EXPLANATORY MEMORANDUM TO

THE CARE AND SUPPORT (CHARGING AND ASSESSMENT OF RESOURCES) (AMENDMENT) REGULATIONS 2025

2025 No. 199

1. Introduction

1.1 This explanatory memorandum has been prepared by the Department of Health and Social Care ('DHSC') and is laid before Parliament by Command of His Majesty.

2. Declaration

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

2.2 Linsey Craike/Megan Bradish, Deputy Directors for Charging, Commissioning and Markets Reform, at the Department of Health and Social Care confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Harriet Millichamp 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 this Instrument

4. Overview of this Instrument

What does the legislation do?

4.1 This instrument amends the Care and Support (Charging and Assessment of Resources) Regulations 2014 (S.I. 2014/2672) (the "Principal Regulations"), which set out how local authorities calculate the amounts individuals are required to contribute towards their care and support.

4.2 Firstly, it increases the personal expenses allowance ("PEA") and minimum income guarantee ("MIG") amounts in line with inflation. These are the minimum weekly amounts a person receiving local authority arranged care and support must retain from their income after they pay charges for care received in a care home (the PEA) or outside of a care home (MIG).

4.3 Secondly, this instrument increases in line with inflation the sums to be disregarded when a local authority calculates a person's income where the person receives savings credit under the State Pension Credit Act 2002.

Where does the legislation extend to, and apply?

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

4.5 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 The MIG and PEA are the minimum amount of an individual's income that they should be left with each week, when local authorities determine how much they can afford to contribute towards their care. Following this instrument, the MIG will be £112.50 for some under 65s and £232.60 per week for some over 65s. The full set of MIG rates can be found in the "Local Authority Circular" published on 3 February. The PEA will be uprated to £30.65 per week. The savings credit disregard will increase to up to £7.05 per week for individuals and up to £10.60 for couples. These amounts are being increased in line with CPI inflation (1.7%). There is no statutory uprating requirement, but it has been decided that these allowances should be uprated for the upcoming financial year (2025-26) in line with CPI inflation to ensure there is not a significant real terms reduction of the income individuals in receipt of local authority funded care and support retain following any charge made by the local authority.

5.2 Savings Credit is extra money paid each week to people who have an income below a certain threshold, as part of the Pension Credit system. For those who qualify, the Savings Credit disregard enables those individuals to keep an additional amount of money above the MIG or PEA as that amount is not taken into account by a local authority for the purpose of any financial assessment. It will also be uprated for the upcoming financial year (2025-2026) in line with CPI inflation at 1.7%.

What was the previous policy, how is this different?

5.3 Prior to this instrument the MIG was £110.60 per week for some under 65s and £228.70 per week for some over 65s. The PEA was £30.15 per week. The Savings Credit disregard was up to £6.95 per week for an individual. To note, there are several different values of the MIG for different groups of adults. The above values indicate the change made but do not represent all of the values that the MIG may be set at.

5.4 The Principle Regulations will continue to set the minimum amount of an individual's income that they should be left with each week, and the amount that should be disregarded if an individual is in receipt of savings credit when determining how much they can afford to contribute towards their domiciliary and residential care. These values will now be increased in line with CPI inflation (1.7%).

6. Legislative and Legal Context

How has the law changed?

6.1 Section 14 of the Care Act 2014 ("the Act") provides a local authority with the power to charge a person for meeting their care and support needs under sections 18 to 20 of the Act. Section 14(7) provides that a local authority may not make a charge for meeting needs if the income of the person concerned would, after the deduction of the charge, fall below an amount specified in regulations. Where a local authority chooses to charge a person, section 17 of the Act sets out that a financial assessment of the person's resources must be undertaken to determine what they can afford to contribute towards the cost of their care. Section 125 of the Act sets out the general powers to make regulations under this Act, and how they can be exercised, including a power to make different provision for different cases.

6.2 The Principal Regulations include, in Part 2, provision relating to a local authority's power to charge for meeting a person's care and support needs.

6.3 Regulations 6 and 7 of the Principal Regulations set out weekly amounts of income with which individuals must be left for the purposes of section 14(7) of the Act when local authorities calculate how much they can afford to contribute to their care and support. For those in care homes, this amount is the PEA set out in regulation 6 of the Principal Regulations, and for those receiving care and support outside a care home, these are the MIG amounts, which are set out in regulation 7 of the Principal Regulations. This instrument increases these amounts.

6.4 Parts 3 to 5 of the Principal Regulations make provision in relation to financial assessments. In particular, they set out how different types of income and capital should be treated. Regulation 15 of, and Schedule 1 to, the Principal Regulations provide for certain types of income to be disregarded when local authorities calculate people's incomes for the purposes of charging. Paragraph 40 of that Schedule disregards certain amounts in respect of those receiving Savings Credit under the State Pension Credit Act 2002. Regulation 2(4) of this instrument increases these amounts.

Why was this approach taken to change the law?

6.5 This is the only possible approach to make the necessary changes.

7. Consultation

7.1 Summary of consultation outcome and methodology

7.2 A formal public consultation has not been undertaken due to the low impact of this regulation on local authorities. Additionally, there is no statutory requirement to consult and there has been no past practice of consultation on the matter.

8. Applicable Guidance

8.1 A local authority circular was published on 3 February 2025, showing the amounts of the MIG, PEA and savings credit disregard applicable when a financial assessment is undertaken. It can be found at Social care - charging for care and support 2025 to 2026: local authority circular - GOV.UK[1]. These rates will be applicable from 6 April 2025.

8.2 Guidance for local authorities on how to carry out financial assessments is provided in the Care and support statutory guidance - GOV.UK (www.gov.uk)[2].

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 there is no significant impact on local authorities in allowing a person to retain more of their income or their credit savings amount instead of using it as an offset against care costs.

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.

[1] https://www.gov.uk/government/publications/social-care-charging-for-local-authorities-2025-to-2026/social-care-charging-for-care-and-support-2025-to-2026-local-authority-circular#:~:text=The%20circular%20sets%20out%20that,increases%20in%20line%20with%20inflation

[2] https://www.gov.uk/government/publications/care-act-statutory-guidance/care-and-support-statutory-guidance

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 Together with the uprating in this instrument, a Local Authority Circular is published, and the Government then monitors various factors for the purposes of a subsequent annual review.

10.2 This instrument does not include a statutory review clause.

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 resolution 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.