

**2001 No. 3068**

**NATIONAL ASSISTANCE SERVICES, ENGLAND**

**The National Assistance (Residential Accommodation)  
(Additional Payments) (England) Regulations 2001**

*Made - - - - - 10th September 2001*

*Laid before Parliament 10th September 2001*

*Coming into force - - - 1st October 2001*

The Secretary of State for Health, in exercise of powers conferred by sections 54(1) and 64(6) of the Health and Social Care Act 2001<sup>(a)</sup> and of all other powers enabling him in that behalf, hereby makes the following Regulations:—

**Citation, commencement and extent**

1.—(1) These Regulations may be cited as the National Assistance (Residential Accommodation) (Additional Payments) (England) Regulations 2001, and shall come into force on 1st October 2001.

(2) These Regulations extend to England only<sup>(b)</sup>.

**Interpretation**

2. In these Regulations—

“the 2001 Act” means the Health and Social Care Act 2001;

“the Act” means the National Assistance Act 1948<sup>(c)</sup>;

“the Assessment Regulations” means the National Assistance (Assessment of Resources) Regulations 1992<sup>(d)</sup>;

“the Directions” means the National Assistance Act 1948 (Choice of Accommodation) Directions 1992<sup>(e)</sup>;

“relevant liable relative” means a person who is liable under section 42 of the Act to maintain the resident and is making maintenance contributions;

“preferred accommodation” 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;

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(a) 2001 c. 15.

(b) Although section 54 of the Health and Social Care Act 2001 (“the 2001 Act”) extends to both England and Wales, these Regulations are made by the Secretary of State who is the relevant authority empowered to make regulations for England only, see section 66 of the 2001 Act.

(c) 1948 c. 29.

(d) 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; S.I. 2001/58; S.I. 2001/1066; and S.I. 2001/1124.

(e) The Directions were issued annexed to the Department of Health Circular no. LAC (92)27.

“relevant preferred accommodation” 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;

“resident” means a person whom the local authority have assessed under section 47 of the National Health Service and Community Care Act 1990(a) as needing accommodation pursuant to section 21 of the Act (whether or not that person has as yet actually taken up residence in such accommodation); and

“relevant resident” means a resident—

- (a) to whom paragraph 1A of Schedule 4 to the Assessment Regulations (the twelve weeks property disregard) applies, or
- (b) who has entered into a deferred payment agreement with the local authority, as provided for in section 55 of the 2001 Act.

### **Additional payments**

**3.—**(1) Regulation 4 applies if a resident has indicated that he 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.** A local authority may provide a resident with relevant preferred accommodation in the following circumstances:

- (a) if a third party other than a relevant liable relative agrees to make the additional payments; 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 other than a relevant liable relative, and
  - (ii) the resident himself, from income or capital which is disregarded under Schedules 3 and 4 to the Assessment Regulations

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

Signed by authority of the Secretary of State for Health

*Jacqui Smith*  
Minister of State,  
Department of Health

10th September 2001

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### **EXPLANATORY NOTE**

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

These Regulations make provision for additional payments to be made so that a person who has been assessed as needing residential 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. Under these Regulations the additional payments may be made by a third party, including a liable relative who is not making payments to maintain the resident. In certain circumstances, that is when the twelve weeks property disregard applies or when a deferred payment agreement is in place, the resident himself may also contribute any or all of the additional payments.

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(a) 1990 c. 19.

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