EXECUTIVE NOTE TO

THE NATIONAL ASSISTANCE (SUMS FOR PERSONAL REQUIREMENTS) (SCOTLAND) REGULATIONS 2010

SSI/2010/74

The above instrument was made in exercise of the powers conferred by section 22(4) of the National Assistance Act 1948. The instrument is subject to negative resolution procedure. It is intended that it will come into force on 12 April 2010.

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. By virtue of section 53(1) of the Scotland Act 1998, the functions of making and amending the 1992 Regulations as regards Scotland devolved to Scottish Ministers.

Policy Objectives

Under section 22(4) of the National Assistance Act 1948, in assessing a resident's ability to pay for residential accommodation, local authorities are required to allow the resident an amount for personal expenses which is usually increased each April at the same time as Social Security benefits are uprated. The amount is the same for residents whether they are placed in local authority or independent sector homes. It is proposed that from 5 April 2010 the minimum weekly rate of this allowance will increase in line with average earnings from £21.90 to £22.30.

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 Effect

Increasing the Personal Expenses Allowance from £21.90 to £22.30 per week will cost approximately £0.6 million for 2010-11. These are routine annual increases, which should be planned for by local authorities, and which are balanced by the increasing charging revenue they receive from residents whose average income, including benefits income, increases annually. 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
February 2010