SCOTTISH STATUTORY INSTRUMENTS

2003 No. 425

NATIONAL ASSISTANCE SERVICES

The National Assistance (Assessment of Resources) Amendment (No. 3) (Scotland) Regulations 2003

Made - - - -	*10th September 2003*
Laid before the Scottish Parliament - - - -	*11th September 2003*
Coming into force - -	*6th October 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. 3) (Scotland) Regulations 2003 and shall come into force on 6th October 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), insert the following definitions at the appropriate place:–

"savings credit" means a savings credit under the State Pension Credit Act 2002(**4**)

(**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 (c. 36) is regarded as accommodation provided under Part III of he National Assistance Act 1948.

(**3**) S.I. 1992/2977; as relevantly amended by S.I. 1993/2230, 1994/2386 and by S.S.I. 2003/156.

(**4**) 2002 c. 16.

"the State Pension Credit Regulations" means the State Pension Credit Regulations 2002(**5**).

Amendment of Schedule 3 to the principal Regulations

3. In Schedule 3 Part I to the principal Regulations (sums to be disregarded in the calculation of income other than earnings) after paragraph 28F(**6**), insert–

"**28G.**—(1) Where a resident is in receipt of savings credit as a person who has no partner and has qualifying income not exceeding the standard minimum guarantee –

(a) the amount of that savings credit where the amount received is £4.50 or less; or

(b) £4.50 of that savings credit where the amount received is greater than £4.50.

(2) Where a resident–

(a) has no partner;

(b) has attained the age of 65; and

(c) has qualifying income in excess of the standard minimum guarantee,

a sum of £4.50.

(3) Where a resident is in receipt of savings credit as a person who has a partner and has qualifying income not exceeding the standard minimum guarantee –

(a) the amount of that savings credit where the amount received is £6.75 or less; or

(b) £6.75 of that savings credit where the amount received is greater than £6.75.

(4) Where a resident receives a savings credit and–

(a) has a partner;

(b) has

(i) attained the age of 65; or

(ii) has attained the qualifying age and his partner has attained the age of 65; and

(c) has qualifying income in excess of the standard minimum guarantee,

a sum of £6.75.

(5) Where a resident–

(a) has a partner and this paragraph has not been applied to that partner where that partner is also a resident;

(b) has

(i) attained the age of 65; or

(ii) has attained the qualifying age and his partner has attained the age of 65; and

(c) has qualifying income in excess of the standard minimum guarantee,

a sum of £6.75.

(6) For the purposes of this paragraph–

(a) a resident has a partner if he would be considered to have a partner for the purposes of the State Pension Credit Regulations(**7**);

(**5**) S.I. 2002/1792: the relevant amending instrument is S.I. 2002/3197, regulation 4.
(**6**) Paragraph 28F was inserted by S.S.I. 2003/156, regulation 4.
(**7**) S.I. 2002/1792 ("the 2002 Regulations"). In the 2002 Regulations a member of a married or unmarried couple is referred to as a partner and both members are referred to as partners (see regulation 1(3)). The phrases "married couple" and "unmarried couple" for the purposes of the 2002 Regulations are defined in section 17 of the State Pension Credit Act 2002 (c. 16). A "married couple" means a man and woman who are married to each other and are members of the same household. Regulation 5 of the 2002 Regulations sets out circumstances when persons are not treated as being members of the same household. An