

2004 No.2328

NATIONAL ASSISTANCE SERVICES, ENGLAND

**The National Assistance (Assessment of Resources)
(Amendment) (No. 2) (England) Regulations 2004**

<i>Made</i> - - - -	<i>7th September 2004</i>
<i>Laid before Parliament</i>	<i>10th September 2004</i>
<i>Coming into force</i> - -	<i>4th October 2004</i>

The Secretary of State for Health, in exercise of the powers conferred by section 22(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 (Assessment of Resources) (Amendment) (No. 2) (England) Regulations 2004 and shall come into force on 4th October 2004.

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

(3) These Regulations apply to England only.

(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). The functions of the Secretary of State under this section, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672) (“the 1999 Order”), article 2; see the entry in Schedule 1 for the 1948 Act. As respects Scotland, the powers of the Secretary of State to make regulations under section 22(5) of the 1948 Act are applied by section 87(3) and (4) of the Social Work (Scotland) Act 1968 (c. 49) (“the 1968 (Scotland) 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 (Scotland) 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 make regulations under section 22(5) of the 1948 Act are within devolved competence for the purposes of section 53 of the 1998 Act.

(b) S.I.1992/2977; relevant amending instruments are S.I.2003/627, S.I.2003/2343, and S.I.2004/760.

Amendment of regulation 2 of the principal Regulations

2. In paragraph (1) of regulation 2 of the principal Regulations (interpretation), in the appropriate alphabetical position, there shall be inserted—

““the health service” has the same meaning as in section 128(1) of the National Health Service Act 1977(a);”.

Amendment of Schedule 3 to the principal Regulations

3. In Schedule 3 to the principal Regulations (sums to be disregarded in the calculation of income other than earnings) after paragraph 28I, insert the following paragraph—

“**28J.** Any payment made to the resident under section 63(6)(b) of the Health Services and Public Health Act 1968 (“the 1968 Act”)(b) (travelling and other allowances to persons availing themselves of instruction) for the purpose of meeting childcare costs where the instruction is provided pursuant to—

- (a) section 63(1)(a) of the 1968 Act; or
- (b) section 63(1)(b) of the 1968 Act and where the resident is employed, or has it in contemplation to be employed, in an activity involved in or connected with a service which must or may be provided or secured as part of the health service.”.

Amendment of Schedule 4 to the principal Regulations

4. In Schedule 4 to the principal Regulations (capital to be disregarded) after paragraph 24, add the following paragraphs—

“**25.** Any payment made to the resident under section 2 or 3 of the Age-Related Payments Act 2004 (entitlement: basic or special cases)(c).

26. Any payment made to the resident under section 63(6)(b) of the Health Services and Public Health Act 1968 (“the 1968 Act”) (travelling and other allowances to persons

(a) 1977 c. 49.

(b) 1968 c. 46 (“the 1968 Act”); the functions of the Minister of Health under this section transferred to the Secretary of State by virtue of S.I. 1968/1699 and S.I. 1998/1843, and the functions of the Secretary of State, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales by the 1999 Order, article 2; *see* the entry in Schedule 1 for the 1968 Act. Section 63 is concerned with the provision of instruction to persons who are employed, or contemplating employment, in connection with health or welfare and with the payment of travelling and other allowances to persons who are receiving such instruction.

(c) 2004 c. 10.

availing themselves of instruction) for the purpose of meeting childcare costs where the instruction is provided pursuant to—

- (a) section 63(1)(a) of the 1968 Act; or
- (b) section 63(1)(b) of the 1968 Act and where the resident is employed, or has it in contemplation to be employed, in an activity involved in or connected with a service which must or may be provided or secured as part of the health service.”.

Signed by authority of the Secretary of State

Stephen Ladyman
Parliamentary Under Secretary of State,
Department of Health

7th September 2004

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations further amend the National Assistance (Assessment of Resources) Regulations 1992 (“the principal Regulations”). The principal Regulations concern the assessment of the ability of a person to pay for accommodation that is provided, or proposed to be provided, to him by a local authority under Part 3 of the National Assistance Act 1948.

Regulation 3 makes provision for payments made under section 63(6)(b) of the Health Services and Public Health Act 1968 (“the 1968 Act”) to a resident to meet childcare costs to be disregarded as income where he is undertaking instruction connected with the health service by virtue of arrangements made under that section.

Regulation 4 makes provision for payments made under section 2 or 3 of the Age-Related Payments Act 2004 to be disregarded as capital. It also introduces a capital disregard for payments made under section 63(6)(b) of the 1968 Act to meet childcare costs where the resident is undertaking instruction connected with the health service by virtue of arrangements made under that section.

A full regulatory impact assessment has not been produced for this instrument as it has no impact on the costs of business.

2004 No.2328

NATIONAL ASSISTANCE SERVICES, ENGLAND

The National Assistance (Assessment of Resources)
(Amendment) (No. 2) (England) Regulations 2004

£3.00

© Crown copyright 2004

Printed and published in the UK by The Stationery Office Limited
under the authority and superintendence of Carol Tullo, Controller of Her Majesty's
Stationery Office and Queen's Printer of Acts of Parliament.

E1233 9/2004 141233T 19585

ISBN 0-11-049792-9



9 780110 497921