EXECUTIVE NOTE

THE COMMUNITY CARE (PERSONAL CARE AND NURSING CARE) (SCOTLAND) AMENDMENT REGULATIONS 2012

SSI 2012/XX

The above instrument is to be made in exercise of the powers conferred by sections 1(2)(a), 2 and 23(4) of the Community Care and Health (Scotland) Act 2002. The instrument is subject to affirmative procedure. If approved the Regulations would come into force on 1st April 2011.

Legal Background

Section 1(1) of the Community Care and Health (Scotland) Act 2002 provides that local authorities are not to charge for certain types of social care provided or secured by them. Regulation 2 of the Community Care (Personal Care and Nursing Care) (Scotland) Regulations 2002 qualifies that by modifying, for the purposes of charging, the meaning of accommodation provided under the Social Work (Scotland) Act 1968 or section 25 of the Mental Health (Care and Treatment) (Scotland) Act 2003.

These Regulations amend regulation 2 of the 2002 regulations to increase the thresholds below which certain care is not to be charged for.

Policy objectives

The purpose of the instrument is to update the free personal and nursing care flat rate payments in care homes in line with inflation, from 1st April 2012.

Payments for personal and nursing care to self funders in care homes remained static at £145 per week for personal care and £65 per week for nursing care between 2002 and 2007. Scottish Ministers gave a commitment to increase the flat rate payments in line with inflation from 2008-09 and in subsequent years to reflect growth in the costs of care. In each of these years the payments were increased in line with inflation and are currently £159 per week for personal care and £72 per week for nursing care. These Regulations increase those payments to £163 and £74 respectively.

Financial effect

Increasing the payments for personal and nursing care in line with inflation will result in additional costs for local authorities of £3 million per annum. Local authorities will deliver this commitment from within the agreed local government settlement allocations provided for 2012-13, with an additional one-off payment of £1.5M in 2012.

No Regulatory Impact Assessment has been prepared in respect of these Regulations as the changes have no impact on the cost to business.