

POLICY NOTE

The National Assistance (Sums for Personal Requirements) (Scotland) (No. 2) Regulations 2016

SSI 2016/87

The above instrument was made in exercise of the powers conferred by section 22(4) of the National Assistance Act 1948. The instrument is subject to the negative resolution procedure and, subject to regulation 1(3) will come into force on 11th April 2016 to coincide with the annual uprating of DWP benefits.

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

Section 22(4) of the 1948 Act, as applied by section 87(3) and (4) of the Social Work (Scotland) Act 1968, requires a local authority to assume in assessing a person’s liability to pay for accommodation provided under the 1968 Act or section 25 of the Mental Health (Care and Treatment) (Scotland) Act 2003 that persons will require to retain a sum of money per week to cover the cost of their personal requirements, for example, clothes and toiletries.

Policy Objectives

Personal Expenses Allowance

The National Assistance (Sums for Personal Requirements) (Scotland) (No. 2) Regulations 2016, made under section 22(4) of the 1948 Act, prescribe the abovementioned weekly personal expenses allowance. This allowance is usually increased each April at the same time as Social Security benefits are uprated. The amount of allowance is the same for residents whether they are placed in local authority or independent sector homes. These regulations will increase the weekly rate of this allowance in line with the increase in average earnings (2.9% this year) from £25.05 to £25.80 from 11th April 2016.

The National Assistance (Sums for Personal Requirements) (Scotland) (No. 2) Regulations 2016 further provides, in regulation 3(1), for revocation of the National Assistance (Sums for Personal Requirements) (Scotland) Regulations 2016 (S.S.I. 2016/23) with effect from 3rd April 2016. S.S.I. 2016/23 makes provision for the above described increase in the weekly rate of Personal Expenses Allowance from £25.05 per week to £25.80 per week to commence from 4th April 2016. 4th April 2016, however, is not the correct date from which this increase in allowance requires to take effect because it is not in line with the annual uprating of DWP benefits as prescribed by section 150(10) of the Social Security Administration Act 1992.

Section 150(10) of the 1992 Act requires that changes to benefits take effect from the week beginning the first Monday in the tax year, or on such earlier date in April as may be specified. The first Monday of the tax year 2016/17 is 11th April 2016.

Consultation

The Convention of Scottish Local Authorities and Social Work Scotland were consulted but have not yet responded to the proposed amendments.

Financial Effect

Increasing the Personal Expenses Allowance from £25.05 to £25.80 per week will cost approximately £0.97 million for 2016-17. These are routine annual increases, which should be planned for by local authorities, and are set against the increasing charging revenue they receive from residents whose average income, including benefits income, increases annually. 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
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