

SL(6)317 – The Care and Support (Charging) and (Financial Assessment) (Wales) (Miscellaneous Amendments) Regulations 2023

Background and Purpose

The Care and Support (Charging) and (Financial Assessment) (Wales) (Miscellaneous Amendments) Regulations 2023 (“the Regulations”) are made by the Welsh Ministers, in exercise of the powers conferred by sections 50, 52, 53(3), 61, 64(1) and (2)(b), 66 and 196(2) of the Social Services and Well-being (Wales) Act 2014 (“the 2014 Act”).

These Regulations amend the Care and Support (Charging) (Wales) Regulations 2015 (“the Charging Regulations”) and the Care and Support (Financial Assessment) (Wales) Regulations 2015 (“the Financial Assessment Regulations”).

The Charging Regulations set out the requirements which local authorities must follow when making a determination of the amount of the charges which apply in relation to care and support which they are providing or arranging in the course of carrying out their functions under Part 4 of the 2014 Act. The Charging Regulations also contain parallel provisions setting out requirements which apply when a local authority makes direct payments to meet a person’s need for care and support. The Financial Assessment Regulations make provision under the 2014 Act about the way in which a local authority must carry out a financial assessment of a person’s (“A”) financial resources in the following cases:

- where the authority thinks that if it were to meet A’s needs for care and support (or a carer’s needs for support) it would impose a charge under section 59 of the 2014 Act, or
- where the authority thinks that if it were to make payments towards meeting the cost of A’s needs for care and support (or a carer’s need for support) by making direct payments by virtue of section 50 or 52 of the 2014 Act, it would require A to pay, by way of reimbursement (in the case of gross payments) or contribution (in the case of net payments), towards the cost of securing the provision of that care and support.

Regulation 2 of these Regulations amends regulation 13 of the Charging Regulations (minimum income amount where a person is provided with accommodation in a care home) to increase the net weekly income amount from £35 to £39.50. Regulation 28 is also amended to make corresponding change for a recipient of direct payments.

Regulation 3(a)(i) of this instrument amends the descriptive wording of paragraph 20(1) of Schedule 2 to the Financial Assessment Regulations to include the following:

- Grenfell Tower payment,
- child abuse payment,



- Windrush payment, and
- Payments made by the Child Migrants Trust.

These schemes are already disregarded through the effect of paragraph 20 of Schedule 2 through their inclusion in the Income Support (General) Regulations 1987 and they are added in the descriptive words for clarity.

Regulation 3(a)(ii) of this instrument amends Schedule 2 to the Financial Assessment Regulations as follows:

- payments made under the Energy Bill Support Scheme,
- payments made under the Social Security (Additional Payments) Act 2022,

are to be disregarded in the calculation of an adult's capital.

Procedure

Negative.

The Regulations were made by the Welsh Ministers before they were laid before the Senedd. The Senedd can annul the Regulations within 40 days (excluding any days when the Senedd is: (i) dissolved, or (ii) in recess for more than four days) of the date they were laid before the Senedd.

Technical Scrutiny

No points are identified for reporting under Standing Order 21.2 in respect of this instrument.

Merits Scrutiny

The following point is identified for reporting under Standing Order 21.3 in respect of this instrument.

1. Standing Order 21.3(ii) – that it is of political or legal importance or gives rise to issues of public policy likely to be of interest to the Senedd.

In Part 2 of the Explanatory Memorandum, the Regulatory Impact Assessment, we note that the Minimum Income Amount, which is reviewed annually, is being uplifted from £35 to £39.50. This takes account of annual uplifts to UK state pensions and welfare benefit payments; which from the basis of care home residents' weekly income.

The Regulatory Impact Assessment states that the uplift in basic state pension alone is £14.35 per week.

In making these Regulations local authority supported residents will retain '*around a third*' of the uplift they receive to spend on personal items as they wish. It is stated that this will result in local authorities receiving an increase in charge income of '*around an estimated £8.3 million per annum through contributions from the 16,144 residents over state pension age alone.*'



Welsh Government response

A Welsh Government response is not required.

Legal Advisers

Legislation, Justice and Constitution Committee

8 February 2023



Senedd Cymru

Pwyllgor Deddfwriaeth, Cyfiawnder a'r Cyfansoddiad

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Welsh Parliament

Legislation, Justice and Constitution Committee