

POLICY NOTE

THE NATIONAL ASSISTANCE (ASSESSMENT OF RESOURCES) AMENDMENT (SCOTLAND) REGULATIONS 2017

SSI 2017/134

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 1 June 2017.

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 £16,250 and £26,250 to £16,500 and £26,500 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, the Savings Disregard. This is currently worth up to £6.15 per week for single residents and £9.25 for couples. The levels of the Savings Disregard were calculated to balance the extra contribution from residents receiving the savings credit and hence be cost neutral for local authorities. However due to DWP changes over a number of years the savings disregard is more generous than it was originally intended to be. Savings Credit will disappear and the continuation of the savings disregard is something we will

consider for future years. We are therefore recommending that the savings disregards remain at the 2016 limits of £6.15 per week for single residents and £9.25 for couples

Consultation

The Convention of Scottish Local Authorities and Social Work Scotland and are content with 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.

Care Support and Rights Division
April 2017