

2003 No. 627

NATIONAL ASSISTANCE SERVICES, ENGLAND

**The National Assistance (Assessment of Resources)
(Amendment) (England) Regulations 2003**

Made - - - - *10th March 2003*

Laid before Parliament *11th March 2003*

*Coming into force in
accordance with regulation 1(1)* *1st April 2003*

The Secretary of State for Health, in exercise of the powers conferred by section 22(5) of the National Assistance Act 1948(a) 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 (Assessment of Resources) (Amendment) (England) Regulations 2003 and shall come into force—

- (a) for the purposes of this regulation and regulations 2(1), 5, 6(a) and 7(a) and (c), on 1st April 2003; and
- (b) for all other purposes, on 7th April 2003.

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

(3) These Regulations apply to England only(c).

(a) 1948 c.29; section 22(5) of the National Assistance Act 1948 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).

(b) S.I. 1992/2977; relevant amending instruments are S.I. 1996/602, S.I. 2001/1066, S.I. 2001/3441 and S.I. 2002/410.

(c) Although section 22(5) of the National Assistance Act 1948 (“the 1948 Act”) extends to both Wales and Scotland, the Secretary of State no longer has powers to make regulations under the said section in respect of either country. As respects Wales, see article 2 of, and Schedule 1 to, the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672), which 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. As respects Scotland, the powers of the Secretary of State to make regulations under section 22(5) of the 1948 Act in respect of persons for whom accommodation is provided under Part 3 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.

Amendment of regulation 2 of the principal Regulations

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

(a) insert the following definitions at the appropriate place:

““carer’s allowance” means a carer’s allowance under the Contributions and Benefits Act(a);”;

““lone parent” has the same meaning as in the Income Support Regulations(b);”;
and

(b) omit the definition of “invalid care allowance”.

(2) In paragraph (1) of regulation 2 of the principal Regulations, insert the following definitions at the appropriate place:

““child tax credit” means a child tax credit under the Tax Credits Act 2002(c);”;

““guardian’s allowance” means a guardian’s allowance under the Contributions and Benefits Act(d);”;

““working tax credit” means a working tax credit under the Tax Credits Act 2002(e).”.

Amendment of regulation 20 of the principal Regulations

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

Amendment of regulation 28(1) of the principal Regulations

4. In regulation 28(1) (calculation of tariff income from capital) of the principal Regulations—

(a) for the amount “£11,750” (both times it appears) substitute the amount “£12,000”; and

(b) for the amount “£19,000” substitute the amount “£19,500”.

Amendment of Schedule 2 to the principal Regulations

5. In paragraph 3(2)(a) of Schedule 2 to the principal Regulations (sums to be disregarded in the calculation of earnings)(f), for the words “an invalid care allowance” substitute the words “a carer’s allowance”.

Amendment of Schedule 3 to the principal Regulations

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

(a) after paragraph 28C, insert the following paragraphs—

“28D. Any payment made by a local authority to or on behalf of the resident relating to the provision of a service, where—

(a) that service is provided to develop or sustain the capacity of the resident to live independently in the community; and

(b) any charge for that service would be a service charge of the kind specified in Schedule 1B to the Housing Benefit (General) Regulations 1987(g) as in force immediately before the 1st April 2003.

28E. The amount of any payment made by the resident to the local authority in payment of a charge imposed on him by the authority under the Local

(a) See section 70 of the Social Security Contributions and Benefits Act 1992 (c.4). Section 70 was amended by S.I. 2002/1457.

(b) See regulation 2 of the Income Support (General) Regulations 1987 (S.I. 1987/1967).

(c) 2002 c.21, see section 8.

(d) See section 77. Section 77 was amended by the Tax Credits Act 2002.

(e) See section 10.

(f) The relevant amending instrument is S.I. 1993/2230.

(g) S.I. 1987/1971. Schedule 1B was inserted by the Housing Benefit (General) Amendment (No 3) Regulations 1999 (S.I. 1999/2734) as amended by the Social Security (Miscellaneous Amendments) Regulations 2000 (S.I. 2000/681).

Authorities (Charges for Specified Welfare Services) (England) Regulations 2003(a).”; and

- (b) after paragraph 28E (inserted by paragraph (a) of this regulation), insert the following paragraphs—

“**28F.** Any guardian’s allowance.

28G. Any child tax credit.”.

Amendment of Schedule 4 to the principal Regulations

7. In Schedule 4 to the principal Regulations (capital to be disregarded)—

- (a) after paragraph 2, insert the following paragraph—

“**2A.** In the case of a resident who has ceased to occupy what was formerly the dwelling occupied as his home following his estrangement or divorce from his former partner, the value of the resident’s interest in that dwelling where it is still occupied as the home by the former partner who is a lone parent.”;

- (b) after paragraph 6, insert the following paragraph—

“**6A.** Any arrears of, or any concessionary payment made to compensate for arrears due to the non-payment of—

- (a) working families’ tax credit under section 128 of the Contributions and Benefits Act(b),
- (b) disabled person’s tax credit under section 129 of the Contributions and Benefits Act(c),
- (c) child tax credit, or
- (d) working tax credit,

but only for a period of 52 weeks from the date of the receipt of the arrears or of the concessionary payment.”; and

- (c) after paragraph 21, add the following paragraphs—

“**22.** Any payment made by a local authority to or on behalf of the resident relating to the provision of a service, where—

- (a) that service is provided to develop or sustain the capacity of the resident to live independently in the community; and
- (b) any charge for that service would be a service charge of the kind specified in Schedule 1B to the Housing Benefit (General) Regulations 1987 as in force immediately before the 1st April 2003.

23. Any payment made by the resident to the local authority in payment of a charge imposed on him by the authority under the Local Authorities (Charges for Specified Welfare Services) (England) Regulations 2003.”.

Revocation

8. The National Assistance (Assessment of Resources) (Amendment) (England) Regulations 2002(d) are hereby revoked.

Signed by authority of the Secretary of State for Health

Jacqui Smith
Minister of State,
Department of Health

10th March 2003

(a) S.I. 2003/907.

(b) Section 128 was amended by the Jobseekers Act 1995 (c.18) and the Tax Credits Act 1999 (c.10).

(c) Section 129 was amended by the Local Government Finance Act 1992 (c.14), the Social Security (Incapacity for Work) Act 1994 (c.18), the Jobseekers Act 1995 (c.18), the Tax Credits Act 1999 (c.10) and the Welfare Reform and Pensions Act 1999 (c.30).

(d) S.I. 2002/410.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make further amendments to the National Assistance (Assessment of Resources) Regulations 1992 (“the principal Regulations”). The principal Regulations concern the assessment of the ability of a person to pay for accommodation arranged by local authorities under Part 3 of the National Assistance Act 1948.

Regulation 2 inserts several new definitions into, and removes one from, the principal Regulations.

Regulation 3 amends the principal Regulations so that the capital limit set out in regulation 20 becomes £19,500. Regulation 4 amends the principal Regulations so that the capital limits set out in regulation 28(1) become £12,000 and £19,500.

Regulation 5 changes the reference from invalid care allowance, which will no longer exist, to carer’s allowance, which replaces it.

Regulations 6(a) and 7(c) provide for certain payments made by a local authority to or on behalf of a resident in respect of housing service charges to be disregarded as income or capital in the financial assessment. They further provide that the amount of payments made by the resident to the local authority under the Local Authorities (Charges for Specified Welfare Services) (England) Regulations 2003 shall be disregarded as income or capital.

Regulation 6(b) provides an income disregard for guardian’s allowance and child tax credit.

Regulation 7(a) provides a capital disregard for the value of a dwelling which the claimant has ceased to occupy following estrangement or divorce where the dwelling is still occupied as a home by the former partner who is a lone parent.

Regulation 7(b) provides a capital disregard for any arrears, or any concessionary payment to compensate for arrears due to the non-payment of tax credits for a period of 52 weeks.

Regulation 8 revokes the National Assistance (Assessment of Resources) (Amendment) (England) Regulations 2002 (which provided the capital limits set out in regulations 20 and 28(1) from 8th April 2002).

These Regulations do not impose a charge on business.

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