POLICY NOTE

THE NATIONAL ASSISTANCE (SUMS FOR PERSONAL REQUIREMENTS) (SCOTLAND) REGULATIONS 2021

SSI 2021/76

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 procedure and will come into force on 6 April 2021.

Purpose of the instrument

To increase the value of personal expenses allowance in line with average earnings, an increase of 1.9%.

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 ("the 1968 Act"), 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. By virtue of section 53(1) of the Scotland Act 1998, the functions of making and amending these regulations as regards Scotland are devolved to Scottish Ministers. Section 22(4) of the 1948 Act, as applied by section 87(3) and (4) of the 1968 Act, requires a local authority to assume, in assessing a person's liability to pay for accommodation provided under the 1968 Act or section 25 of the Mental Health (Care and Treatment) (Scotland) Act 2003, that persons will require to retain a sum of money per week to cover the cost of their personal requirements, for example, clothes and toiletries.

The National Assistance (Assessment of Resources) Regulations 1992, made under section 22(4) of the 1948 Act, prescribe the above mentioned weekly personal expenses allowance. This allowance is usually increased each April at the same time as Social Security benefits are uprated. The amount of allowance is the same for individuals whether they are resident in local authority or independent sector homes. These regulations will increase the weekly rate of this allowance in line with the increase in average earnings from £28.75 to £29.30 from 6 April 2021.

Consultation

Prior to bringing these Regulations forward, the Cabinet Secretary for Health and Sport and COSLA have been consulted and have both agreed to this increase.

Impact Assessments

There are no impact issues. The following action is being taken as a result of the inflation shown in average earnings.

Financial Effects

The Cabinet Secretary for Health and Sport confirms that 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
February 2021