POLICY NOTE

THE NATIONAL ASSISTANCE (ASSESSMENT OF RESOURCES) AMENDMENT (SCOTLAND) REGULATIONS 2025

SSI 2025/31

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 procedure and will come into force on 7 April 2025 in line with changes to the Department for Work and Pensions benefit and pension rates.

Summary Box

Purpose of the instrument

To increase the value of savings credit disregard from £8.15 to £8.50 for a single person and from £12.10 to £12.60 for a couple in line with average earnings which is currently forecast at 4.1%.

To increase the lower capital limit from £21,500 to £22,000 and the upper capital limit from £35,000 to £35,500 in line with CPI forecast at 1.7%.

To disregard the following payments to individuals living in residential care: Grenfell Tower fire payments; payments made under an infected blood payment scheme, and, in certain circumstances, payments made by or out of the estates of certain recipients of those schemes; ; payments under the LGBT Financial Recognition Scheme; payments made as a result of the failings of theHorizon System during the period it was used by the Post Office; and payments under the Vaccine Damage Payments Act 1979, including payments to the partners of recipients. This will ensure that these payments are not taken into consideration by local authorities when they carry out a financial assessment for charges for those living in residential care.

Policy Objectives

Capital Limits

The background is that 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 their 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 (S.S.I. 1992/2977) ("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 the Scottish Ministers.

The National Assistance (Assessment of Resources) Amendment (Scotland) Regulations 2024 amended the capital limits so that anyone with capital above the upper capital limit, including property, must meet his or her remaining accommodation costs (over and above any entitlement to free personal care and nursing care) in full. Where the capital falls between upper and lower capital limits the local authority must assist the resident in meeting the cost of the accommodation. Capital under the lower capital limit is not taken into account in assessing a contribution.

Annual increases to capital limits are increased in line with the Consumer Price Index (CPI), currently estimated to be 1.7%, and rounded to the closest £250. In line with this, the National Assistance (Assessment of Resources) Amendment (Scotland) Regulations 2025 increases the upper capital limit from £35,000 to £35,500 and increases the lower capital limit from £21,500 to £22,000.

Savings Credit Disregard

The 1992 Regulations set out a number of different types of income that are to be disregarded when a local authority assesses a resident's income for the purpose of charging. Since the introduction of the State Pension Credit Act 2002 this has included a sum where a resident is in receipt of savings credit. These Regulations increase the maximum weekly savings credit disregard from £8.15 to £8.50 for single resident and from £12.60 to £12.60 for couples. These increases are in line with the increase in average earnings (4.1%).

Disregards

It is appropriate to disregard certain discretionary payments from financial assessments for residential care charges. This is to ensure people retain the full value of these payments in line with the principles of these funds and their intended outcomes.

Grenfell Tower Fire Payments
The Grenfell Fire occurred on 14 June 2017 leading to the loss of seventy-two lives. A number of compensation and support schemes were set up to help those impacted by this tragic event. Additional sources of payments have been provided, in particular, settlement or damage payments resulting from Grenfell Tower related civil litigation. All of these payments are to be disregarded for the purposes of the financial assessment for residential care charges.

Infected Blood Compensation Authority (IBCA)
The Infected Blood Compensation Authority (IBCA) provides financial compensation for individuals impacted by infections such as HIV, chronic Hepatitis C, chronic Hepatitis B, or acute Hepatitis B (if fatal during the acute phase) caused by NHS-supplied blood products or tissue. The Scheme compensates infected persons directly impacted by infected blood or indirectly infected through defined transmission circumstances. It also recognises affected persons—those impacted through their relationship with an infected person, with payments to infected persons beginning by the end of 2024, and to affected persons in 2025. During the application process, if an infected person dies payments can be made to their estate. The amendment also ensures that in certain circumstances, payments made directly to the estate of a person – either by the IBCA or by one of the existing infected blood compensation schemes - will be disregarded for the purposes of the financial assessment for residential care charges.

LGBT Veterans Financial Redress
The LGBT Financial Recognition Scheme was established to address historical injustices faced by individuals in the UK armed forces who were affected by the pre-2000 ban on LGBTQ+ personnel serving openly. This ban led to dismissals, loss of medals, and other consequences that caused financial and emotional harm to those affected.
The scheme aims to provide payments to eligible individuals in recognition of the harm caused. It offers a tax-free lump sum payment to those who meet the eligibility criteria, such as those who were dismissed or discharged due to their sexual orientation or gender identity under the ban, or otherwise negatively impacted.
By offering financial redress, the scheme seeks to acknowledge the past discrimination and its impact, as well as to reaffirm the commitment to fairness, inclusivity, and equality in the armed forces and wider society. Payments under the scheme are to be disregarded for the purposes of the financial assessment for residential care charges.

Post Office (Horizon System)
The Post Office Horizon IT system was introduced in 1999/2000 as a point-of-sale accounting system. The system recorded shortfalls in cash in branches, which the Post Office sought to reclaim. Some postmasters were consequently convicted of theft, fraud, or false accounting, based on what turned out to be flawed evidence. In recent year, the courts have overturned a number of convictions which were based on flawed evidence from the Horizon system. This amendment ensures that all payments, including compensation, support, damages or legal expenses awarded by the Post Office or Secretary of State in connection with the failings of the Horizon system during its usage by the Post Office are disregarded for the purposes of the financial assessment for residential care charges.

Vaccine Damage Payment Scheme
The Vaccine Damage Payment Scheme is a government scheme designed to provide a one-off, tax-free payment of £120,000 to individuals who have been severely disabled due to a vaccination against specific diseases. This scheme is intended to offer financial assistance to those who have experienced significant harm following vaccination, recognising the rare instances in which vaccines may lead to severe side effects. The amendment in this instrument creates a specific disregard for payments made to individuals under the Vaccine Damage Payments Act 1979, and also extends the disregard to cover payments made to partners.

UN Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 Compatibility

The Scottish Ministers have made the following statement regarding children's rights:

In accordance with section 23(2) of the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024, the Scottish Ministers certify that, in their view, the National Assistance (Assessment of Resources) Amendment (Scotland) Regulations 2025 is compatible with the UNCRC requirements as defined by section 1(2) of the Act.

EU Alignment Consideration

This instrument is not relevant to the Scottish Government's policy to maintain alignment with the EU.

Consultation

Annual rises in the rates referred to above are routine. Prior to bringing these Regulations forward, the Cabinet Secretary for Health and Social Care and COSLA have been consulted.

We have consulted with members of the Charging for Residential Accommodation Guidance ("CRAG") working group, whose membership consists of local authorities, COSLA officials and other stakeholders, for new payments disregarded.

Impact Assessments

No Business and Regulatory Impact Assessment is required because the present instrument will not impose new regulatory burdens on businesses, charities or the voluntary sector compared with 2024/25.

Equality Impact Assessments have been carried out for each of the new payments disregarded.

Financial Effects

The Minister for Social Care, Mental Wellbeing and Sport confirms that no BRIA is necessary as the instrument has no financial effects on the Scottish Government, local government or on business.

These are routine annual increases, considered as part of the Budget process. Scottish Government's initial understanding for new payments disregarded, is that given this context, additional costs imposed on local authorities by disregarding these payments from social care means tests are expected to be minimal.

Scottish Government
Social Care and National Care Service Development Directorate
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