

**EXECUTIVE NOTE TO**  
**THE RECOVERY OF EXPENDITURE FOR THE PROVISION OF SOCIAL CARE**  
**SERVICES (SCOTLAND) REGULATIONS 2010**

**SSI 2010/72**

The above instrument was made in exercise of the powers conferred by section 86(6) and (7) of the Social Work (Scotland) Act 1968. The instrument is subject to negative resolution procedure. It is intended that it will come into force on 6 April 2010 and associated guidance will be published at the same time.

**Legal Background**

Section 86 of the Social Work (Scotland) Act 1968(the Act) provides for adjustments of expenditure to be made between local authorities in the provision of accommodation and services provided under the Social Work (Scotland) Act 1968 (the Act), the Children (Scotland) Act 1995 (the 1995 Act) or the Mental Health (Care and Treatment) (Scotland) Act 2003 (the 2003 Act).

These Regulations provide, at regulation 3, that expenditure incurred by an authority providing services or facilities under arrangements made under the Act, the 1995 Act or the 2003 Act is recoverable from the authority who has arranged the placement.

Regulation 4 establishes that the time a person stays in accommodation with support under arrangements made by a local authority is to be disregarded for the purposes of establishing the ordinary residence of that person.

**Policy Objectives**

Local authorities requested a revision of the provisions for the recovery of expenditure in order to address changing patterns of care provision resulting in more people being cared for in their own homes rather than in care homes. The new provisions allow arrangements for services to be made on the basis of fair, appropriate and consistent cost recovery.

**Consultation**

Interested parties including local authorities and independent providers were fully consulted. The Convention of Scottish Local Authorities and the Association of Directors of Social Work have endorsed the new regulations and associated guidance.

**Financial Effect**

The new regulations will not place any additional costs on Scottish local authorities, and are designed to reduce or stream-line the number of disputes between local authorities which are costly and time consuming to resolve.

Scottish Government Primary & Community Care Directorate  
February 2010