POLICY NOTE

THE NATIONAL ASSISTANCE (ASSESSMENT OF RESOURCES) AMENDMENT (SCOTLAND) REGULATIONS 2014

SSI 2014/38

The above instrument was made in exercise of the powers conferred by section 22(5) of the National Assistance Act 1948. The instrument is subject to negative resolution procedure and will come into force on 7 April 2014.

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

Policy Objectives

Capital Limits

Under the 1992 Regulations, residents with assessed capital above the upper capital limit must meet their remaining care costs (after allowing for any entitlement to free personal and nursing care). Between the upper and lower capital limits, residents are assessed as having 'tariff income' of £1 per week for every £250 over the lower capital limit. This is added to the assessed income that residents are asked to contribute to care costs. They are not asked to contribute from capital where it falls below the lower capital limit.

These Regulations amend the 1992 Regulations to increase the capital limits from £15,500 and £25,250 to £16,000 and £26,000 respectively. The increases are in line with inflation.

Savings Credit Disregard

The 1992 Regulations set out a number of different types of income that are to be disregarded when a local authority assesses a resident's income for the purpose of charging. Since the introduction of the State Pension Credit Act this has included a sum where a resident is in receipt of savings credit. These Regulations increase the maximum weekly savings credit disregard from £5.90 to £5.95 for single residents and from £8.85 to £8.95 for couples. These increases are in line with the increase in average earnings (1.2%).

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 Implications

Uprating of the capital limits are balanced for local authorities by the increasing value of residents' capital resources and benefits income. A Business and Regulatory Impact Assessment has not been prepared as these changes have no impact on the costs of business.

Integration and Reshaping Care Division
17 January 2014