EXPLANATORY MEMORANDUM TO

THE NATIONAL ASSISTANCE (ASSESSMENT OF RESOURCES) AMENDMENT (ENGLAND) REGULATIONS 2012

2012 No. 2336

1. This explanatory memorandum has been prepared by the Department of Health and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 Where a person goes into residential care supported by a local authority, the local authority is required to charge the person such sums as they are assessed as being able to pay. The Assessment is made using regulations made under the National Assistance Act 1948. These regulations include provision for certain types of income to be disregarded in the assessment of resources. Under the regulations, only the first £10 per week of a Guaranteed Income Payment (GIP) made under the Armed Forces Compensation Scheme (AFCS) is disregarded in the assessment of a person's ability to pay.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None

4. Legislative Context

4.1 To introduce a full disregard for GIPs from October 2012.

5. Territorial Extent and Application

5.1 This instrument applies to England only.

6. European Convention on Human Rights

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

7. Policy background

- What is being done and why

7.1 Only £10 per week of a GIP is disregarded from the financial assessment for social care charging. In February 2010 the Ministry of Defence published a review of the AFCS carried out by Lord Boyce. It recommended that payments under the AFCS to members of the armed forces injured on active service should be ignored in the assessment for charging for state supported social care. On 2nd February 2012, the Cabinet Sub-Committee on the Armed Forces Covenant agreed that GIPs to veterans would be disregarded. The regulations are being amended so that from October 2012 GIPs are disregarded.

7.2 This change does not apply to GIPs paid to people who are not veterans – known as Survivors Guaranteed Income Payments (SGIPs) – and these will continue to only carry a £10 per week disregard. The regulations are being amended to reflect this. The Regulation also amends the principal Regulations so that the disregarded SGIP together with money disregarded under other specified provisions cannot exceed £20 per week in total. This is not a new provision but simply maintains the current position.

- Consolidation

7.3 As this amendment simply introduces a disregard for GIPs, consolidation is not applicable.

8. Consultation outcome

8.1 No consultation was carried out on the principle of disregarding GIPs. However, it is supported by the Royal British Legion. The changes are being made in response to the recommendations of the Boyce review of the AFCS, which the Government accepted.

9. Guidance

9.1 Guidance on the application and interpretation of the residential charging regulations is provided in the Charging for Residential Accommodation Guide (CRAG). This will be amended to reflect the change and a new version issued by the time the regulations come into effect.

10. Impact

10.1 No impact is foreseen on business, charities or voluntary bodies.

10.2 This change will be a new burden on local authorities. To offset this the Department has agreed to provide an additional £3.81m to cover the remaining two and a half years of this SR. After that this cost will become part of the local government formula grant.

10.3 An Impact Assessment was prepared for the Care and Support White Paper published on 11th July 2012. This included consideration of the impact of the GIPs disregard, which was announced in the White Paper.

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 The residential charging arrangements are based on Income Support. The Department will be reviewing all the social care charging regulations to take account of the replacement of Income Support by Universal Credit.

13. Contact

Alan Probett at the Department of Health Tel: 020 7972 4033 or email: SCPI-Enquiries@dh.gsi.gov.uk can answer any queries regarding the instrument.