

**EXPLANATORY MEMORANDUM TO HEALTH AND PERSONAL  
SOCIAL SERVICES (ASSESSMENT OF RESOURCES)  
(AMENDMENT) REGULATIONS (NORTHERN IRELAND) 2010**

**SR 2010 No. 65**

**1. Introduction**

**1.1.** This Explanatory Memorandum has been prepared by the Department of Health, Social Services and Public Safety to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.

**1.2.** The Statutory Rule is made under Articles 36(6) and 99(5) of The Health and Personal Social Services (Northern Ireland) Order 1972, and is subject to the negative resolution procedure.

**2. Purpose**

**2.1.** The Health and Personal Social Services (Assessment of Resources) (Amendment) Regulations (Northern Ireland) 2010 to be made week commencing 08 March 2010 and coming into operation on 06 & 12 April 2010, make essential amendments to the principal Regulations, the Health and Personal Social Services (Assessment of Resources) Regulations (NI) 1993.

**2.2.** Regulation 3 inserts minor interpretation amendments to the principal Regulations.

**2.3.** Regulations 4 & 5 reflect the uplifts to the capital limits in line with inflation. The upper limit will increase from £23,000 to £23,250 and the lower limit will increase from £14,000 to £14,250.

**2.4.** Regulation 6 makes minor consequential amendments arising from Social Security Amendments linked to the planned rise in the pension age for women from 60 to 65.

**2.5.** Regulation 7 provides for an increase in the level of disregard for the Savings Credit element of Pension Credit from £5.65 to £5.75 for individuals and from £8.45 to £8.60 for couples, in line with inflation.

**2.6.** Regulation 8 corrects a legislative anomaly in order to ensure that where a resident's former home is lived in by their partner, it is disregarded regardless of the partner's age.

### **3. Background**

**3.1.** The Health and Personal Social Services (Northern Ireland) Order 1972, as amended by the Health and Personal Social Services (Northern Ireland) Order 1991, requires that a person is charged for residential accommodation in a registered residential care home or nursing home.

**3.2.** The Health and Personal Social Services (Assessment of Resources) Regulations (Northern Ireland) 1993, prescribe the financial assessment to be carried out where a resident is unable to pay the full cost of care. The regulation has its origin in the test of eligibility for Income Support and is broadly aligned to the Income Support scheme.

**3.3.** The regulation sets out upper and lower capital limits which are used as part of the process of determining how much an individual should contribute to the cost of their care. Capital will include savings and other assets including, in some but not all circumstances, the resident's former home.

**3.4.** Where a resident has capital in excess of the upper capital limit they are considered able to meet the full cost of their social care, but residents with assessed nursing needs are entitled to weekly HSC Payments for Nursing Care of £100.

**3.6.** Where a client has capital between the lower and upper capital limits, it is considered to generate a 'tariff' income of £1 per week for

every £250 of capital between the two limits. This is then added to any other income, subject to disregards such as that for savings credit, and included in the financial assessment. Where a resident has capital below the lower limit, they contribute from their income only.

#### **4. Consultation**

**4.1.** This regulation will amend the principal Regulations both to reflect inflation and underpin the HSC's existing operation of disregarding property where it is occupied by a partner; the amendments have not been subject to consultation.

#### **5. Equality Impact**

**5.1.** The impact of this regulation on equality of opportunity as between those groups listed in section 75 of the Northern Ireland Act 1998 has been considered and no adverse or differential effects were identified.

#### **6. Regulatory Impact**

**6.1.** A Regulatory Impact Assessment has not been prepared for this regulation as it has no impact on business, charity or voluntary bodies.

#### **7. Financial Implications**

**7.1.** The amendments within this regulation are considered to be cost neutral as loss of charging income as a result of higher capital limits will be balanced by increased charging income through increases in average earnings and benefit uplifts.

#### **8. Section 24 of the Northern Ireland Act 1998**

**8.1.** These amendments do not breach section 24 of the Northern Ireland Act 1998, as this regulation is not incompatible with any of the convention rights or community law and does not discriminate against a person on the grounds of religious belief or political opinion. Nor does this regulation modify or amend any of the enactments stated in section 7 of the Northern Ireland Act 1998.

## 9. EU Implications

9.1. Not Applicable

## 10. Parity or Replicatory Measure

10.1. All four UK Administrations charge for residential care and the charging regimes largely mirror one another, with capital and income assessed to determine how much each individual can afford to contribute to the cost of their care.

10.2. Each Administration has its own charging legislation and brings forward amendments to commence in April of each year. Capital limits in Northern Ireland are currently benchmarked against those in England. The Welsh Assembly Government has not yet agreed capital limits for 2010/11.

	<b>2009/10 Lower Limit</b>	<b>2009/10 Upper Limit</b>	<b>Increase</b>	<b>2010/11 Lower Limit</b>	<b>2010/11 Upper Limit</b>
<b>Northern Ireland</b>	£14,000	£23,000	1.5%	£14,250	£23,250
<b>England</b>	£14,000	£23,000	1.5%	£14,250	£23,250
<b>Scotland</b>	£13,750	£22,500	1.5%	14,000	22,750
<b>Wales</b>	£20,750	£22,000	tbc	tbc	tbc

## 11. Additional Information

11.1. None