POLICY NOTE

THE NATIONAL ASSISTANCE (SUMS FOR PERSONAL REQUIREMENTS) (SCOTLAND) REGULATIONS 2026

SSI 2026/43

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 2026 in line changes to the Department for Work and Pensions benefit and pension rates. The instrument is subject to negative procedure.

Summary Box

Purpose of the instrument: To increase the value of personal expenses allowance in line with average earnings, an increase of 4.8%.

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 ability 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 (S.S.I. 1992/2977), 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 £35.90 to £37.65 from 6 April 2026.

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 (Sums for Personal Requirements) (Scotland) Regulations 2026 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 these rates are routine. Prior to bringing these Regulations forward, the Cabinet Secretary for Health and Social Care and COSLA have been consulted.

Impact Assessments

A Child Rights and Wellbeing Impact Assessment has been completed on the National Assistance (Sums for Personal Requirements) (Scotland) Regulations 2026. This impact assessment identified no children's impact issues.

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 2025/26.

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
Social Care and National Care Service Development Directorate
January 2026