

EXPLANATORY MEMORANDUM TO
THE NATIONAL ASSISTANCE (SUMS FOR PERSONAL REQUIREMENTS
AND ASSESSMENT OF RESOURCES) (AMENDMENT) (ENGLAND)
REGULATIONS 2006

2006 No. 674

1. This explanatory memorandum has been prepared by the Department of Health and is laid before Parliament by Command of Her Majesty.
2. **Description**
 - 2.1 This instrument amends the National Assistance (Assessment of Resources) Regulations 1992 (“the Assessment Regulations”) and the National Assistance (Sums for Personal Requirements) (England) Regulations 2003 (“the 2003 Regulations”). These Regulations relate to the assessment by a local authority of a person’s resources for the purposes of determining his ability to pay for accommodation that is provided, or proposed to be provided, to him under Part 3 of the National Assistance Act 1948 (c.29) (“the 1948 Act”).
3. **Matters of special interest to the Joint Committee on Statutory Instruments**
 - 3.1 None.
4. **Legislative Background**
 - 4.1 By virtue of section 22 of the 1948 Act, local authorities are obliged to give effect to the above Regulations when assessing the ability of a person to pay for accommodation that is provided, or proposed to be provided, to him under Part 3 of that Act.
 - 4.2 This instrument increases the personal expenses allowances, the amount of the upper and lower capital limits and the savings disregards in line with inflation. It also amends the disregard relating to child benefit to reflect the fact that child benefit is now payable in respect of both children and certain young persons.
5. **Extent**
 - 5.1 This instrument applies to England.
6. **European Convention on Human Rights**
 - 6.1 As the instrument is subject to the negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

- 7.1 The Regulations amended by this instrument set out a framework which local authorities must follow when assessing a person's ability to pay for accommodation that is provided, or proposed to be provided, to him under Part 3 of the 1948 Act. It is standard practice for the Regulations to be amended each April to provide for annual uprating in line with inflation.
- 7.2 The 2003 Regulations set out the weekly amount ("the PEA") which local authorities are to assume, in the absence of special circumstances, that residents will need to retain for their personal requirements. This instrument increases the PEA from £18.80 per week to £19.60 per week, in order to reflect the increase in average earnings over the previous twelve months. This is expected to benefit around 267,000 supported residents.
- 7.3 Residents are expected to meet the cost to the local authority of providing their residential care where the resident's assessed capital exceeds the upper capital limit specified in the Assessment Regulations. Residents having capital below the upper limit are eligible for financial assistance from the local authority. Capital between the upper and lower capital limits is deemed to produce a tariff income at a rate of £1 for every £250 or part thereof of capital assets. Residents whose capital is below the lower capital limit are not expected to contribute to the cost of their residential care from their capital resources. This instrument increases the upper capital limit from £20,500 to £21,000 and the lower capital limit from £12,500 to £12,750, in line with inflation. The increase in the lower capital limit is expected to benefit a few thousand supported residents. The increase in the upper capital limit is expected to benefit a few hundred residents.
- 7.4 In October 2003, as part of Pension Credit, the Department for Work and Pensions introduced a weekly Savings Credit for people aged 65 or over with low or modest incomes in addition to the basic state pension (*see* the State Pension Credit Act 2002 (c.16) and the State Pension Credit Regulations 2002 (S.I. 2002/1792)). In response, the Department of Health introduced a weekly savings disregard for the purpose of assessing a person's ability to pay for residential care. The instrument provides for an uprating of the savings disregard in line with average earnings. This will increase the £4.85 maximum savings disregard to £5.05 per week for single residents and from £7.20 to £7.50 per week for couples.
- 7.5 The instrument also amends paragraph 28A of Schedule 3 to the Assessment Regulations which provides for child benefit to be disregarded in the calculation of income, except in certain specified circumstances. The amendment adds references to "qualifying young person" in order to reflect the amendment to the Social Security

Contributions and Benefits Act 1992 which provides that child benefit is now payable in respect of both children and certain young persons.

- 7.6. On 24 January 2006 the Department of Health published a consultation paper giving details of proposed changes in the assessment of a person's resources for the purposes of Part 3 of the 1948 Act.
- 7.7 Six comments were received, two of which (from Age Concern and Help the Aged) were detailed. There were no objections to the minor changes included in this instrument. Officials consulted directly with the Age Concern (England), Help the Aged, and the Civil Service Pensioners' Alliance at a consultation meeting held on 24 February 2006.

8. Impact

- 8.1 A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.
- 8.2 The impact on the public sector is limited to local authorities in England exercising particular social services functions and is expected to be minor. The Department of Health considers that the costs to local authorities of the increases in the amount of the PEA, the capital limits and the savings disregards will be met by increased income generated through residential care charges, due to expected increases in residents' incomes and savings. Consequently, the Department does not consider that this instrument will result in significant new burdens for local authorities.

9. Contact

- 9.1 Jerry Bird at the Department of Health Tel: 0113 254 6246 or e-mail: Jerry.Bird@dh.gsi.gov.uk can answer any queries regarding the instrument.