

**EXPLANATORY MEMORANDUM TO THE NATIONAL ASSISTANCE
(SUMS FOR PERSONAL REQUIREMENTS AND ASSESSMENT OF
RESOURCES) (AMENDMENT) (ENGLAND) REGULATIONS 2005**

2005 No. 708

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 allowance, the amount of the upper and lower capital limits and the savings disregards in line with inflation. It also introduces a new income and capital disregard to cover payments of financial support made to special guardians or prospective special guardians under the new special guardianship support services scheme intended to be introduced by the Department for Education and Skills in late 2005.

5. Extent

5.1 This instrument applies to England.

6. European Convention on Human Rights

6.1 Not applicable.

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 £18.10 per week to £18.80 per week, in order to reflect the increase in average earnings over the previous twelve months. This is expected to benefit around 278,000 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 £20,000 to £20,500 and the lower capital limit from £12,250 to £12,500, 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. From April 2005, the Department for Work and Pensions intends to increase the Savings Credit rates so that they peak at £16.44 for individuals and £21.51 for couples, to reflect the increase in average

earnings over the previous twelve months. Accordingly, the Department of Health has increased the savings disregards specified in the Assessment Regulations from £4.65 to £4.85 (maximum) for individuals and from £6.95 to £7.20 (maximum) for couples.

- 7.5 The Department for Education and Skills intends to introduce the new special guardianship scheme in late 2005. Provision for the scheme is made in section 14F of the Children Act 1989 (c.41), as amended by the Adoption and Children Act 2002 (c.38). Special guardians and prospective special guardians will be eligible to receive financial support similar to adoption allowances, which local authorities are currently required to disregard for the purpose of assessing a person's ability to pay for accommodation under Part 3 of the 1948 Act. This instrument introduces a similar income and capital disregard to cover payments to such people caring for a child under the special guardianship scheme. It is not known precisely how many residents living in Part 3 accommodation in England will be in receipt of such payments, but the numbers are not expected to be significant. Nonetheless, the intention of this instrument is to ensure that special guardians or prospective special guardians are not disadvantaged when assessing their ability to pay for residential accommodation under Part 3 of the 1948 Act.
- 7.6. On 16th December 2004, 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 Twenty-one sets of comments were received, seven of which were detailed. The responses to the minor changes included in this instrument were favourable. Officials consulted directly with the Local Government Association, Age Concern (England), Help the Aged, Counsel and Care and the Civil Service Pensioners' Alliance at a consultation meeting held on 28th January 2005.

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 Rebecca Sidwell at the Department of Health Tel: 0113 254 6485 or e-mail: Rebecca.Sidwell@dh.gsi.gov.uk can answer any queries regarding the instrument.