EXECUTIVE NOTE

THE NATIONAL ASSISTANCE (ASSESSMENT OF RESOURCES) AMENDMENT (SCOTLAND) REGULATIONS 2011

SSI 2011/124

The above instrument was made in exercise of the powers conferred by section 22(5) of the National Assistance Act 1948. The instrument is subject to negative resolution procedure. It is intended that it will come into force on 11 April 2011.

Legal Background

Under section 22 of the National Assistance Act 1948 ("the 1948 Act") (as applied by section 87(3) and (4) of the Social Work (Scotland) Act 1968), local authorities are required to charge residents in residential accommodation an appropriate contribution towards the cost of the residential accommodation (excluding any entitlement to free nursing and personal care under the Community Care and Health (Scotland) Act 2002 and associated regulations).

Section 22(5) of the 1948 Act provides that, in assessing a resident's ability to pay, the local authority shall apply regulations made by the Secretary of State. The applicable regulations are the National Assistance (Assessment of Resources) Regulations 1992 ("the 1992 Regulations"). By virtue of Section 53(1) of the Scotland Act 1998, the functions of making and amending the 1992 Regulations as regards Scotland are devolved to Scottish Ministers.

The Scottish Government is aware of the need to consolidate the 1992 Regulations and will consider doing so at an appropriate time in the future.

Policy Objectives

Capital Limits

Under the 1992 Regulations, residents with assessed capital above the upper capital limit must meet their remaining care costs (after allowing for any entitlement to free personal and nursing care). Between the upper and lower capital limits, residents are assessed as having 'tariff income' of £1 per week for every £250 over the lower capital limit. This is added to the assessed income that residents are asked to contribute to care costs. They are not asked to contribute from capital where it falls below the lower capital limit.

These regulations amend the 1992 Regulations to increase the capital limits from £14,000 and £22,750 to £14,500 and £23,500 respectively. The increases are in line with inflation.

Savings Disregard

In response to the introduction of Pension Credit in 2003, the Scottish Government introduced a savings disregard for residents in residential care aged 65 and over who either receive the Savings Credit element of Pension Credit or have too much income to qualify.
These regulations also amend the 1992 Regulations to uprate the maximum savings disregard to £5.80 for single residents and £8.70 for couples (i.e. people who would be regarded as a couple under the State Pension Credit Regulations).

Consultation

The Convention of Scottish Local Authorities and the Association of Directors of Social Work were consulted and have agreed to the proposed amendments.

Financial Implications

Uprating of the capital limits and maximum savings disregard levels are balanced for local authorities by the increasing value of residents' capital resources and benefits income. A Regulatory Impact assessment has not been prepared as these changes have no impact on the costs of business.

Scottish Government Primary & Community Care Directorate
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