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SCOTTISH STATUTORY INSTRUMENTS

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**2006 No. 113**

**NATIONAL ASSISTANCE SERVICES**

**The National Assistance (Assessment of Resources)  
Amendment (Scotland) Regulations 2006**

<i>Made</i>	- - - -	<i>6th March 2006</i>
<i>Laid before the Scottish Parliament</i>	- - - -	<i>8th March 2006</i>
<i>Coming into force</i>	- -	<i>10th April 2006</i>

The Scottish Ministers 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 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 (Scotland) Regulations 2006 and shall come into force on 10th April 2006.

(2) In these Regulations, “the principal Regulations” means the National Assistance (Assessment of Resources) Regulations 1992(3).

(3) These Regulations extend to Scotland only.

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- (1) 1948 c. 29. Section 22(5) was amended by the Ministry of Social Security Act 1966 (c. 20) Schedule 6, paragraph 6(2); the Supplementary Benefits Act 1976 (c. 71), Schedule 7, paragraph 3(b); the Social Security Act 1980 (c. 30) Schedule 4, paragraph 2(1) and by the Social Security Act 1986 (c. 50) Schedule 10, paragraph 32(2). 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 (“the 1968 Act”). Section 87(3) of the 1968 Act was amended by the Social Security Act 1980 (c. 30) Schedule 4, paragraph 5(1); the Health and Social Services and Social Security Adjudications Act 1983 (c. 41) section 20(2); the Social Security Act 1986 (c. 50) Schedule 10, paragraph 41(2); the National Health Service and Community Care Act 1990 (c. 19) (“the 1990 Act”) Schedule 9, paragraph 10(13) and by section 28(1) of the Mental Health (Care and Treatment) (Scotland) Act 2003 (asp 13) (“the 2003 Act”). Section 87(4) of the 1968 Act was amended by the 1990 Act Schedule 9, paragraph 10(13) and 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 National Assistance Act 1948.
- (3) S.I. 1992/2977 (“the principal Regulations”), relevantly amended by S.I. 1996/602 and 1997/485 and by S.S.I. 2001/105 and 138, 2003/425, 2004/103 and 2005/82.

### **Amendment to regulation 2 of the principal Regulations**

2. In regulation 2(1) (interpretation) of the principal Regulations, for the definition of “liable relative” substitute—

““liable relative” means a spouse or civil partner, or a former spouse or civil partner of a resident;”.

### **Amendment to regulation 20 of the principal Regulations**

3. In regulation 20 (capital limit) of the principal Regulations, for the amount “£19,500” substitute “£20,000”(4).

### **Amendment to regulation 28(1) of the principal Regulations**

4. In regulation 28(1) (calculation of tariff income from capital)(5) of the principal Regulations—
- (a) for the amount “£12,000” (both times it appears) substitute the amount “£12,250”(6); and
  - (b) for the amount “£19,500” substitute the amount “£20,000”(7).

### **Amendment to Schedule 3 to the principal Regulations**

5.—(1) Schedule 3 to the principal Regulations (sums to be disregarded in the calculation of income) is amended as follows.

- (2) In paragraph 10A (pension income)(8)—
- (a) in sub paragraphs (1) and (3), after “spouse” (each time it appears) insert “or civil partner”; and
  - (b) in sub paragraph (1)(b), after “spouse's” insert “or civil partner's”.
- (3) In paragraph 17(b) (payments made to a resident in respect of a child or young person), for “section 51 of the Adoption (Scotland) Act 1978 (schemes for payment of allowances to adopters)” substitute “section 51A of the Adoption (Scotland) Act 1978 (adoption allowances schemes)”(9).
- (4) In paragraph 28G (savings credit)(10)—
- (a) in sub paragraphs (1) and (2), for the amount “£4.85” (each time it appears) substitute the amount “£5.05”; and
  - (b) in sub paragraphs (3) and (4), for the amount “£7.20” (each time it appears) substitute the amount “£7.50”.

### **Revocation**

6. The National Assistance (Assessment of Resources) Amendment (Scotland) Regulations 2005(11) are revoked.

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(4) Regulation 20 of the principal Regulations was amended by S.I. 1996/602 and S.S.I. 2001/105 and 138, 2004/103 and 2005/82. The previous amount was set by S.S.I. 2005/82.

(5) Regulation 28 of the principal Regulations was amended by S.I. 1996/602 and S.S.I. 2001/105 and 138, 2004/103 and 2005/82.

(6) The previous amount was set by S.S.I. 2005/82.

(7) The previous amount was set by S.S.I. 2005/82.

(8) Paragraph 10A of Schedule 3 to the principal Regulations was inserted by S.I. 1996/602 and amended by S.I. 1997/485.

(9) 1978 (c. 28). Section 51A was inserted by the Children (Scotland) Act 1995 (c. 36) section 98(1) and Schedule 2, paragraph 25, and amended by the Regulation of Care (Scotland) Act 2001 (asp 8) section 79 and schedule 3, paragraph 7.

(10) Paragraph 28G of Schedule 3 to the principal Regulations was inserted by S.S.I. 2003/425 and amended by S.S.I.s 2004/103 and 2005/82. The previous amounts were set by S.S.I. 2005/82.

(11) S.S.I. 2005/82.

St Andrew's House,  
Edinburgh  
6th March 2006

*LEWIS MACDONALD*  
Authorised to sign by the Scottish Ministers

**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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## 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 (“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 \(asp 13\)](#) shall be regarded as accommodation provided under Part III of the National Assistance Act 1948.

Regulations 2 and 5(2) make consequential amendments to the principal Regulations in light of the changes to the rights and liabilities of civil partners made by the Civil Partnership Act 2004 (c. 33). Regulation 2 amends regulation 2 of the principal Regulations to include civil partners and former civil partners of the resident within the meaning of “liable relative” in the principal Regulations. The definition is used for the purpose of assessing payments made to the resident under Part IV of the principal Regulations. Regulation 5(2) amends paragraph 10A to Schedule 3 to the principal Regulations so that certain payments by the resident out of pension income to a civil partner, as well as a spouse, are disregarded from the calculation of income in the financial assessment.

Regulation 3 amends the principal Regulations so that the capital limit set out in regulation 20 is increased from £19,500 to £20,000. Regulation 4 amends the principal Regulations so that the capital limits set out in regulation 28(1) are increased from £12,000 and £19,500 to £12,250 and £20,000 respectively.

Regulation 5(3) amends paragraph 17(b) of Schedule 3 to the principal Regulations to update the reference to payments made under adoption allowance schemes under section 51A of the Adoption (Scotland) Act 1978 (c. 28). Regulation 5(4) provides for an increase to the amount set out in paragraph 28G of Schedule 3 to the principal Regulations which should be disregarded from the calculation of income other than earnings in the financial assessment when a resident receives savings credit.

Regulation 6 revokes the National Assistance (Assessment of Resources) Amendment (Scotland) Regulations 2005 (S.S.I. 2005/82) which provided the previous capital limits set out in regulations 20 and 28(1) of the principal Regulations, and which provided the previous amounts disregarded from income as respects savings credit in paragraph 28G of Schedule 3 to the principal Regulations.