

2004 No. 760

NATIONAL ASSISTANCE SERVICES, ENGLAND

The National Assistance (Sums for Personal Requirements and Assessment of Resources) (Amendment) (England) Regulations 2004

<i>Made</i> - - - -	<i>15th March 2004</i>
<i>Laid before Parliament</i>	<i>18th March 2004</i>
<i>Coming into force</i> - -	<i>12th April 2004</i>

The Secretary of State for Health, in exercise of the powers conferred by section 22(4) and (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 (Sums for Personal Requirements and Assessment of Resources) (Amendment) (England) Regulations 2004 and shall come into force on 12th April 2004.

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

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

Amendment of regulation 2 of the National Assistance (Sums for Personal Requirements) (England) Regulations 2003

2. In regulation 2 of the National Assistance (Sums for Personal Requirements) (England) Regulations 2003(d), for the amount “£17.50” substitute the amount “£18.10”.

(a) 1948 c.29; section 22(5) of the National Assistance Act 1948 (“the 1948 Act”) 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.2003/627 and S.I.2003/2343.

(c) Although section 22(4) and (5) of the National Assistance Act 1948 extends to both Wales and Scotland, the Secretary of State no longer has powers to prescribe sums for personal requirements or 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 prescribe sums for personal requirements under section 22(4) or 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 prescribe sums for personal requirements under section 22(4) and 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.

(d) S.I.2003/628.

Amendment of regulation 20 of the Assessment Regulations

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

Amendment of regulation 28(1) of the Assessment Regulations

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

- (a) for the amount “£12,000” (both times it appears) substitute the amount “£12,250”; and
- (b) for the amount “£19,500” substitute the amount “£20,000”.

Amendment of Schedule 3 to the Assessment Regulations

5. In paragraph 28H of Schedule 3 to the Assessment Regulations (sums to be disregarded in the calculation of income other than earnings) —

- (a) in sub-paragraphs (1) and (2), for the amount “£4.50” (each time it appears) substitute the amount “£4.65”;
- (b) in sub-paragraphs (3) and (4), for the amount “£6.75” (each time it appears) substitute the amount “£6.95”;
- (c) for sub-paragraph (5) substitute the following sub-paragraph—
 - “(5) Where—
 - (a) the sum referred to in sub-paragraph (4) has been disregarded in the assessment of the resident’s partner’s income under these Regulations, or
 - (b) the resident’s partner is in receipt of savings credit,sub-paragraph (4) does not apply to the resident.”.

Revocation

6. The National Assistance (Assessment of Resources) (Amendment) (England) Regulations 2003(a) are hereby revoked.

Signed by authority of the Secretary of State for Health

15th March 2004

Stephen Ladyman
Parliamentary Under Secretary State,
Department of Health

(a) S.I.2003/627.

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 Assessment Regulations”). The Assessment 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 amends the National Assistance (Sums for Personal Requirements) (England) Regulations 2003 so that the weekly sum which local authorities in England are to assume, in the absence of special requirements, that residents in accommodation arranged under Part 3 will need for their personal requirements is £18.10.

Regulation 3 amends the Assessment Regulations so that the capital limit set out in regulation 20 becomes £20,000. Regulation 4 amends the Assessment Regulations so that the capital limits set out in regulation 28(1) become £12,250 and £20,000.

Regulation 5 provides for an increase to £4.65 of the amount of savings credit to be disregarded in calculating a resident’s income and for an increase to £6.95 of the amount to be disregarded where the resident has a partner. It also provides that the disregard in paragraph 28H(3) of Schedule 3 does not apply where the resident’s partner is in receipt of savings credit.

Regulation 6 revokes the National Assistance (Assessment of Resources) (Amendment) (England) Regulations 2003.

These Regulations do not impose a charge on business.

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