WELSH STATUTORY INSTRUMENTS

2003 No. 897 (W.117)

NATIONAL ASSISTANCE SERVICES, WALES

The National Assistance (Assessment of Resources) (Amendment) (Wales) Regulations 2003

Made - - - -	*26th March 2003*
Coming into force - -	*7th April 2003*

The National Assembly for Wales makes the following Regulations in exercise of the powers conferred upon the Secretary of State by section 22(5) of the National Assistance Act 1948(**1**) and now vested in the National Assembly for Wales(**2**):

Citation, commencement, interpretation and application

1.—(1) These Regulations may be cited as the National Assistance (Assessment of Resources) (Amendment) (Wales) Regulations 2003 and come into force —

(a) for the purposes of this regulation and regulations 3(1), 5, 7(1), 8(1) and 8(4) on 1st April 2003,

(b) for the purposes of all the other regulations and parts of regulations, on 7th April 2003.

(2) In these Regulations "the principal Regulations" ("*y prif Reoliadau*") means the National Assistance (Assessment of Resources) Regulations 1992(**3**).

(3) These Regulations apply to Wales only.

Amendment of the principal Regulations — capital limits

2.—(1) The principal Regulations are amended in accordance with the following paragraphs of this regulation.

(2) In regulation 20 (capital limit) for the figure "£19,000" substitute the figure "£20,000".

(**1**) 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).

(**2**) The functions of the Secretary of State under section 22(5) of the National Assistance Act 1948 were transferred to the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I.1999/672).

(**3**) S.I. 1992/2977; relevant amending instruments are S.I. 1996/602 and S.I. 2002/814 (W.94).

(3) In regulation 28(1) (calculation of tariff income from capital) for the figure "£11,750", in each instance where it appears, substitute the figure "£12,250" and for the figure "£19,000" substitute the figure "£20,000".

Amendment of the principal Regulations — interpretation

3.—(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(**4**);";

""lone parent" has the same meaning as in the Income Support Regulations(**5**);";

(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(**6**);";

""guardian's allowance" means a guardian's allowance under the Contributions and Benefits Act(**7**);";

""working tax credit" means a working tax credit under the Tax Credits Act 2002(**8**);".

Amendment of regulation 16 of the principal Regulations

4. After paragraph (4) of regulation 16 of the principal Regulations (capital treated as income) insert the following paragraph—

"(5) Where an agreement or court order provides that payments shall be made to the resident in consequence of any personal injury to the resident and that such payments are to be made, wholly or partly, by way of periodical payments, any such payments received by the resident, to the extent that they are not a payment of income, shall be treated as income."

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), for the words "an invalid care allowance" substitute the words "a carer's allowance".

Amendment of Schedule 3 to the principal Regulations — paragraphs 10 and 30

6.—(1) In paragraph 10 of Schedule 3 to the principal Regulations (sums to be disregarded in the calculation of income other than earnings)—

(a) in sub-paragraph (1), for the words "(charitable or voluntary payments) of any charitable or of any voluntary payment" substitute "(relevant payments) of any relevant payment";

(b) in sub-paragraph(2) for the words "charitable payment or voluntary payment" substitute the words "relevant payment";

(c) after subparagraph (2), add the following sub-paragraph—

"(3) In this paragraph, "relevant payment" means—

(**4**) 1992 c. 4*See* section 70 as amended by S.I. 2002/1457.
(**5**) S.I. 1987/1967*See* regulation 2.
(**6**) 2002 c. 21*See* section 8.
(**7**) 1992 c. 4*See* section 77 as amended by the Tax Credits Act 2002 c. 21.
(**8**) 2002 c. 21*See* section 10.

(a) a charitable payment;

(b) a voluntary payment;

(c) a payment (not falling within sub-paragraph (a) or (b)) from a trust whose funds are derived from a payment made in consequence of any personal injury to the resident;

(d) a payment under an annuity purchased—

(i) pursuant to any agreement or court order to make payments to the resident; or

(ii) from funds derived from a payment made,

in consequence of any personal injury to the resident; or

(e) a payment (not falling within sub-paragraphs (a) to (d)) received by virtue of any agreement or court order to make payments to the resident in consequence of any personal injury to the resident.".

(2) In paragraph 30 of Schedule 3 to the principal Regulations—

(a) for the words "charitable or voluntary payments" substitute the words "relevant payments"; and

(b) at the end, add the following sub-paragraph—

"(2) In this paragraph "relevant payment" has the same meaning as in paragraph 10(3).".

Amendment of Schedule 3 — paragraphs 28D — F

7.—(1) In Schedule 3 to the principal Regulations (sums to be disregarded in the calculation of income other than earnings), after paragraph 28C, add the following paragraphs—

"**28D.** Any payment made by a local authority to or on behalf of the resident relating to welfare services in respect of which the National Assembly for Wales has paid a grant to the local authority under section 93(2) of the Local Government Act 2000(**9**), where the resident qualified for that payment.

28E. Any payment made under the Community Care (Direct Payments) Act 1996(**10**) or under regulations made under section 57 of the Health and Social Care Act 2001(**11**) except where that payment is paid in relation to the provision of residential accommodation under the Act.

28F. Any payment made under section 17A of the Children Act 1989(**12**) except where that payment is paid in relation to the provision of residential accommodation under the Act.".

(2) In Schedule 3 to the principal Regulations after paragraph 28D, add the following paragraphs —

"**28G.** Any guardian's allowance.

28H. Any child tax credit.".

Amendment of Schedule 4 to the principal Regulations

8.—(1) In Schedule 4 to the principal Regulations (capital to be disregarded) after paragraph 2, add the following paragraph—

(**9**) 2000 c. 22.
(**10**) 1996 c. 30.
(**11**) 2001 c. 15.
(**12**) 1989 c. 41.