) 2000 c. 14.
(**5**) 2001 asp 8.
(**6**) Regulation 16(4) was inserted into the principal Regulations by S.I. 1993/964.
(**7**) Paragraph 28H was inserted into the principal Regulations by S.S.I. 2003/425.