STATUTORY RULES OF NORTHERN IRELAND

2003 No. 320

HEALTH AND PERSONAL SOCIAL SERVICES

The Health and Personal Social Services (Assessment of Resources) (Amendment) Regulations (Northern Ireland) 2003

Made - - - -	*30th June 2003*
Coming into operation	*4th August 2003*

The Department of Health, Social Services and Public Safety(**1**), in exercise of the powers conferred on it by Articles 36(6) and 99(5) of the Health and Personal Social Services (Northern Ireland) Order 1972(**2**) and of all other powers enabling it in that behalf, hereby makes the following regulations:

Citation, commencement and interpretation

1.—(1) These regulations may be cited as the Health and Personal Social Services (Assessment of Resources) (Amendment) Regulations (Northern Ireland) 2003 and shall come into operation on 4th August 2003.

(2) In these regulations "the principal regulations" means the Health and Personal Social Services (Assessment of Resources) Regulations (Northern Ireland) 1993(**3**).

Amendment of regulation 2 to the principal regulations

2.—(1) In paragraph 2(1) of the principal regulations (interpretation) –

(a) in the appropriate places in alphabetical order, there shall be inserted the following definitions –

> ""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**);"; and

(b) omit the definition of "invalid care allowance"(**6**).

(**1**) *See*S.I.1999/283 (N.I.) – Article 3(6)
(**2**) S.I. 1972/1265 (N.I. 14); Article 36 was substituted by Article 25 of S.I. 1991/194 (N.I. 1), and then amended by paragraph 2(4) and (5) of Schedule 1 to S.I. 1992/3204 (N.I. 20) and section 1 of 2002 c. 9 (N.I.); and Article 99 was substituted by Article 27 of S.I. 1991/194 (N.I. 1) and Section 1(3) of 2002 c. 9 (N.I.)
(**3**) S.R. 1993 No. 127, the relevant amending instruments are S.R. 1996 No. 83, S.R. 1998 No. 138, S.R. 2001 No. 205 and S.R. 2002 No. 113
(**4**) 1992 c. 7
(**5**) *See* regulation 2 of S.R. 1987 No. 459, the relevant amending instruments are S.R. 1993 No. 234 and S.R. 1993 No. 438
(**6**) Definition inserted by regulation 2 of S.R. 1993 No. 234

(2) In paragraph 2(1) of the principal regulations, in the appropriate places in alphabetical order, there shall be inserted the following definitions –

""child tax credit" means a child tax credit under Part I of the Tax Credits Act 2002(**7**);";

""guardian's allowance" means a guardian's allowance under the Contributions and Benefits Act(**8**);";

"working tax credit" means a working tax credit under Part I of the Tax Credits Act 2002.".

Amendment of regulation 16 of the principal regulations

3. After paragraph (4) of regulation 16(**9**) of the principal regulations (capital treated as income) there shall be added 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 periodical payments received by the resident, to the extent that they are not a payment of income, shall be treated as income."

Amendment of regulation 20 (capital limit) of the principal regulations

4. In regulation 20(**10**) (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

5. In regulation 28(1)(**11**) (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

6. 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"(**12**) substitute the words "a carer's allowance".

Amendment of Schedule 3 to the principal regulations

7.—(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 payment or of any voluntary payment" there shall be substituted the words "(relevant payments) of any relevant payment";

(b) in sub-paragraph (2), for the words "charitable payment or voluntary payment" there shall be substituted the words "relevant payment";

(c) after sub-paragraph (2), there shall be added the following sub-paragraph –

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

(**7**) 2002 c. 21
(**8**) *See* Section 77 – Section 77 was amended by Schedule 6 to the Tax Credits Act 2002
(**9**) Regulation 16(4) was inserted by regulation 5(1) of S.R. 1993 No. 234
(**10**) Regulation 20 was amended by regulation 2 of S.R. 2002 No. 113
(**11**) Regulation 28 was amended by regulation 3 of S.R. 2002 No. 113
(**12**) Words inserted by Regulation 5(a) of S.R. 1993 No. 438

(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) At the end of Part I of Schedule 3 to the principal regulations (sums to be disregarded in the calculation of income other than earnings) there shall be substituted for the paragraphs added by regulation 3 of the Health and Personal Social Services (Assessment of Resources) (Amendment) Regulations (Northern Ireland) 1994(**13**) and regulation 5 of the Health and Personal Social Services (Assessment of Resources) (Amendment) Regulations (Northern Ireland) 1995(**14**) the following paragraphs –

"**27B.** Any payment which would be disregarded under paragraph 53 of Schedule 9 to the Income Support Regulations(**15**).

27C. Any payment which would be disregarded under paragraphs 54 to 56 of Schedule 9 to the Income Support Regulations(**16**).".

(3) After paragraph 27C, insert the following paragraphs –

"**27D.** Any payment made by the Northern Ireland Housing Executive to or on behalf of the resident relating to the provision of a housing support service of the kind specified in regulation 2 of the Housing Support Services Regulations (Northern Ireland) 2003(**17**) provided to develop or sustain the capacity of the resident to live independently in the community.

27E. The amount of any payment made by the resident to the Northern Ireland Housing Executive or service provider in respect of the provision of housing support services specified in regulation 2 of the Housing Support Services Regulations (Northern Ireland) 2003.

27F. Any guardian's allowance.

27G. Any child tax credit.".

(4) In paragraph 29 of Schedule 3 to the principal regulations –

(a) for the words "charitable or voluntary payments" there shall be substituted the words "relevant payments"; and

(b) the words from "for the purposes" to "such payment" shall be numbered as sub-paragraph (1); and

(**13**) S.R. 1994 No. 160
(**14**) S.R. 1995 No. 286
(**15**) S.R. 1987 No. 459, the relevant amending rule is S.R. 1994 No. 77
(**16**) S.R. 1987 No. 459, the relevant amending rule is S.R. 1994 No. 327
(**17**) S.R. 2003 No. 172