

**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(**a**), 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(**b**) 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(**c**).

**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(**d**);”;

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

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

(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(**g**);”;

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(a) See S.I. 1999/283 (N.I.) – Article 3(6)

(b) 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.)

(c) 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

(d) 1992 c. 7

(e) 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

(f) Definition inserted by regulation 2 of S.R. 1993 No. 234

(g) 2002 c. 21

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

“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(b) 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(c) (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)(d) (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”(e) 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 –

- (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

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(a) See Section 77 – Section 77 was amended by Schedule 6 to the Tax Credits Act 2002

(b) Regulation 16(4) was inserted by regulation 5(1) of S.R. 1993 No. 234

(c) Regulation 20 was amended by regulation 2 of S.R. 2002 No. 113

(d) Regulation 28 was amended by regulation 3 of S.R. 2002 No. 113

(e) Words inserted by Regulation 5(a) of S.R. 1993 No. 438

(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(a) and regulation 5 of the Health and Personal Social Services (Assessment of Resources) (Amendment) Regulations (Northern Ireland) 1995(b) the following paragraphs –

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

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

(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(e) 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

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

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

#### **Amendment of Schedule 4 to the principal regulations**

**8.** In Schedule 4 to the principal regulations (capital to be disregarded) –

(1) 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.”.

(2) In paragraph 6 –

(a) after the words “(arrears of specified payments)” there shall be inserted the words “as in operation immediately before 14th October 2002”; and

(b) for “, 9 or 9A” there shall be substituted “or 9”.

(3) After paragraph 6, insert the following paragraph-

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(a) S.R. 1994 No. 160

(b) S.R. 1995 No. 286

(c) S.R. 1987 No. 459, the relevant amending rule is S.R. 1994 No. 77

(d) S.R. 1987 No. 459, the relevant amending rule is S.R. 1994 No. 327

(e) S.R. 2003 No. 172

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

- (a) working families’ tax credit under section 127 of the Contributions and Benefits Act(a),
- (b) disabled person’s tax credit under section 128 of the Contributions and Benefits Act(b),
- (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

(4) After paragraph 22(c), add the following paragraphs –

“23. 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 provided to develop or sustain the capacity of the resident to live independently in the community.

24. 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.”.

### **Revocation**

9. Regulation 3 of the Health and Personal Social Services (Assessment of Resources) (Amendment) Regulations (Northern Ireland) 1994 and regulation 5 of the Health and Personal Social Services (Assessment of Resources) (Amendment) Regulations (Northern Ireland) 1995 are hereby revoked.

Sealed with the Official Seal of the Department of Health, Social Services and Public Safety on 30th June 2003.

(L.S.)

*Leslie Frew*

Senior Officer of the Department of Health, Social Services and Public Safety

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(a) Section 127 was amended by the Tax Credits Act 1999 (c. 10)  
(b) Section 128 was amended by the Tax Credits Act 1999 (c. 10) and the Welfare Reform and Pensions (Northern Ireland) Order 1999 (S.I. 1999/3147 (N.I. 11))  
(c) Paragraph 22 was added by regulation 4 of S.R. 2002 No. 113

## **EXPLANATORY NOTE**

*(This note is not part of the Regulations.)*

The Regulations make further amendments to the Health and Personal Social Services (Assessment of Resources) Regulations (Northern Ireland) 1993 (“the principal regulations”) which relate to the assessment by Health and Social Services Boards and HSS trusts of the resources of residents in accommodation arranged under Articles 15 and 36 of the Health and Personal Social Services (Northern Ireland) Order 1972.

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

Regulation 3 allows all periodical payments received by virtue of any agreement or court order to make personal injury payments to the resident, to the extent that they are not payments of income, to be treated as income.

Regulation 4 amends the principal regulations so that the capital limit set out in regulation 20 becomes £19,500. Regulation 5 amends the principal regulations so that the capital limits set out in regulation 28(1) become £12,000 and £19,500.

Regulation 6 changes the reference from invalid care allowance, which no longer exists, to carer’s allowance, which replaces it.

Regulations 7(1) and 7(4) provide that payments of income received from all trusts whose funds derive from personal injury payments to a resident, from an annuity purchased with such funds and those received by virtue of any agreement or court order to make personal injury payments to the resident be disregarded in their entirety when intended and used for any item which was not taken into account when the standard rate was fixed for the accommodation provided. Otherwise £20 of all such income will be disregarded.

Regulation 7(2) amends the principal regulations to correct an error in earlier amending instruments (S.R. 1994 No.160 and S.R. 1995 No. 286), which resulted in two different paragraphs at the end of Part 1 of Schedule 3 bearing the same number. Regulation 9 revokes the erroneous regulations.

Regulations 7(3) and 8(4) provide for certain payments made by the Northern Ireland Housing Executive to or on behalf of a resident in respect of the provision to the resident of housing support services 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 Northern Ireland Housing Executive or service provider for housing support services shall be disregarded as income or capital.

Regulation 7(3) also provides an income disregard for guardian’s allowance and child tax credit.

Regulation 8(1) provides a capital disregard for the value of a dwelling that the resident has ceased to occupy following estrangement or divorce where the dwelling is still occupied as his or her only home by the former partner who is a lone parent.

Regulation 8(2) maintains the pre 14 October 2002 position regarding the treatment of arrears of various social security benefits in the financial assessment of a resident’s capital and removes a reference to a paragraph of the Income Support (General) Regulations 1987 that has been revoked.

Regulation 8(3) 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.

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