
WELSH STATUTORY INSTRUMENTS

2003 No. 969 (W.131)

NATIONAL ASSISTANCE SERVICES, WALES

**The National Assistance (Residential Accommodation)
(Disregarding of Resources) (Wales) Regulations 2003**

Made - - - - 26th March 2003

Coming into force - - 1st April 2003

The National Assembly for Wales, in exercise of the powers conferred by section 21(2A) of the National Assistance Act 1948(1) hereby makes the following Regulations:—

Citation, commencement, interpretation and application

1.—(1) These Regulations may be cited as the National Assistance (Residential Accommodation) (Disregarding of Resources) (Wales) Regulations 2003 and will come into force on 1st April 2003.

(2) In these Regulations—

“the 2001 Act” (“*Deddf 2001*”) means the Health and Social Care Act 2001(2);

“the Act” (“*y Ddeddf*”) means the National Assistance Act 1948; and

“the Assessment Regulations” (“*y Rheoliadau Asesu*”) means the National Assistance (Assessment of Resources) Regulations 1992(3).

(3) These Regulations apply to Wales only

Disregarding of resources

2.—(1) In determining for the purposes of paragraph (a) or (aa) of subsection(1) of section 21 of the Act whether care and attention are otherwise available to a person, a local authority must disregard so much of the person’s capital as does not exceed the capital limit.

(2) For the purposes of paragraph (1) of this regulation, subject to paragraph (3)—

(1) 1948 c. 29; subsections (2A) and (2B) of section 21 were substituted by section 53 of the Health and Social Care Act 2001 (c. 15). Article 2 of and Schedule 1 to the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I.1999/672), transfers all the functions of the Secretary of State under the 1948 Act, so far as they are exercisable in relation to Wales, to the National Assembly for Wales. Section 68(1) of the 2001 Act provides for references to any Acts mentioned in Schedule 1 to the National Assembly for Wales (Transfer of Functions) Order 1999 and which are amended by the 2001 Act to be treated as referring to their amended version. (As respects Scotland, section 21 of the 1948 Act was repealed, in so far as it extended to Scotland, by section 95(2) of, and Schedule 9 to, the Social Work (Scotland) Act 1968 (c. 49)).

(2) 2001 c. 15.

(3) S.I. 1992/2977; the relevant amending instruments are S.I. 1993/964; S.I. 1993/2230; S.I. 1994/825; S.I. 1994/2386; S.I. 1995/858; S.I. 1995/3054; S.I. 1996/602; S.I. 1997/485; S.I. 1998/497; S.I. 1998/1730; S.I. 2001/58 and S.I. 2001/1066.

- (a) A person’s capital shall be calculated in accordance with the Assessment Regulations in the same way as if he or she were a person for whom accommodation is proposed to be provided as mentioned in subsection (3) of section 22 of the Act and whose ability to pay for the accommodation falls to be assessed for the purposes of that subsection; and
- (b) “the capital limit” means the amount for the time being prescribed in relation to Wales in the Assessment Regulations as the amount which a resident’s capital (calculated in accordance with those Regulations) must not exceed if he or she is to be assessed as unable to pay for his or her accommodation at the standard rate⁽⁴⁾.

(3) In a case where the local authority has entered or has agreed to enter into a deferred payment agreement (as provided for in section 55 of the 2001 Act), the local authority must when making the calculation specified in paragraph (2)(a) of this regulation, give effect to paragraph 1A of Schedule 4 to the Assessment Regulations, as if that paragraph read as follows—

“**1A.** In the case of a resident who becomes a permanent resident on or after 7th April 2003 the value of any dwelling which he or she would otherwise normally occupy as his or her only or main residence.”.

Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998⁽⁵⁾.

26th March 2003

D. Elis-Thomas
The Presiding Officer of the National Assembly

(4) For the meaning of “standard rate” see section 22(2) of the National Assistance Act 1948 c. 29. Standard rate means a rate which represents the full cost to the authority of providing the accommodation.

(5) 1998 c. 38.

EXPLANATORY NOTE

(This note is not part of the Regulations)

The Health and Social Care Act 2001 (c. 15) amended section 21 of the National Assistance Act 1948 (c. 29) by substituting subsections (2A) and (2B). Section 21 provides for residential accommodation arranged by local authorities for expectant and nursing mothers and other persons who by reason of age, illness, disability or any other circumstances are in need of care and attention which is not otherwise available to them. The new subsections provide that regulations may specify or provide for the determination of a person's resources which the local authority shall disregard when deciding for the purposes of section 21(1)(a) or (aa) whether or not the person needs care and attention which is not otherwise available to him or her.

These regulations make provision as to the resources which are to be disregarded for those purposes. Subject to one exception, a person's capital up to the capital limit as specified in the National Assistance (Assessment of Resources) Regulations 1992 is to be disregarded. In the excepted case, when the person is someone with whom the local authority have agreed to enter into a deferred payment agreement, the local authority shall also disregard the value of that person's main or only home.