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STATUTORY INSTRUMENTS

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**2005 No. 708**

**NATIONAL ASSISTANCE SERVICES, ENGLAND**

The National Assistance (Sums for Personal Requirements and Assessment of Resources) (Amendment) (England) Regulations 2005

<i>Made</i>	- - - -	<i>9th March 2005</i>
<i>Laid before Parliament</i>		<i>18th March 2005</i>
<i>Coming into force</i>	- -	<i>11th April 2005</i>

The Secretary of State for Health, in exercise of the powers conferred by section 22(4) of the National Assistance Act 1948<sup>(1)</sup> and now vested in him<sup>(2)</sup> and by section 22(5) of that Act and of all other powers enabling him in that behalf, hereby makes the following Regulations:

**Citation, commencement, interpretation and application**

1.—(1) These Regulations may be cited as the National Assistance (Sums for Personal Requirements and Assessment of Resources) (Amendment) (England) Regulations 2005 and shall come into force on 11th April 2005.

(2) In these Regulations “the Assessment Regulations” means the National Assistance (Assessment of Resources) Regulations 1992<sup>(3)</sup>.

(3) These Regulations apply in relation to England only.

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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). The functions of the Secretary of State under this section, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672) (“the 1999 Order”), article 2; *see* the entry in Schedule 1 for the 1948 Act. As respects Scotland, the powers of the Secretary of State to make regulations under section 22(5) of the 1948 Act are applied by section 87(3) and (4) of the Social Work (Scotland) Act 1968 (c. 49) (“the 1968 Act”) (as amended by paragraph 10(13) of Schedule 9 to the National Health Service and Community Care Act 1990 (c. 19)), to persons for whom accommodation is provided under either the 1968 Act or section 7 of the Mental Health (Scotland) Act 1984 (c. 36); *see* however section 53 of the Scotland Act 1998 (c. 46) (“the 1998 Act”), which provides that functions of a Minister of the Crown under an Act passed before the 1998 Act, in so far as they are exercisable within devolved competence, shall be exercisable by the Scottish Ministers instead of by the Minister of the Crown. The powers to make regulations under section 22(5) of the 1948 Act are within devolved competence for the purposes of section 53 of the 1998 Act.

(2) *See* article 2 of the Secretary of State for Social Services Order 1968 (S.I. 1968/1699).

(3) S.I. 1992/2977; relevant amending instruments are S.I. 2003/627, S.I. 2003/2343, S.I. 2004/760, and S.I. 2004/2328.

### **Amendment of regulation 2 of the National Assistance (Sums for Personal Requirements) (England) Regulations 2003**

2. In regulation 2 (sum needed for personal requirements) of the National Assistance (Sums for Personal Requirements) (England) Regulations 2003(4), for the amount “£18.10” substitute the amount “£18.80”.

### **Amendment of regulation 20 of the Assessment Regulations**

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

### **Amendment of regulation 28(1) of the Assessment Regulations**

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

### **Amendment of Schedule 3 to the Assessment Regulations**

5.—(1) In Schedule 3 to the Assessment Regulations (sums to be disregarded in the calculation of income other than earnings)—

- (a) in paragraph 28H—
  - (i) in sub-paragraphs (1) and (2), for the amount “£4.65” (each time it appears) substitute the amount “£4.85”; and
  - (ii) in sub-paragraphs (3) and (4), for the amount “£6.95” (each time it appears) substitute the amount “£7.20”;
- (b) after paragraph 28J, insert the following paragraph—

“**28K.** Any payment made in accordance with regulations made pursuant to section 14F of the Children Act 1989(5) (special guardian support services) to a resident who is a prospective special guardian or a special guardian.”.

### **Amendment of Schedule 4 to the Assessment Regulations**

6. In Schedule 4 to the Assessment Regulations (capital to be disregarded) after paragraph 26, add the following paragraph—

“**27.** Any payment made in accordance with regulations made pursuant to section 14F of the Children Act 1989 (special guardian support services) to a resident who is a prospective special guardian or a special guardian.”.

### **Revocation**

7. The National Assistance (Sums for Personal Requirements and Assessment of Resources) (Amendment) (England) Regulations 2004(6) and the National Assistance (Assessment of Resources) (Amendment) (No.2) (England) Regulations 2004(7) are hereby revoked.

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(4) S.I. 2003/628, as amended by S.I. 2004/760.

(5) 1989.c.41; section 14F is inserted by section 115 of the Adoption and Children Act 2002 (c. 38).

(6) S.I. 2004/760.

(7) S.I. 2004/2328.

Signed by authority of the Secretary of State for Health

9th March 2005

*Stephen Ladyman*  
Parliamentary Under Secretary of State,  
Department of Health

*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, which apply in relation to England only, further amend the National Assistance (Assessment of Resources) Regulations 1992 (“the Assessment Regulations”). The Assessment Regulations concern the assessment of the ability of a person to pay for residential accommodation that is provided, or proposed to be provided, to him by a local authority under Part 3 of the National Assistance Act 1948 (“the 1948 Act”).

Regulation 2 amends the National Assistance (Sums for Personal Requirements) (England) Regulations 2003 so that the weekly sum which local authorities in England are to assume, in the absence of special requirements, that residents in accommodation arranged under Part 3 of the 1948 Act will need for their personal requirements is £18.80.

Regulation 3 amends the Assessment Regulations so that the capital limit set out in regulation 20 becomes £20,500.

Regulation 4 amends the Assessment Regulations so that the capital limits set out in regulation 28(1) become £12,500 and £20,500.

Regulation 5 provides for an increase of up to £4.85 (up to £7.20 if a resident has a partner) in the amount of any savings credit to be disregarded where a resident has qualifying income not exceeding the standard minimum guarantee, and for an increase to £4.85 (£7.20 if a resident has a partner) in the amount to be disregarded if a resident has qualifying income that exceeds the standard minimum guarantee. It also provides for payments made under section 14F of the Children Act 1989 to support a resident who is a prospective special guardian or a special guardian to be disregarded as income. Regulation 6 makes provision for such payments to be disregarded as capital.

Regulation 7 revokes the National Assistance (Sums for Personal Requirements and Assessment of Resources) (Amendment) (England) Regulations 2004 and the National Assistance (Assessment of Resources) (Amendment) (No.2) (England) Regulations 2004.

A full regulatory impact assessment has not been produced for this instrument as it has no impact on the costs of business.