EXPLANATORY MEMORANDUM TO

THE CARE AND SUPPORT (CHARGING AND ASSESSMENT OF RESOURCES) (AMENDMENT) (NO. 2) REGULATIONS 2026

2026 No. 1028

1. Introduction

1.1 This Explanatory Memorandum has been prepared by the Department of Health and Social Care and is laid before Parliament by Command of His Majesty.

2. Declaration

2.1 Alison McGovern, Minister of State for Social Care and Mental Health at the Department of Health and Social Care confirms that this Explanatory Memorandum meets the required standard.

2.2 Kathryn Glover, Deputy Director for Adult Social Care Funding and Group Oversight at the Department of Health and Social Care confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Emma Fernandes at the Department of Health and Social Care, email: dhsc.publicenquiries@dhsc.gov.uk can be contacted with any queries regarding this instrument.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 This instrument amends the Care and Support (Charging and Assessment of Resources) Regulations 2014 (the "Principal Regulations") so that payments made under the Irish Mother and Baby Institutions Payment Scheme are disregarded when local authorities assess what a person can afford to contribute towards the cost of their adult social care. In practice, this means eligible people in England will not be required to use payments made in recognition of harm suffered in Irish mother and baby institutions to meet their care and support charges.

Where does the legislation extend to, and apply?

4.2 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is England and Wales.

4.3 The territorial application of this instrument (that is, where the instrument produces a practical effect) is England.

5. Policy Context

What is being done and why?

5.1 Under the Care Act 2014, local authorities in England may charge adults for meeting their eligible care and support needs. Where they do so, they must carry out a financial assessment to determine what the person can afford to contribute. The Principal Regulations set out how different forms of income and capital must be

treated in those assessments. As a general principle, income and capital may be taken into account unless the Principal Regulations require them to be disregarded.

5.2 The Government's policy is that payments made in recognition of past harm should remain with the recipient and should not be used to meet adult social care charges. The Principal Regulations already contain disregards for certain personal injury payments and payments made under specific compensation and redress schemes, including the Contaminated Blood Scheme and Vaccine Damage Payments.

5.3 The Government considers payments made under the Irish Mother and Baby Institutions Payment Scheme to be consistent with this policy approach, as they are made in recognition of historic experiences and are intended to provide redress rather than to meet an individual's ongoing care and support costs.

5.4 These Regulations amend the Principal Regulations to ensure payments made under the Irish Mother and Baby Institutions Payment Scheme are disregarded for the purposes of adult social care charging assessments in England.

5.5 The Irish Mother and Baby Institutions Payment Scheme was established by the Irish Government to provide financial redress in acknowledgement of the circumstances experienced by unmarried women and their children while resident in Mother and Baby and County Home Institutions during the period 1922 to 1998.

5.6 Of the c.34,000 estimated to be eligible for a payment, around 40% (c.13,600) are thought to live outside Ireland, the majority of these in the UK. The scheme opened in March 2024 and remains open for applications until March 2029. As at 19 June 2026, 715 people living in Great Britain had applied for a payment; of these, 545 had been made an offer and 513 had been paid. The average payment was €20,400 (around £17,600).

What was the previous policy, how is this different?

5.7 Before this instrument, the Principal Regulations did not expressly require local authorities to disregard payments made under the Irish Mother and Baby Institutions Payment Scheme when assessing a person's contribution towards the cost of their care and support. As a result, such payments could have been taken into account in adult social care financial assessments.

5.8 The Government's policy is that payments made in recognition of past harm should remain with the recipient and should not be used to meet adult social care charges. These Regulations apply that existing policy approach to payments made under the Irish Mother and Baby Institutions Payment Scheme by requiring them to be disregarded for adult social care charging purposes in England. This ensures that payments made under the Irish Mother and Baby Institutions Payment Scheme are treated consistently with other compensation and redress payments that are already disregarded under the Principal Regulations.

6. Legislative and Legal Context

How has the law changed?

6.1 The instrument amends the Principal Regulations by adding payments made under the Irish Mother and Baby Institutions Payment Scheme to Schedule 1 and Schedule 2, which set out income and capital that must be disregarded when local authorities undertake financial assessments for adult social care charging purposes. This ensures that payments made under the Irish Mother and Baby Institutions Payment Scheme

are not treated as available income or capital when calculating a person's contribution towards the cost of their care and support.

6.2 Historically, the treatment of certain compensation and redress payments for adult social care charging purposes was often reflected through the relationship between the Principal Regulations and the Income Support (General) Regulations 1987. Following the abolition of the live Income Support benefit on 1 April 2026, the Department for Work and Pensions has indicated that it will no longer make substantive policy amendments to the Income Support Regulations.

6.3 As a result, this instrument makes the necessary amendment directly to the Principal Regulations to ensure that payments made under the Irish Mother and Baby Institutions Payment Scheme are disregarded for adult social care charging purposes in England.

Why was this approach taken to change the law?

6.4 An amendment to the Principal Regulations is required to ensure that payments made under the Irish Mother and Baby Institutions Payment Scheme must be disregarded as both income and capital in all adult social care charging assessments. Relying on local authority discretion would not achieve the same effect, as local authorities would not be required to disregard these payments and the discretion would not apply in all charging circumstances, including for care home residents. This is consistent with the approach taken to other compensation and redress payment disregards.

7. Consultation

Summary of consultation outcome and methodology

7.1 No formal public consultation was undertaken in relation to the Principal Regulations. The Department plans to undertake targeted stakeholder engagement on updates to the Care and Support Statutory Guidance to reflect the changes made by this instrument. A draft of the proposed guidance amendments will be shared with key adult social care charging stakeholders, including the National Association of Financial Assessment Officers (NAFAO) and the Association of Directors of Adult Social Services (ADASS), for comment over a two-week period. The updated statutory guidance is expected to be published on 30 October 2026, mirroring the coming into force date of this instrument.

8. Applicable Guidance

8.1 The Care and Support Statutory Guidance, issued under the Care Act 2014, will be updated to reflect the changes made by this instrument.

8.2 The updated guidance will be published on GOV.UK and come into effect on 30 October 2026, alongside the commencement of these Regulations.

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 A full Impact Assessment has not been prepared for this instrument because it applies the Government's existing policy intention to a new compensation scheme. The instrument ensures that payments made under the Irish Mother and Baby Institutions Payment Scheme are treated consistently with other compensation and redress payments already disregarded under the Principal Regulations.

Impact on businesses, charities and voluntary bodies

9.2 There is no, or no significant, impact on business, charities or voluntary bodies.

9.3 The legislation does not impact small or micro businesses.

9.4 There is no, or no significant, impact on the public sector.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 There are no plans to formally review the impacts of these changes, as they are minor amendments which apply the existing policy intention to a new compensation and redress scheme.

10.2 The instrument does not include a statutory review clause because it makes a limited amendment that applies an existing adult social care charging policy approach to a new compensation and redress scheme.

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 None.

12. European Convention on Human Rights

12.1 As this instrument is subject to negative procedure and does not amend primary legislation, no statement is required.

13. The Relevant European Union Acts

13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023.