

POLICY NOTE

THE NATIONAL ASSISTANCE (ASSESSMENT OF RESOURCES) AMENDMENT (SCOTLAND) REGULATIONS 2022

SSI 2022/71

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 procedure and will come into force on 11 April 2022 in line with changes to the Department for Work and Pensions benefit and pension rates.

Purpose of the instrument

To increase the value of savings credit disregard in line with average earnings which is currently forecast at 5.8%.

To increase the lower capital limit from £18,000 to £18,500 and the upper capital limit from £28,750 to £29,750 in line with CPI forecast at 3.1%.

Policy Objectives

Capital Limits

The background is that 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. 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 the Scottish Ministers.

The National Assistance (Assessment of Resources) Amendment (Scotland) Regulations 2020 amended the capital limits so that anyone with capital above the upper capital limit, including property, must meet his or her remaining accommodation costs (over and above any entitlement to free personal care and nursing care) in full. Where the capital falls between upper and lower capital limits the local authority must assist the resident in meeting the cost of the accommodation. Capital under the lower capital limit is not taken into account in assessing a contribution.

Annual increases to capital limits are increased in line with the Consumer Price Index (CPI), currently estimated to be 3.1%, and rounded to the closest £250. In line with this, the National Assistance (Assessment of Resources) Amendment (Scotland) Regulations 2022

increase the upper capital limit from £28,750 to £29,750 and increases the lower capital limit from £18,000 to £18,500.

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 2002 this has included a sum where a resident is in receipt of savings credit. These regulations increase the maximum weekly savings credit disregard from £6.90 to £7.30 for single resident and from £10.25 to £10.85 for couples. These increases are in line with the increase in average earnings (5.8%).

Consultation

Annual rises in these rates are routine. Prior to bringing these Regulations forward, the Cabinet Secretary for Health and Social Care and COSLA have been consulted.

Impact Assessments

No Business and Regulatory Impact Assessment is required because the present instrument will not impose new regulatory burdens on businesses, charities or the voluntary sector compared with 2021/22.

Financial Effects

A Business and Regulatory Impact Assessment has not been prepared as these changes have no impact on the costs of business. These are routine annual increases, considered as part of the Budget process. Local Government will receive additional funds from the Scottish Government to cover the increased costs.

Scottish Government
Social Care and National Care Service Development Directorate
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