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STATUTORY INSTRUMENTS

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**1995 No. 858**

**NATIONAL ASSISTANCE SERVICES**

**The National Assistance (Assessment of Resources) (Amendment) Regulations 1995**

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| <i>Made</i>                   | - - - - | <i>22nd March 1995</i> |
| <i>Laid before Parliament</i> |         | <i>23rd March 1995</i> |
| <i>Coming into force</i>      | - -     | <i>13th April 1995</i> |

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) of the Social Work (Scotland) Act 1968(2)and of all other powers enabling me in that behalf, I hereby make the following Regulations:

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**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the National Assistance (Assessment of Resources) (Amendment) Regulations 1995 and shall come into force on 13th April 1995.

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

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

2. In regulation 2(1) of the principal Regulations (interpretation)—

- (a) the definitions of “invalidity pension” and “sickness benefit” shall be omitted; and
- (b) after the definition of “the Fund” there shall be inserted:

““incapacity benefit” means incapacity benefit under the Contributions and Benefits Act(4);”

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(1) 1948 c. 29; section 22(5) of the National Assistance Act 1948 (“the 1948 Act” was amended by section 39(1) of and paragraph 6 of Schedule 6 to the Ministry of Social Security Act 1966 (c. 20), by section 35(2) of and paragraph 3(b) of Schedule 7 to the Supplementary Benefits Act 1976 (c. 71), by section 20 of and paragraph 2 of Schedule 4 to the Social Security Act 1980 (c. 30), and by section 86 of and paragraph 32 of Schedule 10 to the Social Security Act 1986 (c. 50).

(2) 1968 (c. 49); section 87 was amended by paragraph 10(13) of Schedule 9 to the National Health Service and Community Care Act 1990 (c. 19).

(3) S.I. 1992/2977; relevant amending instruments are S.I. 1993/964 and 2230.

(4) In S.I. 1992/2977 this means the Social Security Contributions and Benefits Act 1992 (c. 4); section 30A was inserted by the Social Security (Incapacity for Work) Act 1994 (c. 18), section 1.

**Amendment of Schedule 2 to the principal Regulations**

3.—(1) In paragraph 3(2)(b)(i) of Schedule 2 to the principal Regulations (sums to be disregarded) the words “, an invalidity pension,” shall be omitted.

(2) For paragraph 3(2)(b)(v) of Schedule 2 to the principal Regulations there shall be substituted the following—

“(v) has, in respect of a claim for incapacity benefit or severe disablement allowance, provided medical evidence at least 28 weeks previously and it has not been determined that he is not entitled to the benefit or allowance, or.”

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

4. In paragraph 27 of Schedule 3 to the principal Regulations (housing costs of a temporary resident to be disregarded) the words “to which he intends to return” shall be omitted.

*Virginia Bottomley*  
One of Her Majesty’s Principal Secretaries of  
State  
Department of Health

22nd March 1995

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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 (“the principal Regulations”). The principal Regulations concern the assessment of a person’s ability to pay for accommodation arranged by a local authority under Part III of the National Assistance Act 1948, the Social Work (Scotland) Act 1968 or Section 7 of the Mental Health (Scotland) Act 1984. Schedule 2 and 3 to those Regulations set out sums to be disregarded in calculating a person’s income.

Regulation 3 replaces the provision in Schedule 2 to the principal Regulations specifying a disregard relating to sickness benefit, invalidity pension or severe disablement allowance with one which relates to incapacity benefit or severe disablement allowance. This is as a result of the coming into force of the Social Security (Incapacity for Work) Act 1994 which replaces sickness and invalidity benefits with incapacity benefit. In order to have an amount disregarded in the calculation of his earnings a person is required to have provided, in support of a claim for incapacity benefit or severe disablement allowance, medical evidence at least 28 weeks previously without it having been determined that he is not entitled to the benefit or allowance. Regulation 2 is consequential on regulation 3.

Regulation 4 removes a provision whereby fuel charges included in the housing costs of a person temporarily in accommodation arranged by the local authority could be disregarded only if the temporary resident intended to return to the dwelling in respect of which they were payable.