

EXPLANATORY MEMORANDUM TO THE
NATIONAL ASSISTANCE (ASSESSMENT OF RESOURCES)
(AMENDMENT) (No. 2) (ENGLAND) REGULATIONS 2004 No.2328

1. This explanatory memorandum has been prepared by the Department of Health and is laid before Parliament by Command of Her Majesty.
2. **Description**
 - 2.1 This instrument amends the National Assistance (Assessment of Resources) Regulations 1992 (“the 1992 Regulations”). The 1992 Regulations make provision for the assessment by a local authority of a person’s resources for the purposes of determining his ability to pay for accommodation that is provided, or proposed to be provided, to him under Part 3 of the National Assistance Act 1948 (c.29) (“the 1948 Act”).
 - 2.2 This instrument requires local authorities in England to disregard payments made under section 63(6)(b) of the Health Services and Public Health Act 1968 (c.46) (“the 1968 Act”) towards childcare costs where a person is undertaking training connected with the health service. It also requires such authorities to disregard from a person’s capital any payment made to him under section 2 or 3 of the Age-Related Payments Act 2004 (c.10) (“the 2004 Act”) which relate to payments for 2004 to persons aged 70 years or over.
3. **Matters of special interest to the Joint Committee on Statutory Instruments**
 - 3.1 None.
4. **Legislative Background**
 - 4.1 By virtue of section 22 of the 1948 Act, a local authority is obliged to determine a person’s ability to pay for accommodation that is provided, or proposed to be provided, to him under Part 3 of that Act by applying the 1992 Regulations. Where an authority considers that such a person is unable to meet the cost to the authority of providing him with the accommodation, the authority must assess his ability to pay at a reduced rate. Generally, the persons who are provided with Part 3 accommodation are older people, people with disabilities or mental health problems.
 - 4.2 The disregards referred to in this instrument are necessary to take account of the childcare allowance launched by the Department of Health in May this year and payable from September for NHS funded

students to help with childcare costs during their studies, and in consequence of the enactment of the 2004 Act.

5. Extent

5.1 This instrument applies to England.

6. European Convention on Human Rights

6.1 Not applicable.

7. Policy background

7.1 The NHS Bursary Scheme (“the Scheme”) makes provision, as respects England, for payments to NHS funded students to whom a bursary has been awarded under the Scheme or under previous arrangements towards the provision of registered or approved childcare costs for dependent children. The payments are intended to help students, for example, who are training to become nurses, midwives or physiotherapists, with childcare costs associated with their studies. The Scheme is made pursuant to section 63 of the 1968 Act. Under that section, the Secretary of State for Health may, as respects England and with the approval of the Treasury, pay allowances to persons training for employment in the NHS or in local authority social services. NHS funded students training in Wales will also benefit from the childcare allowances under arrangements made under this section by the National Assembly for Wales.

7.2 It is not known precisely how many residents living in Part 3 accommodation in England will benefit from contributions towards childcare costs under section 63 of the 1968 Act, but the numbers are not expected to be significant. Nonetheless, the intention of this instrument is to ensure that those students are assisted to continue their training by requiring local authorities in England to disregard those payments when assessing the student’s ability to pay for residential accommodation under Part 3 of the 1948 Act.

7.3 Sections 2 and 3 of the 2004 Act make provision for the payment in 2004 of a one-off lump sum of £100 or £50 to qualifying persons who have attained the age of 70 years. The intention of this instrument is to ensure such persons benefit from these payments by requiring local authorities in England to disregard them from capital when assessing the person’s ability to pay for residential accommodation under Part 3 of the 1948 Act. Section 6 of the 2004 Act makes provision for disregarding payments under section 2 or 3 of the Act when considering a person’s entitlement to social security benefits, and this instrument is in keeping with that Act.

7.4 On 16th June 2004, the Department published a consultation paper giving details of proposed changes to the assessment of resources

under the 1992 Regulations. Twelve sets of comments were received, six of which were detailed. Responses to the minor changes included in this instrument were favourable. Officials consulted directly with the Local Government Association, Age Concern (England), Help the Aged, Counsel and Care, the Association of Residential Care, the Residents and Relatives Association, the National Pensions Convention and the Association of Directors of Social Services.

8. Impact

- 8.1 A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.
- 8.2 The impact on the public sector will be minor. The public sector impact is limited to local authorities in England exercising particular social services functions, and the Department of Health does not consider that the disregards referred to in this instrument will result in significant new burdens for local authorities.

9. Contact

- 9.1 Alan Probett at the Department of Health Tel: 020 7972 4033 or e-mail: alan.probett@doh.gsi.gov.uk can answer any queries regarding the instrument.