

**EXPLANATORY MEMORANDUM TO**  
**THE CARE AND SUPPORT (CHARGING AND ASSESSMENT OF RESOURCES)**  
**(AMENDMENT) REGULATIONS 2018**

**2018 No. 687**

**1. Introduction**

- 1.1 This explanatory memorandum has been prepared by Department and Health and Social Care and is laid before Parliament by Command of Her Majesty.

**2. Purpose of the instrument**

The purpose of this instrument is to amend the Care and Support (Charging and Assessment of Resources) Regulations 2014 (the Principal Regulation) to provide that payments of capital made under or by a trust, established for the purpose of giving relief and assistance to disabled persons whose disabilities were caused by the fact that during their mother's pregnancy she had taken a preparation containing the drug known as Thalidomide, and which is approved by the Secretary of State are disregarded in the calculation of what an individual can pay towards the cost of their care and support needs. The trust which currently undertakes this role is known as the Thalidomide Trust.

**3. Matters of special interest to Parliament**

*Matters of special interest to the Joint Committee on Statutory Instruments*

- 3.1 None.

*Other matters of interest to the House of Commons*

- 3.2 As this instrument is subject to negative resolution procedure and has not been prayed against, consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

**4. Legislative Context**

- 4.1 The Principal Regulations set the rules for the financial assessment that local authorities carry out to calculate what a person can afford to contribute towards the cost of their care and support.
- 4.2 Under the Principal Regulations, specified payments of income and capital are disregarding for the purpose of the financial assessment carried out by local authorities. Some of those payments which are disregarded mirror those contained within the Income Support (General) Regulations 1987.
- 4.3 Payments of income from the Thalidomide Trust are already disregarded as charitable payments. This amendment ensures that any payments of capital from the Thalidomide Trust are also disregarded. This reflects changes made to the Income Support (General) Regulations 1987 so ensures consistency in the approach to the treatment of charitable payments of capital and income across the benefits and social care systems.

## **5. Extent and Territorial Application**

- 5.1 The extent of this instrument is England and Wales.
- 5.2 The territorial application of this instrument is England.

## **6. European Convention on Human Rights**

- 6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

## **7. Policy background**

### *What is being done and why*

- 7.1 A decision was made in 2012 by Norman Lamb, then Minister of State for Care and Support, to provide a Health Grant of £80 million over ten years in recognition of the complex and highly specialised needs of thalidomiders (this is their preferred term rather than victims or survivors), particularly as they approach old age. It is intended to support thalidomiders to preserve their independence. The funding helps individual thalidomiders to maintain control over their own health. The grant is paid on an annual basis to the Thalidomide Trust, who distributes it to their members.
- 7.2 Payments of income from the Thalidomide Trust are exempted from the assessment of what people can pay towards their care. However concerns were raised that individuals were not able to save money they received from the grant to buy larger purchases such as adapted cars as there was no provision to disregard payments of capital from the Thalidomide Trust from the benefits assessment. To address this, the Social Security (Infected Blood and Thalidomide) Regulations 2017 amended the Income Support (General) Regulations 1987 to provide that payments of capital from the Thalidomide Trust were disregarded within the benefits system.
- 7.3 In relation to charitable payments the Government's policy is that the Principal Regulations should reflect the approach taken by the benefits system so that payments of capital from the Thalidomide Trust should also be exempted from the social care means test. These regulations ensure consistency between the benefits system and the social care financial assessment is maintained.

### *Consolidation*

- 7.4 There are currently no plans for consolidation

## **8. Consultation outcome**

- 8.1 The changes have been discussed with local authorities who do not consider that there will be a significant impact on them.

## **9. Guidance**

- 9.1 The Care and Support Statutory Guidance will be amended to reflect the changes.

## **10. Impact**

- 10.1 There is no impact on business, charities or voluntary bodies.
- 10.2 There is no impact on the public sector.
- 10.3 An Impact Assessment has not been prepared for this instrument.

**11. Regulating small business**

11.1 The legislation does not apply to activities that are undertaken by small businesses.

**12. Monitoring & review**

12.1 The operation of grants by the Thalidomide Trust is monitored and reviewed regularly.

**13. Contact**

13.1 Katy Lindfield at the Department of Health and Social Care, Telephone: 01132546166 or email: [katy.lindfield@dh.gsi.gov.uk](mailto:katy.lindfield@dh.gsi.gov.uk) can answer any queries regarding the instrument.