



CYNULLIAD CENEDLAETHOL CYMRU

NATIONAL ASSEMBLY FOR WALES

OFFERYNNAU STATUDOL

STATUTORY INSTRUMENTS

2003 Rhif 931 (Cy.121)

2003 No. 931 (W. 121)

**GWASANAETHAU CYMORTH
GWLADOL, CYMRU**

**NATIONAL ASSISTANCE
SERVICES, WALES**

Rheoliadau Cymorth
Gwladol (Llety Preswyl)
(Taliadau Ychwanegol,
Cyfraniadau Perthnasol
ac Asesu Adnoddau)
(Cymru)
2003

The National Assistance
(Residential
Accommodation)(Additional
Payments, Relevant Contributions
and Assessment 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)

Mae'r Rheoliadau hyn yn gwneud darpariaeth mewn cysylltiad â llety preswyl a ddarperir o dan Ran 3 o Ddeddf Cymorth Gwladol 1948 i famau sy'n disgwyl neu'n magu baban, neu i bobl 18 oed neu'n hŷn sydd, oherwydd oedran, salwch, anabledd neu amgylchiadau eraill, ag angen gofal a sylw nad yw ar gael iddynt fel arall.

These Regulations make provision in relation to residential accommodation provided under Part 3 of the National Assistance Act 1948 for expectant and nursing mothers, or persons aged 18 or over who by reason of age, illness, disability or other circumstances are in need of care and attention which is not otherwise available to them.

Mae Rheoliadau 3 a 4 yn darparu ar gyfer gwneud taliadau ychwanegol fel y bydd unigolyn a aseswyd fel un ag angen llety o'r fath yn gallu dewis byw mewn llety sydd yn ddrutach nag y byddai'r awdurdod lleol yn talu amdano fel arfer ar gyfer rhywun sydd â'r anghenion sydd wedi eu hasesu i'r unigolyn hwnnw. Gall y taliadau ychwanegol gael eu gwneud gan drydydd parti, gan gynnwys perthynas atebol (fel y'i diffinnir yn adran 42 o Ddeddf Cymorth Gwladol 1948). O dan amgylchiadau penodol, sef yn ystod y cyfnod cychwynnol o 12 wythnos pan ddiystyrir gwerth yr eiddo neu os ceir cytundeb taliad gohiriedig rhwng y preswlydd a'r awdurdod lleol, gall y preswlydd hefyd gyfrannu peth neu'r cyfan o'r taliadau ychwanegol. Mae taliadau o'r fath gan breswlydd i'w talu o adnoddau a bennir yn rheoliad 4(2). Gall berson sy'n elwa o'r cyfnod o 12 wythnos pan ddiystyrir gwerth eiddo, yn ystod y cyfnod hwnnw,

Regulations 3 and 4 provide for additional payments to be made so that a person who has been assessed as needing such accommodation can choose to live in accommodation which is more expensive than the local authority would usually pay for someone with that person's assessed needs. The additional payments may be made by a third party, including a liable relative (as set out in section 42 of the National Assistance Act 1948). In certain circumstances, that is during the initial 12 week period when the value of the property is disregarded, or where there is a deferred payment agreement between the resident and the local authority, the resident may also contribute any or all of the additional payments. Such payments by a resident are to be made from resources specified in regulation 4(2). A person benefiting from the period of 12 weeks when the value of property is disregarded can, during that period, make additional payments from other capital

wneud taliadau ychwanegol o gyfalaf arall, gan gynnwys cyfalaf sydd yn llai na'r terfyn cyfalaf isaf. Gall berson sydd yn gwneud cytundeb taliad gohiriedig, neu sydd wedi cytuno i wneud cytundeb o'r fath, wneud taliadau ychwanegol y gellid eu cyfrif yn erbyn yr arwystl ar ei eiddo, yn ystod y cyfnod 12 wythnos ac ar ôl hynny.

Mae rheoliad 5 yn darparu ar gyfer diwygiadau canlyniadol i Reoliadau Cymorth Gwladol (Asesu Adnoddau) 1992 i alluogi i daliadau ychwanegol a wneir gan breswlydd o unrhyw un o'r adnoddau penodedig gael eu cymryd i ystyriaeth o dan Reoliadau 1992. Mae hefyd yn gwneud diwygiad canlyniadol i'r ddarpariaeth sy'n ymwneud ag incwm tariff yn Rheoliadau 1992, fel y caiff taliadau ychwanegol eu cymryd i ystyriaeth wrth gyfrifo cyfalaf y preswlydd.

Mae rheoliad 6 yn disgrifio sut y pennir cyfraniadau perthnasol at ddibenion cytundeb taliad gohiriedig o dan adran 55 o Ddeddf Iechyd a Gofal Cymdeithasol 2001. Mae cytundebau o'r fath yn galluogi preswlydd i ohirio talu cyfraniadau a aseswyd tuag at gost ei lety yn gyfnewid am roi arwystl i'r awdurdod lleol ar ei gartref.

including capital which falls below the lower capital limit. A person who has entered into or agreed to enter into a deferred payments agreement can make additional payments which can be set off against the charge on their property both during the 12 week period and thereafter.

Regulation 5 provides for consequential amendments to the National Assistance (Assessment of Resources) Regulations 1992 to enable additional payments made by a resident from any of the specified resources to be taken into account under the 1992 Regulations. It also makes a consequential amendment to the provision relating to tariff income in the 1992 Regulations, so that the additional payments are taken into account in the calculation of the resident's capital.

Regulation 6 sets out how relevant contributions are determined for the purposes of a deferred payment agreement under section 55 of the Health and Social Care Act 2001. Such agreements enable a resident to defer payment of assessed contributions towards the cost of his or her accommodation in return for the granting of a charge in favour of the local authority on his or her home.

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Wedi'u gwneud 26 Mawrth 2003

Made 26th March 2003

Yn dod i rym 7 Ebrill 2003

Coming into force 7th April 2003

Mae Cynulliad Cenedlaethol Cymru, drwy arfer y pwerau a roddwyd iddo gan adran 22(5) o Ddeddf Cymorth Gwladol 1948(a) ac adrannau 54(1), 55(7) a 64(6) o Ddeddf Iechyd a Gofal Cymdeithasol 2001(b) drwy hyn yn gwneud y Rheoliadau canlynol:

The National Assembly for Wales, in exercise of powers conferred by section 22(5) of the National Assistance Act 1948(a) and sections 54(1), 55(7) and 64(6) of the Health and Social Care Act 2001(b) hereby makes the following Regulations:-

Enwi, cychwyn a chymhwyso

1.-(1) Enw'r Rheoliadau hyn yw Rheoliadau Cymorth Gwladol (Llety Preswyl) (Taliadau Ychwanegol, Cyfraniadau Perthnasol ac Asesu Adnoddau) (Cymru) 2003 a deuant i rym ar 7 Ebrill 2003.

Citation, commencement, and application

1.-(1) These Regulations may be cited as the National Assistance (Residential Accommodation)(Additional Payments, Relevant Contributions and Assessment of Resources)(Wales) Regulations 2003 and shall come into force on 7th April 2003.

(2) Mae'r Rheoliadau hyn yn gymwys i Gymru yn unig(c).

(2) These Regulations apply to Wales only(c).

Dehongli

2. Yn y Rheoliadau hyn-
ystyr "y Cyfarwyddiadau" ("*the Directions*")

Interpretation

2. In these Regulations-
"the 2001 Act" ("*Deddf 2001*") means the

(a) 1948 p.29. Mae erthygl 2 o Orchymyn 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 cysylltiad â Chymru, i Gynulliad Cenedlaethol Cymru.

(b) 2001 p.15.

(c) Er bod adran 54 o Ddeddf Iechyd a Gofal Cymdeithasol 2001 ("Deddf 2001") yn cwmpasu Cymru a Lloegr, gwneir y Rheoliadau hyn gan Gynulliad Cenedlaethol Cymru, sef yr awdurdod perthnasol sydd â'r grym i wneud rheoliadau i Gymru yn unig, gweler adran 66 o Ddeddf 2001.

(a) 1948 c.29. 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.

(b) 2001 c.15.

(c) Although section 54 of the Health and Social Care Act 2001("the 2001 Act") extends to both Wales and England, these Regulations are made by the National Assembly for Wales which is the relevant authority empowered to make regulations for Wales only, see section 66 of the 2001 Act.

yw Cyfarwyddiadau Deddf Cymorth Gwladol 1948 (Dewis Llety) 1993(a)

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

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

ystyr "llety dewisol" ("*preferred accommodation*") yw llety y mae'r preswylydd yn ei nodi, mewn lle y mae'r preswylydd yn ei ddewis o fewn Cymru a Lloegr, yn unol â pharagraff 2 o'r Cyfarwyddiadau;

ystyr "llety dewisol perthnasol" ("*relevant preferred accommodation*") yw llety dewisol sy'n bodloni'r amodau ym mharagraff 3(a), (c) a (d) o'r Cyfarwyddiadau, ond lle y byddai cost darparu'r llety dewisol hwnnw i'r preswylydd yn ei gwneud yn ofynnol i'r awdurdod lleol dalu mwy nag y byddai'r awdurdod hwnnw yn disgwyl ei dalu fel arfer er mwyn darparu llety Rhan 3 sy'n addas i berson sydd â'r anghenion a aseswyd i'r preswylydd hwnnw;

ystyr "preswylydd" ("*resident*") yw person y mae'r awdurdod lleol wedi ei asesu o dan adran 47 o Ddeddf y Gwasanaeth Iechyd Gwladol a Gofal Cymunedol 1990(c) fel un sydd ag angen llety yn unol ag adran 21 o'r Ddeddf (os yw'r person hwnnw wedi dechrau preswyllo mewn llety o'r fath ai peidio);

ystyr "preswylydd perthnasol" ("*relevant resident*") yw preswylydd-

- (a) y mae paragraff 1A o Atodlen 4 i'r Rheoliadau Asesu (cyfalaf i'w ddiystyru yn ystod y 12 wythnos cyntaf) yn gymwys iddo yn ystod y cyfnod pan fydd yn gymwys, neu
- (b) sydd wedi gwneud neu sydd wedi cytuno i wneud cytundeb taliad gohiriedig â'r awdurdod lleol, fel y darperir ar ei gyfer yn adran 55 o Ddeddf 2001;

ystyr "y Rheoliadau Asesu" ("*the Assessment Regulations*") yw Rheoliadau Cymorth Gwladol (Asesu Adnoddau) 1992(ch); ac

ystyr "terfyn cyfalaf isaf" ("*lower capital limit*") yw'r terfyn isaf o'r ddau faint o gyfalaf a bennir yn rheoliad 28 o'r Rheoliadau Asesu.

Health and Social Care Act 2001;

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

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

"the Directions" ("*y Cyfarwyddiadau*") means the National Assistance Act 1948 (Choice of Accommodation) Directions 1993(c);

"lower capital limit" ("*terfyn cyfalaf isaf*") means the lower of the two capital amounts specified in regulation 28 of the Assessment Regulations;

"preferred accommodation" ("*llety dewisol*") means accommodation at the place of the resident's choice within England and Wales as indicated by the resident, in accordance with paragraph 2 of the Directions;

"relevant preferred accommodation" ("*llety dewisol perthnasol*") means preferred accommodation which meets the conditions in paragraph 3(a), (c) and (d) of the Directions, but where the cost of providing the resident with that preferred accommodation would require the local authority to pay more than that authority would usually expect to pay in order to provide Part 3 accommodation suitable for a person with the assessed needs of that resident;

"relevant resident" ("*preswylydd perthnasol*") means a resident-

- (a) to whom paragraph 1A of Schedule 4 to the Assessment Regulations (capital to be disregarded in first twelve weeks) applies during the period of its application, or
- (b) who has entered into or who has agreed to enter into a deferred payment agreement with the local authority, as provided for in section 55 of the 2001 Act; and

"resident" ("*preswylydd*") means a person whom the local authority have assessed under section 47 of the National Health Service and Community Care Act 1990(d) as needing accommodation pursuant to section 21 of the

(a) Cyhoeddwyd y Cyfarwyddiadau dyddiedig 21 Ionawr 1993 gan y Swyddfa Gymreig ynghyd â Chylchlythyr y Swyddfa Gymreig rhif 12/93.

(b) 1948 p.29.

(c) 1990 p.19.

(ch) O.S. 1992/2977; Diwygiwyd O.S. 1992/2977 gan 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 mewn perthynas â Chymru a Lloegr a gan O.S. 2001/276 (Cy.12); O.S. 2001/1409 (Cy.95); ac O.S. 2002/814(Cy.94) mewn perthynas â Chymru.

(a) 1948 c.29.

(b) S.I. 1992/2977; S.I. 1992/2977 has been amended by 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 in relation to England and Wales and by S.I. 2001/276(W.12); S.I. 2001/1409(W.95) and S.I. 2002/814(W.94) in relation to Wales.

(c) The Directions dated 21 January 1993 were issued by the Welsh Office together with Welsh Office Circular 12/93

(d) 1990 c.19.

(2) Yn y Rheoliadau hyn, oni bai bod y cyd-destun yn ei gwneud yn ofynnol fel arall, mae cyfeiriad-

- (a) at reoliad â rhif yn gyfeiriad at y rheoliad yn y Rheoliadau hyn sy'n dwyn y rhif hwnnw; a
- (b) mewn rheoliad at baragraff â rhif yn gyfeiriad at y paragraff yn y rheoliad hwnnw sy'n dwyn y rhif hwnnw.

Taliadau Ychwanegol

3.-(1) Mae rheoliad 4 yn gymwys os yw preswlydd wedi nodi ei fod am gael llety mewn llety dewisol perthnasol.

(2) Nid yw rheoliad 4 yn gymwys i unrhyw drefniadau a wnaed o dan baragraff 4 o'r Cyfarwyddiadau cyn i'r Rheoliadau hyn ddod i rym.

4.-(1) Rhaid i awdurdod lleol ddarparu llety dewisol perthnasol i breswlydd yn yr amgylchiadau canlynol;

- (a) os bydd trydydd parti yn cytuno i wneud y taliadau ychwanegol(a); neu
- (b) yn achos preswlydd perthnasol, os bydd y taliadau ychwanegol yn cael eu gwneud gan un neu'r ddau o'r personau canlynol;
 - (i) trydydd parti,
 - (ii) y preswlydd ei hunan, o unrhyw adnodd neu gyfuniad o adnoddau a bennir ym mharagraff (2)

ac y gellid yn rhesymol ddisgwyl i bob person wneud y taliadau hynny drwy gydol cyfnod y trefniadau.

(2) Yr adnoddau y cyfeiriwyd atynt ym mharagraff (1)(b)(ii) yw-

- (a) yn achos pob preswlydd perthnasol, unrhyw incwm neu gyfalaf a ddiystyrir o dan Atodlen 2, 3 neu 4 i'r Rheoliadau Asesu heblaw cyfalaf a ddiystyrir o dan baragraff 1A o Atodlen 4; a
- (b) yn achos preswlydd sydd yn breswlydd perthnasol yn rhinwedd paragraff (a) o'r diffiniad o'r ymadrodd hwnnw yn rheoliad 2(1), (os yw'r person hefyd o fewn y diffiniad yn (b) ai peidio), cyfalaf heblaw am gyfalaf a gynhwysir yn Atodlen 4 i'r Rheoliadau Asesu a chan gynnwys cyfalaf sydd is na'r terfyn cyfalaf isaf; a,
- (c) yn achos preswlydd sydd yn breswlydd perthnasol yn rhinwedd paragraff (b) o'r diffiniad, (os yw'r preswlydd hefyd o fewn y diffiniad ym mharagraff (a) ai peidio), unrhyw

Act (whether or not that person has as yet actually taken up residence in such accommodation).

(2) In these Regulations, unless the context otherwise requires, a reference-

- (a) to a numbered regulation is to the regulation in these Regulations bearing that number; and
- (b) in a regulation to a numbered paragraph is to the paragraph in that regulation bearing that number.

Additional Payments

3.-(1) Regulation 4 applies if a resident has indicated that he or she wishes to be accommodated in relevant preferred accommodation.

(2) Regulation 4 does not apply to any arrangements made under paragraph 4 of the Directions prior to the coming into force of these Regulations.

4.-(1) A local authority must provide a resident with relevant preferred accommodation in the following circumstances;

- (a) if a third party agrees to make the additional payments(a); or
- (b) in the case of a relevant resident, if the additional payments will be made by one or both of the following persons;
 - (i) a third party,
 - (ii) the resident himself or herself, from any resource or combination of resources specified in paragraph (2)

and each person can reasonably be expected to make those additional payments for the duration of the arrangements.

(2) The resources referred to in paragraph (1)(b)(ii) are-

- (a) in the case of all relevant residents, any income or capital disregarded under Schedule 2, 3 or 4 to the Assessment Regulations except capital disregarded under paragraph 1A of Schedule 4; and
- (b) in the case of a resident who is a relevant resident by virtue of paragraph (a) of the definition of that term in regulation 2(1) (whether or not the person also comes within the definition in (b)), capital other than that included in Schedule 4 to the Assessment Regulations and including capital below the lower capital limit; and,
- (c) in the case of a resident who is a relevant resident by virtue of paragraph (b) of the definition, (whether or not the resident is also within the definition of paragraph (a)), any

(a) *Gweler* adran 54(2) o Ddeddf Iechyd a Gofal Cymdeithasol 2001 am "additional payments".

(a) For "additional payments" see section 54(2) of the Health and Social Care Act 2001.

gyfalaf sydd uwch na'r terfyn cyfalaf isaf, a all gynnwys gwerth eiddo'r preswlydd y mae yn ei feddiannu neu a feddiannodd gynt yn brif neu yn unig gartref iddo, ar yr amod os yw unrhyw daliadau ychwanegol i gael eu gwneud o werth yr eiddo hwnnw, y byddant yn ffurfio rhan o'r cyfraniadau perthnasol o dan y cytundeb taliadau gohiriedig.

Diwygio'r Rheoliadau Asesu

5.-(1) Ar ôl rheoliad 16 o'r Rheoliadau Asesu, mewnosodwch y rheoliad canlynol-

"Additional Payments

16A.-(1) An amount equivalent to any additional payments made or due to be made by a resident from resources specified in paragraph (2) shall be treated as part of the income of the resident.

(2) The resources specified for the purposes of paragraph (1) are the resources specified in regulation 4(2) of the National Assistance (Residential Accommodation) (Additional Payments, Relevant Contributions and Assessment of Resources) (Wales) Regulations 2003(a) (additional payments from specified resources of relevant residents), except in a case falling within sub-paragraph (c) of that regulation where the additional payments are to be made from the value of the resident's property which he occupies or formerly occupied as his only or main home."

(2) Ar ôl paragraff (3) o reoliad 28 o'r Rheoliadau Asesu, mewnosodwch y paragraff canlynol-

"(4) For the purposes of paragraph (1), where a resident makes additional payments as provided for in regulation 4(2)(b) of the National Assistance (Residential Accommodation) (Additional Payments, Relevant Contributions and Assessment of Resources) (Wales) Regulations 2003(a) (additional payments from capital below the lower capital limit) the resident is to be treated as possessing capital equivalent to any additional payments."

Cyfraniadau Perthnasol

6.-(1) Mae paragraff (2) o'r rheoliad hwn yn gymwys mewn amgylchiadau lle y mae gan breswlydd fuddiant llesionol mewn eiddo y mae'n ei feddiannu neu a feddiannodd gynt yn brif neu yn unig breswylfa iddo.

(2) At ddibenion adran 55 o Ddeddf 2001, y cyfraniadau perthnasol yw'r rhan honno o'r taliadau y mae'r preswlydd yn atebol am eu talu i'r awdurdod lleol y gellir ei phriodoli i werth yr eiddo y cyfeirir ato ym mharagraff (1) a chaiff y rhan honno ei phennu drwy gyfrifo'r gwahaniaeth rhwng-

(a) y taliadau y mae'r preswlydd yn atebol am eu

capital exceeding the lower capital limit, which may include the value of the resident's property which he occupies or formerly occupied as his only or main home, provided that if any additional payments are to be made from the value of that property they will form part of the relevant contributions under the deferred payments agreement.

Amendment of the Assessment Regulations

5.-(1) After regulation 16 of the Assessment Regulations, insert the following regulation-

"Additional Payments

16A.-(1) An amount equivalent to any additional payments made or due to be made by a resident from resources specified in paragraph (2) shall be treated as part of the income of the resident.

(2) The resources specified for the purposes of paragraph (1) are the resources specified in regulation 4(2) of the National Assistance (Residential Accommodation) (Additional Payments, Relevant Contributions and Assessment of Resources) (Wales) Regulations 2003(a) (additional payments from specified resources of relevant residents), except in a case falling within sub-paragraph (c) of that regulation where the additional payments are to be made from the value of the resident's property which he occupies or formerly occupied as his only or main home."

(2) After paragraph (3) of regulation 28 of the Assessment Regulations, insert the following paragraph-

"(4) For the purposes of paragraph (1), where a resident makes additional payments as provided for in regulation 4(2)(b) of the National Assistance (Residential Accommodation) (Additional Payments, Relevant Contributions and Assessment of Resources) (Wales) Regulations 2003(a) (additional payments from capital below the lower capital limit) the resident is to be treated as possessing capital equivalent to any additional payments."

Relevant Contributions

6.-(1) Paragraph (2) of this regulation applies in circumstances where a resident has a beneficial interest in a property which he or she occupies or formerly occupied as his or her main or only residence.

(2) For the purposes of section 55 of the 2001 Act, relevant contributions shall be that part of the payments that the resident is liable to pay to the local authority which is attributable to the value of the property referred to in paragraph (1) and that part shall be determined by calculating the difference between-

(a) the payments that the resident is liable to pay

(a) O.S. 2003/931 (Cy.121)

(a) S.I. 2003/931 (W.121)

talw i'r awdurdod lleol, wedi eu cyfrifo yn unol â'r Rheoliadau Asesu, a

- (b) y taliadau y cyfeirir atynt yn is-baragraff (a) y byddai'r preswlydd yn atebol am eu talu os na chymerwyd i ystyriaeth werth buddiant y preswlydd yn yr eiddo y cyfeirir ato ym mharagraff (1).

to the local authority, calculated in accordance with the Assessment Regulations, and

- (b) the payments referred to in subparagraph (a) that the resident would be liable to pay if the value of the resident's interest in the property referred to in paragraph (1) was not taken into account.

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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