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SCOTTISH STATUTORY INSTRUMENTS

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**2004 No. 389**

**NATIONAL ASSISTANCE SERVICES**

**The National Assistance (Assessment of Resources)  
Amendment (No. 2) (Scotland) Regulations 2004**

*Made* - - - - 8th September 2004  
*Laid before the Scottish  
Parliament* - - - - 10th September 2004  
*Coming into force* - - 4th October 2004

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 2004 and shall come into force on 4th October 2004.

(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 Schedule 3 to the principal Regulations**

2. In Schedule 3 to the principal Regulations (sums to be disregarded in the calculation of income other than earnings) after paragraph 28I(4) insert—

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- (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 the National Assistance Act 1948.
- (3) S.I. 1992/2977 (“the principal Regulations”).
- (4) Paragraph 28I was inserted into the principal Regulations by S.S.I. 2003/577.

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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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“**28J.** Where the resident is a student, any payment intended for the child care costs of a child dependant of the resident.”

**Amendment of Schedule 4 to the principal Regulations**

**3.** In Schedule 4 to the principal Regulations (capital to be disregarded) after paragraph 23<sup>(5)</sup> insert—

“**24.** Any payment made under section 2 or 3 of the Age Related Payments Act 2004<sup>(6)</sup>;

**25.** Where the resident is a student, any payment intended for the child care costs of a child dependant of the resident.”

St Andrew’s House, Edinburgh  
8th September 2004

*TOM McCABE*  
Authorised to sign by the Scottish Ministers

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<sup>(5)</sup> Paragraph 23 was inserted into the principal Regulations by [S.S.I. 2003/577](#).  
<sup>(6)</sup> [2004 c. 10](#).

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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 (S.I.1992/2977) (the “principal Regulations”). The principal Regulations concern the assessment of a person’s liability to pay for accommodation provided under the Social Work (Scotland) Act 1968 (c. 49) (the “1968 Act”). By virtue of section 87(3) of the 1968 Act, accommodation provided under the 1968 Act or section 7 of the Mental Health (Scotland) Act 1984 (c. 36) shall be regarded as accommodation provided under Part III of the National Assistance Act 1948.

Regulation 2 amends Schedule 3 to the principal Regulations to provide that any payments to students intended to meet the child care costs of their dependant children are to be disregarded as income in the financial assessment of that person’s resources.

Regulation 3 amends Schedule 4 to the principal Regulations to provide that payments made under section 2 or 3 of the Age Related Payments Act 2004 (c. 10) and that any payments to students intended to meet the child care costs of their dependant children are to be disregarded as capital in the financial assessment of that person’s resources.