
WELSH STATUTORY INSTRUMENTS

2003 No. 2530 (W.245)

NATIONAL ASSISTANCE SERVICES, WALES

The National Assistance (Assessment of Resources)
(Amendment No. 2)(Wales) Regulations 2003

Made - - - - *1st October 2003*
Coming into force - - *6th October 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 No. 2) (Wales) Regulations 2003 and come into force on 6th October 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 Regulation 2 of the Principal Regulations — Interpretation

2. In paragraph (1) of regulation 2 of the Principal Regulations (interpretation) —

(a) insert the following definitions in the appropriate alphabetical sequence—

““the Pension Credit Regulations” means the State Pension Credit Regulations 2002⁽⁴⁾

““savings credit” means a savings credit under the State Pension Credit Act 2002⁽⁵⁾

(b) for the definition of “less dependent resident” substitute—

(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 6 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 of 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).

(4) S.I. 2002/1792.

(5) 2002 c. 16, see section 1(3)(b) and section 3.

““less dependent resident” means a resident who is in, or for whom accommodation is proposed to be provided in, premises which are not an establishment which is carried on or managed by a person who is registered under Part II of the Care Standards Act 2000(6);”.

Amendment of Schedule 3 of the principal Regulations — Income disregards

3. In Schedule 3 of the Principal Regulations (sums to be disregarded in the calculation of income other than earnings)

(a) in paragraph 17—

(i) in sub-paragraph (a), after “(permitted allowances)” insert “or paragraph 3 of Schedule 4 to the Adoption and Children Act 2002(7)”

(ii) at the end add the following sub-paragraph—

“(2) Any payment other than a payment to which sub-paragraph (1)(a) applies, made to the resident in accordance with regulations made under paragraph 3 of Schedule 4 to the Adoption and Children Act 2002.”;

(b) After paragraph 28G insert the following paragraphs—

“Pension Credit

28H.—(1) Where a resident is in receipt of savings credit as a person who has no partner and has qualifying income not exceeding the standard minimum guarantee—

- (a) the amount of that savings credit where the amount received is £4.50 or less; or
- (b) £4.50 of that savings credit where the amount received is greater than £4.50.

(2) Where a resident—

- (a) has no partner;
- (b) has attained the age of 65; and
- (c) has qualifying income in excess of the standard minimum guarantee,

£4.50 of that qualifying income.

(3) Where a resident is in receipt of savings credit as a person who has a partner and has qualifying income not exceeding the standard minimum guarantee—

- (a) the amount of that savings credit where the amount received is £6.75 or less; or
- (b) £6.75 of that savings credit where the amount received is greater than £6.75.

(4) Subject to paragraph (5) where a resident—

- (a) has a partner;
- (b) has—
 - (i) attained the age of 65; or
 - (ii) has attained the qualifying age and his partner has attained the age of 65; and
- (c) has qualifying income in excess of the standard minimum guarantee,

a sum of £6.75.

(6) 2000 c. 14.
(7) 2002 c. 38.

(5) Where the sum referred to in sub-paragraph (4) has been disregarded in the assessment of the resident's partner's income under these Regulations, sub-paragraph (4) does not apply to the resident.

(6) For the purposes of this paragraph—

- (a) a resident has a partner if he would be considered to have a partner for the purposes of the Pension Credit Regulations⁽⁸⁾.
- (b) “qualifying age” has the same meaning as in section 1(6) of the State Pension Credit Act 2002⁽⁹⁾;
- (c) “qualifying income” shall be construed in accordance with regulation 9 of the Pension Credit Regulations and for the purposes of sub-paragraphs (3) and (4) the resident's qualifying income shall include any qualifying income of his partner.
- (d) “Standard minimum guarantee” means, for the purposes of —
 - (i) sub-paragraphs (1) and (2), the amount prescribed by regulation 6(1)(b) of the Pension Credit Regulations; and
 - (ii) sub-paragraphs (3) and (4), the amount prescribed by regulation 6(1)(a) of the Pension Credit Regulations.

28I. Any payment made to a temporary resident in lieu of concessionary coal pursuant to section 19 (1)(b) or (c) of the Coal Industry Act 1994⁽¹⁰⁾.”

Amendment of Schedule 4 of the Principal Regulations — Adoption payments

4. In Schedule 4 of the Principal Regulations (capital to be disregarded) after paragraph 23, add the following paragraph—

“**24.** Any payment made to the resident in accordance with regulations made pursuant to paragraph 3 of Schedule 4 of the Adoption and Children Act 2002.”.

Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998⁽¹¹⁾

1st October 2003

D.Elis-Thomas
Presiding Officer of the National Assembly

⁽⁸⁾ *S.I. 2002/1792* (“the 2002 Regulations”). In the 2002 Regulations both members of a married or unmarried couple are referred to as “partners” (*see* regulation 1(3)). The phrases “married couple” and “unmarried couple” are defined, for the purposes of the 2002 Regulations, in section 17 of the State Pension Credit Act 2002 (c. 16). A “married couple” means a man and woman who are married to each other and are members of the same household. Regulation 5 of the 2002 Regulations sets out circumstances when a couple who are married are treated as not being members of the same household. An “unmarried couple” means a man and woman who are not married to each other but are living together as husband and wife otherwise than in prescribed circumstances.

⁽⁹⁾ 2002 c. 16.

⁽¹⁰⁾ 1994 c. 21.

⁽¹¹⁾ 1998 c. 38.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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 Principal Regulations”). The Principal Regulations set out the basis on which local authorities assess the ability to pay of persons for whom they arrange accommodation under part 3 of the National Assistance Act 1948.

As well as amendments to allow residents to benefit from their entitlement to the Savings Credit element of Pension Credit, they make a number of other miscellaneous changes.

Regulation 2 inserts two new definitions in relation to Pension Credit and updates another definition in the Principal Regulations.

Regulation 3 provides for payments made in accordance with regulations made under paragraph 3 of Schedule 4 to the Adoption and Children Act 2002 to be disregarded as income. It also provides for up to £4.50 (or £6.75 for a couple) of any savings credit to be disregarded where an individual has qualifying income not exceeding the standard minimum guarantee. Where an individual has qualifying income above the standard minimum guarantee there is a standard disregard of £4.50 (£6.75 for couples).

Regulation 4 provides for payments made in accordance with regulations made under paragraph 3 of Schedule 4 to the Adoption and Children Act 2002 to be disregarded as capital.