



CYNULLIAD CENEDLAETHOL CYMRU

NATIONAL ASSEMBLY FOR WALES

OFFERYNNAU STATUDOL

STATUTORY INSTRUMENTS

2003 Rhif 969 (Cy.131)

2003 No. 969 (W.131)

**GWASANAETHAU CYMORTH
GWLADOL, CYMRU**

**NATIONAL ASSISTANCE
SERVICES, WALES**

Rheoliadau Cymorth Gwladol
(Llety Preswyl) (Diystyru
Adnoddau) (Cymru)
2003

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

NODYN ESBONIADOL

EXPLANATORY NOTE

(Nid yw'r nodyn hwn yn rhan o'r Rheoliadau)

(This note is not part of the Regulations)

Diwygiwyd adran 21 o Ddeddf Cymorth Gwladol 1948 (p. 29) gan Ddeddf Iechyd a Gofal Cymdeithasol 2001 (p. 15) trwy amnewid is-adrannau (2A) a (2B). Mae Adran 21 yn darparu ar gyfer llety preswyl a drefnir gan awdurdodau lleol i famau beichiog a mamau sy'n magu a phersonau eraill y mae arnynt, oherwydd eu hoedran, salwch, anabledd neu unrhyw amgylchiadau eraill, angen gofal a sylw nad ydynt ar gael iddynt fel arall. Mae'r is-adrannau newydd yn darparu y gall rheoliadau bennu pa adnoddau neu ddarparu ar gyfer penderfynu pa adnoddau y gall yr awdurdod lleol eu diystyru wrth benderfynu at ddibenion adran 21(1)(a) neu (aa) mewn cysylltiad â pherson pa un a oes ar y person angen gofal a sylw nad ydynt ar gael iddo ef neu iddi hi fel arall ai peidio.

Mae'r rheoliadau hyn yn gwneud darpariaeth o ran yr adnoddau i'w diystyru at y dibenion hynny. Yn ddarostyngedig i un eithriad, dylid diystyru cyfalaf person hyd at derfyn cyfalaf fel y'i pennir yn Rheoliadau Cymorth Gwladol (Asesu Adnoddau) 1992. Yn yr achos a eithrir, os yw'r person yn rhywun y mae'r awdurdod lleol wedi cytuno gydag ef i lunio cytundeb talu gohiriedig, bydd yr awdurdod lleol hefyd yn diystyru gwerth prif gartref neu unig gartref y person hwnnw.

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.

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GWASANAETHAU CYMORTH
GWLADOL, CYMRUNATIONAL ASSISTANCE
SERVICES, WALES

Rheoliadau Cymorth Gwladol
(Llety Preswyl) (Diystyru
Adnoddau) (Cymru)
2003

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

Wedi'u gwneud 26 Mawrth 2003
Yn dod i rym 1 Ebrill 2003

Made 26th March 2003
Coming into force 1st April 2003

Mae Cynulliad Cenedlaethol Cymru, drwy arfer y pwerau a roddir iddo gan adran 21(2A) o Ddeddf Cymorth Gwladol 1948(a) drwy hyn yn gwneud y Rheoliadau canlynol:-

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

Enwi, cychwyn, dehongli a chymhwyso**Citation, commencement, interpretation and application**

1.-(1) Enw'r Rheoliadau hyn yw Rheoliadau Cymorth Gwladol (Llety Preswyl) (Diystyru Adnoddau) (Cymru) 2003 a deuant i rym ar 1 Ebrill 2003.

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) Yn y Rheoliadau hyn -

(2) In these Regulations-

ystyr "Deddf 2001" ("*the 2001 Act*") yw Deddf Iechyd a Gofal Cymdeithasol 2001(b);

"the 2001 Act" ("*Deddf 2001*") means the Health and Social Care Act 2001(b);

ystyr "y Ddeddf" ("*the Act*") yw Deddf Cymorth Gwladol 1948; ac

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

ystyr "y Rheoliadau Asesu" ("*the Assessment Regulations*") yw Rheoliadau Cymorth Gwladol (Asesu Adnoddau) 1992(c).

"the Assessment Regulations" ("*y Rheoliadau Asesu*") means the National Assistance (Assessment of Resources) Regulations 1992(c).

(a) 1948 p.29; yn lle is-adrannau (2A) a (2B) o adran 21 rhoddwyd adran 53 o Ddeddf Iechyd a Gofal Cymdeithasol 2001 (p.15). Mae Erthygl 2 yng Ngorchymyn Cynulliad Cenedlaethol Cymru (Trosglwyddo Swyddogaethau) 1999 (O.S. 1999/672) ac Atodlen 1 iddo yn trosglwyddo holl swyddogaethau'r Ysgrifennydd Gwladol o dan Ddeddf 1948, i'r graddau y maent yn arferadwy mewn perthynas â Chymru, i Gynulliad Cenedlaethol Cymru. Mae adran 68(1) o Ddeddf 2001 yn darparu ar gyfer trin cyfeiriadau at unrhyw Ddeddfau a grybwyllir yn Atodlen 1 i Orchymyn Cynulliad Cenedlaethol Cymru (Trosglwyddo Swyddogaethau) 1999 ac a ddiwygiwyd gan Ddeddf 2001 fel cyfeiriadau at fersiwn ddiwygiedig y Deddfau. (O ran yr Alban, diddymwyd adran 21 o Ddeddf 1948, i'r graddau yr oedd yn berthnasol i'r Alban, gan adran 95(2) o Ddeddf Gwaith Cymdeithasol (yr Alban) 1968 (p.49), ac Atodlen 9 iddi.

(a) 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)).

(b) 2001 p.15.

(b) 2001 c.15.

(c) O.S. 1992/2977; yr offerynnau diwygio perthnasol yw O.S. 1993/964; O.S. 1993/2230; O.S. 1994/825; O.S. 1994/2386; O.S. 1995/858; O.S. 1995/3054; O.S. 1996/602; O.S. 1997/485; O.S. 1998/497; O.S. 1998/1730; O.S. 2001/58 ac O.S.2001/1066.

(c) 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.

(3) Mae'r rheoliadau hyn yn gymwys i Gymru yn unig

Diystyru adnoddau

2.-(1) Wrth benderfynu at ddibenion paragraff (a) neu (aa) yn is-adran(1) o adran 21 o'r Ddeddf pa un a yw gofal a sylw ar gael fel arall i berson, rhaid i awdurdod lleol ddiystyru y rhan honno o gyfalaf person nad yw'n fwy na'r terfyn cyfalaf.

(2) At ddibenion paragraff (1) o'r rheoliad hwn, yn ddarostyngedig i baragraff (3)-

(a) Cyfrifir cyfalaf person yn unol â'r Rheoliadau Asesu yn yr un modd â phe bai ef neu hi yn berson y cynigir darparu llety ar ei gyfer neu ar ei chyfer fel y crybwyllir yn is-adran (3) o adran 22 o'r Ddeddf, ac yn berson y mae ei allu neu ei gallu i dalu yn gymwys i'w asesu at ddibenion yr is-adran honno; a

(b) ystyr "y terfyn cyfalaf" yw'r swm ar hyn o bryd a ragnodwyd mewn perthynas â Chymru yn y Rheoliadau Asesu fel y swm na ddylai cyfalaf preswylydd (a gyfrifir yn unol â'r Rheoliadau hynny) fod yn fwy nag ef os yw ef neu hi yn berson i'w asesu fel rhywun nad yw'n gallu talu am ei llety neu ei llety ar y gyfradd safonol(a).

(3) Mewn achos lle y mae awdurdod lleol wedi llunio cytundeb neu wedi cytuno i lunio cytundeb taliad gohiriedig (fel y darperir ar ei gyfer yn adran 55 o Ddeddf 2001), rhaid i'r awdurdod lleol pan yw'n gwneud y cyfrif a bennir ym mharagraff (2)(a) yn y rheoliad hwn,] roi effaith i baragraff 1A yn Atodlen 4 i'r Rheoliadau Asesu, fel pe bai'r paragraff hwnn'n darllen fel a ganlyn-

"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."

(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)-

(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(a).

(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."

(a) I weld ystyr "cyfradd safonol" gweler adran 22(2) o Ddeddf Cymorth Gwladol 1948 p.29. Ystyr cyfradd safonol yw cyfradd sy'n cynrychioli'r gost lawn i'r awdurdod o ddarparu'r llety.

(a) 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.

Llofnodwyd ar ran Cynulliad Cenedlaethol Cymru o dan adran 66(1) o Ddeddf Llywodraeth Cymru 1998(a).

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

26 Mawrth 2003

26th March 2003

D. Elis-Thomas

Llywydd y Cynulliad Cenedlaethol

The Presiding Officer of the National Assembly

(a) 1998 p.38.

(a) 1998 c.38.

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