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SCOTTISH STATUTORY INSTRUMENTS

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**2020 No. 55**

**NATIONAL ASSISTANCE SERVICES**

**The National Assistance (Assessment of Resources)  
Amendment (Scotland) (No. 2) Regulations 2020**

*Made* - - - - 20th February 2020  
*Laid before the Scottish  
Parliament* - - - - 24th February 2020  
*Coming into force* - - 6th April 2020

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 22(5) of the National Assistance Act 1948(1), as applied by section 87(3) and (4) of the Social Work (Scotland) Act 1968(2), and all other powers enabling them to do so.

**Citation, commencement, interpretation and extent**

1.—(1) These Regulations may be cited as the National Assistance (Assessment of Resources) Amendment (Scotland) (No. 2) Regulations 2020 and come into force on 6 April 2020.

(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 to schedule 4 of the principal Regulations**

2. In schedule 4 of the principal Regulations (capital to be disregarded), after paragraph 28(4) insert—

“29. Any payment made in accordance with arrangements made by the Scottish Ministers to an individual, for or in connection with the abuse or neglect of a person

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- (1) 1948 c.29 (11 & 12 Geo.6) (“the 1948 Act”). Section 22(5) was relevantly amended by paragraph 2(1) of schedule 4 of the Social Security Act 1980 (c.30). The functions of the Secretary of State so far as exercisable within devolved competence were transferred to the Scottish Ministers by section 53 of the Scotland Act 1998 (c.46).
- (2) 1968 c.49 (“the 1968 Act”). Section 87(3) of the 1968 Act was amended by section 28(1) of the Mental Health (Care and Treatment) (Scotland) Act 2003 (asp 13) (“the 2003 Act”) and by section 62(2) of the Adult Support and Protection (Scotland) Act 2007 (asp 10). Section 87(4) of the 1968 Act was amended by section 28(1) of the 2003 Act. By virtue of section 87(3) of the 1968 Act, accommodation provided under that Act or under section 25 of the 2003 Act is regarded as accommodation provided under Part III of the 1948 Act.
- (3) S.I. 1992/2977; relevant amending instruments are S.I. 1994/825, 1995/3054, 1998/497 and 1998/1730 and S.S.I. 2001/138, 2003/69, 2003/156, 2003/577, 2004/389, 2005/522, 2009/381 and 2019/191.
- (4) Paragraph 28 was inserted by S.S.I. 2019/191.

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**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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(P) whilst P was a child who was under the care or responsibility of a body, society or organisation in Scotland other than any payment which is to be disregarded under paragraph 28.

**30.** Any payment which would be disregarded under paragraph 73 of schedule 10 of the Income Support Regulations<sup>(5)</sup> (payments relating to disability caused by Thalidomide).’.

St Andrew’s House,  
Edinburgh  
20th February 2020

*JEANE FREEMAN*  
A member of the Scottish Government

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(5) [S.I. 1987/1967](#). Paragraph 73 was inserted by [S.I. 2017/870](#).

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations amend the National Assistance (Assessment of Resources) Regulations 1992 ([SI 1992/2977](#)) (“the principal Regulations”). The principal Regulations concern the assessment of the ability of a person to pay for accommodation provided under the Social Work (Scotland) Act 1968 (“the 1968 Act”). By virtue of section 87(3) of the 1968 Act, accommodation provided under the 1968 Act or section 25 of the Mental Health (Care and Treatment) (Scotland) Act 2003 is to be regarded as accommodation provided under Part III of the National Assistance Act 1948.

Regulation 2 amends schedule 4 of the principal Regulations to provide that certain payments are to be ignored as capital in the financial assessment of the resident’s resources. Any payment made to an individual in respect of neglect or abuse suffered by a person whilst they were a child under the care or responsibility of a body, society or organisation and while living in Scotland is to be ignored. Any payments made by a trust established for the purpose of giving relief and assistance to disabled people whose disabilities were caused by the fact that during their pregnancy their mother had taken the drug known as Thalidomide are to be ignored.