

**EXPLANATORY MEMORANDUM TO**  
**THE CARE AND SUPPORT (CHARGING AND ASSESSMENT OF RESOURCES)**  
**(AMENDMENT) REGULATIONS 2020**

**2020 No. 112**

**1. Introduction**

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

**2. Purpose of the instrument**

2.1 The purpose of this instrument is to amend the Care and Support (Charging and Assessment of Resources) Regulations 2014 (the Principal Regulations) to provide that ex-gratia payments made to child migrants under the scheme established by the UK Government in 2019 are disregarded by a local authority when carrying out a financial assessment for care and support services for a former child migrant.

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

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

3.1 None.

*Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)*

3.2 As the instrument is subject to negative resolution procedure there are no matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business at this stage.

**4. Extent and Territorial Application**

4.1 The territorial extent of this instrument is England and Wales.

4.2 The territorial application of this instrument is England.

**5. European Convention on Human Rights**

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

**6. Legislative Context**

6.1 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.

6.2 Under the Principal Regulations, specified payments of income and capital are disregarded 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.

- 6.3 This amendment ensures that payments made to former child migrants under the scheme established by the UK Government in 2019 are also disregarded.

## **7. Policy background**

### *What is being done and why?*

- 7.1 The UK Government is making ex-gratia payments of £20,000 to all living former British child migrants and the beneficiaries of those who died on or after 1 March 2018. These are people who were sent overseas as children - mostly to Australia but also to New Zealand, Zimbabwe (then Southern Rhodesia) and Canada - from the UK in the post-war period up to 1970.
- 7.2 The Independent Inquiry into Child Sexual Abuse published its report into Child Migration Programmes on 1 March 2018. Its main recommendation was that *HMG establishes a Redress Scheme for surviving former child migrants, providing for an equal award to every applicant. This is on the basis that they were all were exposed to the risk of sexual abuse. Given the age of the surviving former child migrants, the Panel urges HMG to establish the Scheme without delay and expects that payments should start being made within 12 months.*
- 7.3 The Government accepted this recommendation, which was announced on 19 December 2018. On 31 January 2019 the Government announced that it would pay £20,000 to each former British child migrant who was alive on 1 March 2018. In the case of former British child migrants who have passed away since that date, the payment would be made to the former child migrant's beneficiaries. Applications for the payment would be accepted from 1 March 2019.
- 7.4 An ex-gratia payment made to a former child migrant is disregarded by the local authority for the purposes of financial assessments made for the provision of care and support services for the former child migrant.

## **8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union**

- 8.1 This instrument does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act

## **9. Consolidation**

- 9.1 There are currently no plans for consolidation

## **10. Consultation outcome**

- 10.1 Due to the expected low impact of this regulation on Local Authorities, no consultation was carried out. However, Government has engaged with Local Authorities that have identified they may be affected by the Regulation change. Guidance

## **11. Guidance**

- 11.1 Guidance will be provided on 25 February 2020 and can be viewed using the following link: <https://www.gov.uk/government/publications/care-act-statutory-guidance/care-and-support-statutory-guidance#AnnexB>

## **12. Impact**

- 12.1 There is no, or no significant, impact on business, charities or voluntary bodies.
- 12.2 There is no, or no significant, impact on the public sector.
- 12.3 An Impact Assessment has not been prepared for this instrument due to the expected low impact on Local Authorities. As this is a new ex-gratia payment, Local Authorities have not been required to consider previously. Therefore, this regulation will have no impact on social care charges.

## **13. Regulating small business**

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

## **14. Monitoring & review**

- 14.1 The approach to monitoring of this legislation is to be completed by the Department of Health and Social Care. This will include regular engagement with Local Authorities and general review of legislation. The operation of grants by the UK Government 2019 scheme for child migrants is monitored and reviewed regularly.
- 14.2 The regulation does not include a statutory review clause.

## **15. Contact**

- 15.1 Huda Baig at the Department of Health and Social Care Telephone: email: CandSConsultations@dhsc.gov.uk> can be contacted with any queries regarding the instrument.
- 15.2 Linsey Craike, Deputy Director for Strategy & Projects, at the Department of Health and Social Care can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 Caroline Dinenage at the Department of Health and Social Care can confirm that this Explanatory Memorandum meets the required standard.