
STATUTORY INSTRUMENTS

1996 No. 602

NATIONAL ASSISTANCE SERVICES

The National Assistance (Assessment of Resources) (Amendment) Regulations 1996

<i>Made</i>	- - - -	<i>6th March 1996</i>
<i>Laid before Parliament</i>		<i>7th March 1996</i>
<i>Coming into force</i>	- -	<i>8th April 1996</i>

In exercise of the powers conferred by section 22(5) of the National Assistance Act 1948⁽¹⁾ (including that provision as applied by section 87(3) of the Social Work (Scotland) Act 1968)⁽²⁾ and of all other powers enabling him in that behalf, the Secretary of State hereby makes the following Regulations:—

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the National Assistance (Assessment of Resources) (Amendment) Regulations 1996 and shall come into force on 8th April 1996.

(2) In these Regulations “the principal Regulations” means the National Assistance (Assessment of Resources) Regulations 1992⁽³⁾.

Amendment of the principal Regulations

2.—(1) The principal Regulations shall be amended in accordance with the following paragraphs of this regulation.

(2) In regulation 2(1) (interpretation) after the definition of “mobility supplement” there shall be inserted the following definition—

““occupational pension” means any pension or other periodical payment under an occupational pension scheme but does not include any discretionary payment out of a fund established for relieving hardship in particular cases;”.

(1) 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).

(2) 1968 c. 49; section 87 was amended by paragraph 10(13) of Schedule 9 to the National Health Service and Community Care Act 1990 (c. 19).

(3) S.I. 1992/2977; the relevant amending instruments are S.I. 1993/2230, 1994/825, 1994/2386 and 1995/858.

(3) In regulation 20 (capital limit) for the words from “exceeds the amount” to the end there shall be substituted the words “exceeds £16,000.”

(4) For regulation 28 (calculation of tariff income from capital) there shall be substituted the following regulation—

“**28.**—(1) Where a resident’s capital calculated in accordance with this Part exceeds £10,000 it shall be treated as equivalent to a weekly income of £1 for each complete £250 in excess of £10,000 but not exceeding £16,000.

(2) Notwithstanding paragraph (1), where any part of the excess is not a complete £250 that part shall be treated as equivalent to a weekly income of £1.

(3) For the purposes of paragraph (1), capital includes any income treated as capital under regulations 22 and 34 (income treated as capital and liable relative payments) respectively.”

(5) In Schedule 3 (sums to be disregarded in the calculation of income other than earnings)(4) after paragraph 10 there shall be inserted the following paragraph—

“**10A.**—(1) Subject to sub-paragraphs (2) and (3), where a resident —

(a) is not residing with his spouse, and

(b) at least 50 per cent. of any occupational pension of his is being paid to, or in respect of, his spouse for that spouse’s maintenance,

an amount equal to 50 per cent. of the pension or pensions concerned.

(2) Where a resident is entitled to more than one occupational pension, those pensions shall be aggregated for the purposes of sub-paragraph (1).

(3) This paragraph shall not have effect in respect of that part of any occupational pension to which the resident’s spouse is legally entitled, whether under a court order or not.”

Department of Health

6th March 1996

Stephen Dorrell
One of Her Majesty’s Principal Secretaries of
State

(4) Relevant amending instruments are [S.I. 1993/2230](#), [1994/825](#), [1994/2386](#) and [1995/858](#).

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 concern the assessment of a person’s ability to pay for accommodation arranged by local authorities under Part III of the National Assistance Act 1948, the Social Work (Scotland) Act 1968 or section 7 of the Mental Health (Scotland) Act 1984.

The principal Regulations are amended so that—

- (a) the capital limit above which a resident is not entitled to be assessed as unable to pay for accommodation is increased from £8,000 to £16,000 (regulation 2(3));
- (b) weekly tariff income is to be calculated on a resident’s capital between £10,000 and £16,000 instead of on the previous lower and upper limits of £3,000 and £8,000 (regulation 2(4)); and
- (c) one half of a resident’s occupational pension is to be disregarded as income other than earnings, where the resident makes an equivalent amount available to his spouse for the spouse’s maintenance (regulation 2(1) and (5)).

These amendments have the effect of keeping the principal Regulations aligned with similar provisions of the Income Support (General) Regulations 1987 as amended.