POLICY NOTE

The National Assistance (Assessment of Resources and Sums for Personal Requirements) Amendment (Scotland) Regulations 2021

SSI 2021/115

The above instrument was made in exercise of the powers conferred by sections 22(4) and 22(5) of the National Assistance Act 1948. The instrument is subject to negative procedure and will come into force on 5 April 2021.

Purpose of the instrument

To amend the coming into force dates of The National Assistance (Assessment of Resources) Amendment (Scotland) Regulations 2021 and The National Assistance (Sums for Personal Requirements) (Scotland) Regulations 2021.

Policy Objectives

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).

Secondary legislation sets out the income and capital that can be taken into account when assessing an individual's contribution to their care home fees. There are three allowances that are up-rated each year in line with inflation: Personal Expenses Allowance (PEA), Savings Disregard, and Capital Limits.

The National Assistance (Sums for Personal Requirements) (Scotland) Regulations 2021 (S.S.I. 2021/76) and The National Assistance (Assessment of Resources) Amendment (Scotland) Regulations 2021 (S.S.I. 2021/77) were laid before parliament on 18 February 2021. S.S.I. 2021/76 makes provision for the annual inflationary increase in the weekly rate of PEA from 6 April 2021 and S.S.I. 2021/77 makes provision for the inflationary increase in the upper capital limit and the weekly rate of savings credit disregard from 6 April 2021.

The coming into force date of 6 April 2021 was chosen in anticipation of it coinciding with the date of annual uprating of Department for Work and Pensions benefits. The annual uprating of Department for Work and Pensions benefits usually takes place under section 150(10) of the Social Security Administration Act 1992 which notes that changes to benefits take effect from the week beginning the first Monday in the tax year, or on such earlier date in April as may be specified.

The annual uprating of Department for Work and Pensions benefits will now take place on 12 April this year. The National Assistance (Assessment of Resources and Sums for Personal Requirements) Amendment (Scotland) Regulations 2021 will therefore come into force on 5 April 2021 and will allow for the changes described above to come into effect from 12 April

2021. This is to allow operational efficiencies to be achieved by local authorities in incorporating these changes into their financial reassessments of care home residents in 2021/2022.

Consultation

Prior to bringing these Regulations forward, Scottish Ministers and COSLA have been consulted and have both agreed to this change.

Impact Assessments

There have been no impact issues.

Financial Effects

No BRIA is necessary as the instrument has no financial effects on the Scottish Government, local government or on business.

Scottish Government
Mental Health and Social Care Directorate
March 2021