SCOTTISH STATUTORY INSTRUMENTS

2002 No. 266

SOCIAL CARE

The Community Care (Deferred Payment of Accommodation Costs) (Scotland) Regulations 2002

Made - - - -	*5th June 2002*
Laid before the Scottish Parliament - - - -	*6th June 2002*
Coming into force - -	*1st July 2002*

The Scottish Ministers, in exercise of the powers conferred by sections 6(1) and (3) and 23(4) of the Community Care and Health (Scotland) Act 2002(**1**) and of all other powers enabling them in that behalf, hereby make the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Community Care (Deferred Payment of Accommodation Costs) (Scotland) Regulations 2002 and shall come into force on 1st July 2002.

(2) In these Regulations–

"the Act" means the Community Care and Health (Scotland) Act 2002;

"additional payments" means payments made for the purpose mentioned in section 4(2) of the Act (accommodation more expensive than usually provided);

"the Assessment Regulations" means the National Assistance (Assessment of Resources) Regulations 1992(**2**);

"residence" means the dwelling that a person occupies or would normally occupy as their only or main residence.

(3) In these Regulations, unless the context otherwise requires, any reference to a numbered regulation is a reference to the regulation bearing that number in these Regulations and any reference in a regulation to a numbered paragraph is a reference to the paragraph bearing that number in that regulation.

(**1**) 2002 asp 5.
(**2**) S.I. 1992/2977 as amended by S.I. 1993/964 and 2230, 1994/825, 1995/858 and 3054, 1996/602, 1997/485, 1998/497 and 1730 and S.S.I. 2001/6 and 138.

Conditions for making deferred payment agreements

2.—(1) A local authority may enter into a deferred payment agreement with a person mentioned in section 6(1) of the Act (deferred payment of accommodation costs) where the conditions set out in paragraph (2) are met.

(2) The conditions referred to in paragraph (1) are–

(a) an assessment of the resources of the person carried out in accordance with the Assessment Regulations, without taking into account the value of the person's residence, has resulted in the person being assessed as having capital at or below the sum first mentioned in regulation 28(1) of the Assessment Regulations (calculation of tariff income);

(b) the person does not wish to, or is unable to, sell their residence;

(c) the standard security to be granted in accordance with section 6(2)(c) of the Act will be a standard security granted in respect of the person's residence;

(d) the value of the person's residence is such that the standard security to be granted in accordance with section 6(2)(c) of the Act will secure the local authority's reasonable estimate of the total amount that will become due to the local authority under the deferred payment agreement when the payment is likely to become due; and

(e) where the person's residence is subject to one or more standard securities, the person is, in the opinion of the local authority, reasonably able to meet the payments due under that or those securities and the payments due from the person in respect of the cost of the residential accommodation provided or secured, or to be provided or secured, to that person by the local authority.

Restriction on making deferred payment agreements

3. A local authority shall not enter into a deferred payment agreement in respect of the relevant portion mentioned in regulation 4(1) where the capital value of the person's residence is disregarded by virtue of Schedule 4 to the Assessment Regulations (capital to be disregarded), as read without reference to regulation 2(5) of the Community Care (Disregard of Resources) (Scotland) Order 2002(**3**).

Relevant portion

4.—(1) Subject to paragraph (2), for the purpose of section 6(3) of the Act (determination of relevant portion) the relevant portion is that part of the payments that the person is liable to pay to the local authority as shall be determined by calculating the difference between–

(a) the payments that the person is liable to pay to the local authority calculated in accordance with the Assessment Regulations; and

(b) the payments that the person would be liable to pay to the local authority calculated in accordance with the Assessment Regulations without taking into account the value of the person's residence.

(2) Where the person is making or is to make additional payments the relevant portion in respect of the additional payments shall be such amount, if any, as the local authority considers appropriate.

(**3**) S.S.I. 2002/264.