SCOTTISH STATUTORY INSTRUMENTS

2002 No. 265

SOCIAL CARE

The Community Care (Additional Payments) (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 4 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 (Additional Payments) (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**);

"capital limit" means the amount for the time being prescribed in regulation 20 of the Assessment Regulations;

"qualifying resident" means a person who is in receipt of or is eligible for assistance from the local authority by the provision of accommodation;

"relevant accommodation" means accommodation suitable to meet the needs of the qualifying resident but in respect of which the cost of providing that accommodation to the resident would require the local authority to pay more than that authority would usually expect to pay in

(**1**) 2002 asp 5.
(**2**) S.I. 1992/2977 was 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.

order to provide accommodation under the 1968 Act(**3**) or under section 7 of the 1984 Act(**4**) (functions of local authorities) suitable for a person with the needs of the qualifying resident;

"resources" means the whole of the income and capital of a qualifying resident.

(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.

Additional payments

2.—(1) A local authority shall, in the circumstances set out in paragraph (2) and unless prejudice is caused to any obligation of the authority to provide accommodation for any other person, provide or secure provision of relevant accommodation to a qualifying resident who has requested the authority to provide to, or secure provision for, the resident of that accommodation.

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

(a) the resident has requested the local authority to provide to or secure provision for the resident of accommodation which does not consist only of care of a kind mentioned in section 1(1) of the Act (charging and not charging for social care);

(b) the relevant accommodation requested by the resident is available;

(c) where the relevant accommodation is to be secured, it will be secured on the local authority's usual terms and conditions (except as to price) for securing accommodation of that kind; and

(d) that (either or both)–

(i) a third party agrees to make the additional payments,

(ii) a qualifying resident, to whom paragraph (3) applies, agrees to make the additional payments from that part or combination of parts of their resources as are referred to in regulation 3,

and each person who has made such an agreement can, in the opinion of the local authority, reasonably be expected to make the additional payments for the duration of the arrangements.

(3) This paragraph applies to a qualifying resident–

(a) to whom paragraph 1A of Schedule 4 to the Assessment Regulations (the twelve week property disregard) applies;

(b) who has entered into, or agreed to enter into, a deferred payment agreement with the local authority, as provided for in section 6 of the Act (deferred payment of accommodation costs), or

(c) who, as a result of not being charged for social care in accordance with section 1(1) of the Act (charging and not charging for social care), is required to pay less for their accommodation than that person would have been required to pay had that section not applied to such care.

Resources

3. The parts of resources referred to in regulation 2(2)(d)(ii) are–

(**3**) 1968 c. 49.
(**4**) 1984 c. 36; section 7 was amended by the Adults with Incapacity (Scotland) Act 2000 (asp 4), schedule 6.