SCOTTISH STATUTORY INSTRUMENTS

2003 No. 156

NATIONAL ASSISTANCE SERVICES

The National Assistance (Assessment of Resources) Amendment (No. 2) (Scotland) Regulations 2003

Made - - - - 6th March 2003
Laid before the Scottish Parliament - - - - 10th March 2003
Coming into force in accordance with Regulation 1(1)

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. 2) (Scotland) Regulations 2003 and shall come into force–

(a) for the purposes of this regulation and regulations 2(1), 3, 4(a) and 5(1) and (3) on 1st April 2003; and

(b) for the purposes of regulations 2(2), 4(b) and 5(2) on 7th April 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.

(**1**) 1948 c. 29; section 22(5) of the National Assistance Act 1948 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; 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) of the Social Work (Scotland) Act 1968 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 the National Assistance Act 1948.

(**3**) S.I.1992/2977; as relevantly amended by S.I. 1993/964 and 2230, 1994/825, 1995/855, 1996/602, 1997/485, 1998/730, and as regards Scotland S.S.I.2001/105 and 2001/138.

Amendment of regulation 2 of the principal Regulations

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

(a) insert the following definitions at the appropriate place:–

""carer's allowance" means a carer's allowance under the Contributions and Benefits Act(**4**);";

""lone parent" has the same meaning as in the Income Support Regulations(**5**);"; and

(b) omit the definition of "invalid care allowance";

(2) In regulation 2(1) of the principal Regulations, insert the following definitions at the appropriate place:–

""child tax credit" means a child tax credit under the Tax Credits Act 2002(**6**);";

""guardian's allowance" means a guardian's allowance under the Contributions and Benefits Act 2002(**7**);";

""working tax credit" means a working tax credit under the Tax Credits Act 2002(**8**);".

Amendment of Schedule 2 to the principal Regulations

3. In paragraph 3(2)(a) of Schedule 2 to the principal Regulations (sums to be disregarded in the calculation of earnings), for the words "an invalid care allowance" substitute the words "a carer's allowance"(**9**).

Amendment of Schedule 3 to the principal Regulations

4. In Schedule 3, Part I, to the principal Regulations (sums to be disregarded in the calculation of income other than earnings) after paragraph 28C(**10**), insert–

(a) "**28D.** Any payment made by a local authority to or on behalf of a resident relating to housing support services in respect of which Scottish Ministers have paid a grant to the local authority under section 91(1) of the Housing (Scotland) Act 2001(**11**) where the resident qualified for that payment."; and

(b) "**28E.** Any guardian's allowance

28F. Any child tax credit.".

Amendment of Schedule 4 to the principal Regulations

5.—(1) In Schedule 4 to the principal Regulations (capital to be disregarded) after paragraph 2, insert–

"**2A.** Where a resident has ceased to occupy a dwelling, which was formerly occupied as the home, following that resident's estrangement or divorce from their former partner, the value of that resident's interest in that dwelling where it is still occupied as the home by the former partner who is a lone parent.".

(2) In Schedule 4 to the principal Regulations after paragraph 6, insert–

(**4**) Social Security Contributions and Benefits Act 1992 (c. 4), section 70. Section 70 was amended by S.I. 2002/1457.
(**5**) Income Support (General) Regulations 1987 (S.I. 1987/1967).
(**6**) 2002 c. 21; see section 8.
(**7**) 1992 c. 4; section 77.
(**8**) 2002 c. 21; see section 10.
(**9**) The reference to invalid care allowance was inserted by S.I. 1993/2230, regulation 5.
(**10**) Paragraph 28C was inserted by S.I. 1994/2386, regulation 2.
(**11**) 2001 asp 10.