

## **Health and Social Services Committee**

**Ref: HSS(2)-04-06(p5)**

**Date: 8 March 2006**

**Venue: Committee Room 3&4, Assembly Offices, National Assembly for Wales**

**Title: The National Assistance (Assessment of Resources and Sums for Personal Requirements) (Amendment) (Wales) Regulations 2006**

### **Purpose**

1. At its meeting on 19 January 2006 the Committee identified for scrutiny these regulations relating to local authority residential charging. The purpose of this paper is, therefore, to outline for the Committee's consideration what these regulations propose by way of amendment to the relevant existing regulations in this area, ie the National Assistance (Assessment of Resources) Regulations 1992 and the National Assistance (Sums for Personal Expenses) Regulations 2001.

### **Summary**

2. This paper briefly outlines the amendments relating to residential charging proposed; the detail of them is in the draft regulations, explanatory memorandum and regulatory appraisal attached. It is planned that they come into force on 10 April 2006 to match changes then to related Department of Work and Pensions (DWP) benefits and similar regulation changes being proposed by the other 3 administrations in the UK. To achieve this there is a particularly tight legislative timetable and the Committee is invited to give **its immediate views** on these proposals to order to achieve this.

### **Background**

3. Under sections 22 and 26 of the National Assistance Act 1948, local authorities are required to charge residents for their residential accommodation with the aim of securing an appropriate contribution towards the costs. Sections 22(5) and 26(3) provide that, in assessing a resident's ability to pay, the local authority must use regulations made by the Secretary of State (now the Assembly). These regulations are those two outlined above.

4. The amendments to the regulations now planned seek to effect annual increase in the capital limits which authorities use in assessing the financial ability of an individual to pay charges and to include additional disregards in these assessments for certain changes to (DWP) benefits which are to occur from April 2006. They also seek to introduce an annual increase to the weekly allowance which residents retain for their own personal expenses and to put civil partners on an equal footing as spouses for the purposes of

residential charging. Hence the amendments to the regulations propose:

- an increase in the capital limits from £14,750 to £16,000 on the lower limit (an increase of 8.5%) and £21,000 to £21,500 on the higher limit (an increase of 2.4%);
- an increase of the maximum weekly values of the savings disregard for Pension Credit being increased from £4.85 to £5.05 for individuals and from £7.20 to £7.50 for couples;
- a disregard for adoption support payments, reflecting the full implementation of the Adoption and Children Act 2002 and those elements of the adoption support regulations which came into effect on 30 December 2005;
- an increase in the personal expenses allowance (PEA) for local authority supported residents from £19.10 to £20.00 per week (an increase of 4.7%);
- an amendment to the regulations to take into account the Civil Partnerships Act 2004 (which came into force on 5 December 2005) to ensure that where references are made to spouses, appropriate references are made also to civil partners.

### **Timing**

5. These regulations are due to be considered by Business Committee on 21 March and by Legislation Committee on 28 March, before going to Plenary on 4 April 2006. If this timetable is not adhered to it is unlikely that these regulations will be made in time for the proposed implementation date of 10 April 2006.

### **Consideration**

6. The detail of the proposed amendments is contained in the attached regulations, explanatory memorandum and regulatory appraisal. In headline terms the amendments seek:

#### Capital Limits

- To honour the previous commitment made by the Assembly Government to maintain at least in line with inflation the capital limits which local authorities use in determining an individual's ability to pay residential charges, and hence what financial support if any they receive from an authority. The increase of 2.4% in the upper limit from £21,000 to £21,500 achieves this. In addition, I plan a substantial further increase in the lower limit of 8.5% from £14,750 to £16,000. This will, depending on an individual's financial circumstances, benefit those with low levels of assets and savings by ensuring more are eligible for local authority financial support or a higher level of support from authorities. These changes will also ensure that those in residential care in Wales are treated more favourably than those elsewhere in the UK given the capital levels planned in the rest of the UK, ie £12,750 and £21,000 respectively;

### Increases to Disregards

- Ensuring that those in Wales in residential care benefit fully from the weekly savings credit changes planned from April 2006 by DWP and from the adoption support payments stemming from the full implementation of the Adoption and Children Act 2002. This is achieved by introducing appropriate disregards for both in the residential charging assessments local authorities undertake. Both changes are planned to take effect from April 2006;

### Personal Expenses Allowance (PEA)

- Introduce a substantial increase in the PEA for those in residential care financially supported by local authorities by increasing the current level from £19.10 per week to £20.00 per week (an increase of 4.7%). The PEA is an allowance given to such residents for their own weekly expenses such as toiletries, newspapers, etc. This rise is above the increase in average earnings in Wales (3.6%) and present inflation (2.7%). It also puts residents in Wales in a better situation than those in the rest of the UK as the other 3 administrations propose to increase their level of PEA from the current £18.80 per week to £19.60 per week;

### Civil Partnerships Act 2004

- The amendments also seek to take account of the Civil Partnerships Act 2004, which came into force on 5 December 2005, which enables same-sex couples to obtain legal recognition of their relationship by forming a civil partnership. An update to the National Assistance (Assessment of Resources) Regulations 1992 will ensure that civil partners are treated in the same way as spouses for the purposes of charging for residential accommodation.

### **Financial Implications**

7. The increase in the capital limits will impose costs on local authorities in the region of £500,000 per annum based on approximately 16,500 current residents and local authorities' knowledge of the value of their assets. The proposed cost for the increase in the PEA is estimated at £800,000 based on a 90 pence per week increase for those residents. However, the resources for these increases are allowed for in the overall local government revenue settlement for 2006-07. There are no further financial implications for the Assembly.
8. It is not considered that there will be additional financial consequences for local authorities arising from the changes to the Regulations regarding the proposed increase to the savings credit disregard and the Adoption Support Payments. These are the type of annual changes to the disregards that authorities will have planned for and any resultant costs

will be covered by the charging income authorities will receive. It is not clear what financial impact the introduction of the Civil Partnerships Act could have on authorities as there are potential gains and losses. However, in view of the likely very small numbers involved I consider that any impact would be manageable overall. There are no financial implications for the Assembly of these changes.

### **Cross Cutting Themes**

9. The changes proposed to the regulations are consistent with the aims and objectives of the Strategy for Older People in Wales.

### **Action for Committee**

10. The Committee is invited to note this paper and its attachments and to give any immediate views on the amendments proposed to the regulations used in local authority residential charging.

**Dr Brian Gibbons AM**  
**Minister for Health and Social Services**

**Contact Point:** Teresa Davies, Older People and Long Term Care Policy Directorate, ext 5860.

**NATIONAL ASSEMBLY FOR WALES**

---

**S T A T U T O R Y I N S T R U M E N T S**

---

**2006 No. (W. )**

**NATIONAL ASSISTANCE  
SERVICES, WALES**

The National Assistance  
(Assessment of Resources and  
Sums for Personal Requirements)  
(Amendment) (Wales) Regulations  
2006

**EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations set the weekly sum which local authorities are to assume, in the absence of special circumstances, that residents who are in accommodation arranged under Part 3 of the National Assistance Act 1948, will need for their personal requirements. From the 10<sup>th</sup> April 2006 all such residents will be assumed to need £20.00 per week.

Secondly, these regulations make further amendments to the National Assistance (Assessment of Resources) Regulations 1992 (“the Principal Regulations”).

The Principal Regulations determine the way that local authorities assess the ability of a person to pay for accommodation arranged for him or her under Part 3 of the National Assistance Act 1948.

The amendments provide for civil partners to be treated in the same way as spouses and for adoption support payments under the Adoption and Children Act 2002, to be disregarded both as capital and income.

There are also annual increases to the capital limits and the disregard for those in receipt of pension credit.

**2006 No. (W.)**

**NATIONAL ASSISTANCE  
SERVICES, WALES**

The National Assistance  
(Assessment of Resources and  
Sums for Personal Requirements)  
(Amendment) (Wales) Regulations  
2006

*Made* 2006

*Coming into force* 10 April 2006

The National Assembly for Wales, in exercise of the powers conferred upon the Secretary of State by sections 22 (4) and (5) of the National Assistance Act 1948(a) and now vested in the National Assembly for Wales(b) hereby makes the following Regulations.

**Citation, commencement, interpretation and application**

**1.**—(1) The name of these Regulations is The National Assistance (Assessment of Resources and Sums for Personal Requirements) (Amendment) (Wales) Regulations 2006.

(2) These regulations come into force on 10 April 2006.

- 
- (a) 1948 c.29. See sections 35(1) and 64(1) of the National Assistance Act 1948 for the definitions of “the minister” and “prescribed” respectively and article 2 of the Secretary of State for Social Services Order 1968 (S.I. 1968/1699) which transferred all functions of the Minister of Health to the Secretary of State.
- (b) The functions of the Secretary of State under sections 22 (4) and (5) of the National Assistance Act 1948 were transferred to the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672).

(3) In these Regulations, “the Principal Regulations” (“y *Prif Reoliadau*”) means the National Assistance (Assessment of Resources) Regulations 1992 (a).

(4) These Regulations apply in relation to Wales.

### **Sums needed for personal requirements**

2. The sum which a local authority assumes a person to need for his or her personal requirements under section 22(4) of the National Assistance Act 1948(b) is £20.00 per week.

### **Revocation**

3. The National Assistance (Sums for Personal Requirements) (Wales) Regulations 2005(c) are hereby revoked.

### **Amendment of regulation 2 of the Principal Regulations**

4. In paragraph (1) of regulation 2 of the Principal Regulations (interpretation), in the definition of “liable relative”, for “or former spouse”, substitute “, former spouse, civil partner or former civil partner”.

### **Amendment of regulation 20A of the Principal Regulations**

5. In paragraph (2) of regulation 20A of the Principal Regulations replace the figure “£21,000” with the figure “£21,500”.

### **Amendment of regulation 28A of the Principal Regulations**

6. In paragraph (2) of regulation 28A of the Principal Regulations (calculation of tariff income from capital – Wales)—

- (a) replace the figure “£14,750” with the figure “£16,000” in both places where it appears; and
- (b) replace the figure “£21,000” with the figure “£21,500”.

### **Amendment of Schedule 3 to the Principal Regulations**

7. In Schedule 3 to the Principal Regulations (sums to be disregarded in the calculation of income other than earnings)—

- (a) In paragraph 10A(a)—

---

(a) S.I. 1992/2977 as amended by a series of subsequent instruments.  
(b) 1948 c.29.  
(c) S.I. 2005/ 663 (W. 53).

- (i) in sub-paragraphs (1)(a) and (3), after “spouse” insert “or civil partner”, and
  - (ii) in sub-paragraph (1)(b), after “spouse’s maintenance” insert “or his civil partner for that civil partner’s maintenance”;
- (b) in paragraph 17**(b)**—
- (i) for sub-paragraph(1)(a) substitute—
    - “(a) pursuant to regulations made under section 2(6)(b) or 3 of the Adoption and Children Act 2002(c)”;
  - (ii) for sub-paragraph 25 insert—
    - “(2) Any payment other than a payment to which sub-paragraph (1)(a) applies, made to the resident pursuant to regulations made under section 2(6)(b) or 3 of the Adoption and Children Act 2002.”;
- (c) in paragraph 28H
- (i) in sub-paragraphs (1) and (2) replace the figure “£4.85” with the figure “£5.05” at each place where it appears; and
  - (ii) in sub-paragraphs (3) and (4) replace the figure of “£7.20” with the figure “£7.50” at each place where it appears.

**Amendment of Schedule 4 to the Principal Regulations**

**8.** In Schedule 4 to the Principal Regulations (capital to be disregarded) for paragraph 24 substitute—

“**24.** Any payment made to the resident pursuant to regulations made under section 2(6)(b) or 3 of the Adoption and Children Act 2002.”.

Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998**(d)**

Date

*Dafydd Elis Thomas*

The Presiding Officer of the National Assembly

---

**(a)** Inserted by S.I. 1996/602 and amended by S.I. 1997/485.

**(b)** Amended by S.I. 2003/2343.

**(c)** 2002 c.38.

**(d)** 1998 c. 38.



## **DRAFT**

To: Business Committee  
From: Brian Gibbons AM  
Minister for Health & Social Services

### **EXPLANATORY MEMORANDUM**

#### **NATIONAL ASSISTANCE SERVICES, WALES**

#### **THE NATIONAL ASSISTANCE (ASSESSMENT OF RESOURCES AND SUMS FOR PERSONAL REQUIREMENTS) (AMENDMENT) (WALES) REGULATIONS 2006**

##### **Summary**

**Local authorities are required to charge residents for residential accommodation, whether directly provided or arranged with an independent home, with the aim of recovering as much as possible of the costs. The assessment of a person's ability to pay for accommodation is laid down in the National Assistance (Assessment of Resources) Regulations 1992.**

**The intended effect of these amendments to the Regulations is threefold. First, the Assembly has made a commitment previously to keep under review the capital limits local authorities use in the assessment of a person's ability to pay for accommodation. Limits are now reviewed annually. These amendments, therefore, seek to increase for inflation the upper capital limit for such assessments from £21,000 to £21,500 (an increase of 2.4%) and the lower capital limit by a significantly higher amount than inflation from £14,750 to £16,000 (an increase of 8.5%). This higher increase is to benefit those residents with low levels of savings and assets.**

**Second, these amendments to the Regulations seek to reflect in the disregards used in residential charging assessments certain changes to income-related benefits which are occurring from April 2006. They also seek to introduce civil partners in the list of "liable relatives" set out in the Regulations.**

**Lastly, these amendments seek to increase the weekly sum that local authorities are to assume that residents in residential care need for their personal requirements. Such weekly sums are laid down in the National Assistance (Sums for Personal Requirements) Regulations and the amendment to those Regulations seeks to increase that sum from £19.10 to £20.00 per week (an increase of 4.7%).**

- 1. This Memorandum is submitted to the Assembly's Business Committee in relation to The National Assistance (Assessment of Resources and Sums for Personal Requirements) (Amendment) (Wales) Regulations 2006 in accordance with Standing Order 24.6.**
- 2. A copy of the instrument is submitted with this Memorandum.**

##### **Enabling Power**

## DRAFT

3. The powers enabling these Regulations to be made are contained in sections 22(4) and 22(5) of the National Assistance Act 1948. These powers have been transferred to the National Assembly for Wales. Responsibility for issues relating to the contents of these Regulations has been delegated to my portfolio as Minister for Health and Social Services.

### Effect

4. The intended effect of the Instrument is:

#### Increase in capital limits

5. There are capital limits for the assessment of a person's ability to pay for residential care. Under current rules a person with capital over £21,000 is expected to meet the full costs of their residential accommodation from their own resources. For capital between £14,750 and £21,000, an income for charging purposes of £1 per week is assumed for each complete £250, or part of £250 held. For charging purposes no account is taken of capital below £14,750 as people who have assets and savings at or below £14,750 receive maximum state financial support and simply contribute whatever income is deemed appropriate by the residential accommodation assessment. The Welsh Assembly Government, as part of its response in 2000 to the Royal Commission on Long Term Care, made a commitment to keep the capital limits used in residential charging assessments under review. Limits are reviewed annually to ensure that they remain at least in line with inflation. These amendments, therefore, seek from April 2006 to increase for inflation the upper capital limit from £21,000 to £21,500 (an increase of 2.4%) and the lower capital limit by a significantly higher amount than inflation from £14,750 to £16,000 (an increase of 8.5%). This higher increase is to benefit those residents with low levels of savings and assets and will, depending on individual's financial circumstances, effectively take out of residential charging all together some residents with total savings and assets of under £16,000. England, Scotland and Northern Ireland are also proposing to increase their capital limits from April 2006. However, their limits are much lower and will be increasing from only £12,500 to £12,750 for the lower limit and from only £20,500 to £21,000 for the higher limit.

#### Savings Disregard Increase

6. From October 2003, as part of Pension Credit, the Department for Work and Pensions (DWP) introduced a weekly savings credit to reward people aged 65 and over with modest savings. In response the Assembly introduced a weekly savings disregard for the purposes of assessing an individual's ability to pay for residential care of up to £4.85 for individuals and up to £7.20 for couples. From April 2006, DWP plan to increase the weekly savings credit so that it peaks at £17.88 for individuals and £23.58 for couples to reflect the rise in average earnings for the last 12 months. It is, therefore, proposed that the savings disregard for those in residential care be increased to £5.05 for individuals and £7.50 for couples from April 2006. The other 3 devolved administrations in the UK are proposing the same changes.

#### Civil Partnerships Act 2004

7. The Civil Partnerships Act 2004, which came into force on 5 December 2005, enables same-sex couples to obtain legal recognition of their relationship by

## **DRAFT**

forming a civil partnership. Civil partners will be subject to many of the same legal rights and responsibilities as spouses. An amendment to the National Assistance (Assessment of Resources) Regulations 1992 is required to ensure that civil partners are treated in the same way as spouses for the purposes of charging for residential accommodation.

### Adoption Support Payments

8. In order to reflect the full implementation of the Adoption and Children Act 2002, an update to the disregard in residential charging for adoption support payments is required. The 2002 Act was fully commenced on 30 December 2005. Financial support for adopters is currently disregarded for the purposes of residential charging in the Assessment of Resources Regulations. Those disregard provisions currently refer to transitional powers to make regulations under paragraph 3 of Schedule 4 to the 2002 Act, which was an interim measure pending full commencement of that Act. The disregard now proposed caters for the full implementation of the Adoption and Children Act.

### Increase in Personal Expenses Allowance

9. In calculating a resident's charges local authorities are required to allow residents to keep an amount of their weekly income for their personal expenses, known as their personal expenses allowance (PEA). This amount is laid down in the National Assistance (Sums for Personal Expenses) Regulations. It is practice to uprate the PEA each year and in recent years the uplift has reflected average earnings and been roughly in line with those increases made by the other 3 devolved administrations.
10. That said, previous increases in PEA in Wales have been slightly higher than the rest of the UK and the amendment to these Regulations proposed now will provide for a substantial annual increase in the PEA from the current rate of £19.10 to £20.00 per week from April 2006 (an increase of 4.7%). This compares to the intention of the other 3 devolved administrations to increase PEA in their countries from £18.80 to £19.60 per week from April 2006 (an increase of 4.3%).

### **Target Implementation**

11. It is intended that the Instrument be made on or before 4 April 2006 and come into force on 10 April 2006 in line with legislatures elsewhere in the UK, which are expected to come into force on the same day. If these dates are not achieved then people in receipt of residential care in Wales will be disadvantaged in relation to those in residential care in the rest of the UK. Their assessment of resources, as part of their residential charging, will not be updated to take account of the changes outlined above.

### **Financial implications**

12. The increase in the capital limits will impose costs on local authorities in the region of £500,000 per annum based on approximately 16,500 current residents and local authorities' knowledge of the value of their assets. The proposed cost for the increase in the PEA is estimated at £800,000 based on a 90 pence per week increase for those residents. However, the resources for these increases are within the cost limits allowed for in the overall local government revenue

## DRAFT

settlement for 2006-07 of 5.1% (after allowing for transfers). There are no financial implications for the Assembly.

13. It is not considered that there will be additional financial consequences for local authorities arising from the changes to the Regulations regarding the proposed increase to the savings credit disregard and the Adoption Support Payments. These are the type of annual changes to the disregards that authorities will have planned for and any resultant costs will be covered by the charging income authorities will receive. It is not clear what financial impact the introduction of the Civil Partnerships Act could have on authorities as there are potential gains and losses for them. However, in view of the likely very small numbers involved we consider that any impact would be negligible. There are no financial implications for the Assembly of these changes.

### Regulatory Appraisal

14. A Regulatory Appraisal has been carried out in relation to this Instrument and is attached.

### Consultation

#### With Stakeholders

15. The proposed amendment to the capital limits and personal expenses allowance for residential charging assessments is part of a regular annual exercise which stakeholders (i.e. local authorities) are aware of, to simply increase existing levels. The proposed amendments to the disregards in calculating residential charges are part of a bi-annual exercise, which stakeholders are again aware of, to simply reflect changes to the income-related benefit Regulations and the introduction of ad hoc payments. As such, it is not considered necessary to consult on these changes, but local authorities are being given written advance notice of the possible changes to enable them to plan ahead.

#### With Subject Committee

16. The Health and Social Services Committee has been notified of this Instrument through the rolling programme of forthcoming legislation put to the Committee on 19 January 2006 (paper No. HSS(2)-01-06(p3a), item No 6 of HSS(2)-01-06). The Committee has identified these Regulations for scrutiny, which will take place at its meeting on 8 March 2006. **[DN – this will need updating in the light of the outcome of the Committee’s scrutiny on that day].**

### Recommended Procedure

17. Subject to the views of the Business Committee, I recommend that the Instrument proceeds to Plenary under the Standard Procedure.

### Compliance

18. The proposed legislation will (as far as is applicable):
- have due regard to the principle of equality of opportunity for all people (Government of Wales Act 1998 section 120);

**DRAFT**

- be compatible with the Assembly's scheme for sustainable development (section 121);
- be compatible with Community law (section 106);
- be compatible with the Assembly's human rights legislation (section 107); and
- be compatible with any international obligations binding the UK Government and the Assembly (section 108).

19. The information in this Memorandum has been cleared with the Directorate of Legal Services and noted by the Assembly Compliance Office.

20. Policy Division contact: Gareth Griffiths, ext 5256 or Teresa Davies, ext 5860.

21. Head of Division: Mike Shanahan, ext 3191.

22. Drafting Lawyer: Michael Lubienski, ext. 3913.

**BRIAN GIBBONS AM  
MINISTER FOR HEALTH AND SOCIAL SERVICES**

**FEBRUARY 2006**

## **DRAFT**

### **REGULATORY APPRAISAL**

#### **NATIONAL ASSISTANCE SERVICES, WALES**

#### **THE NATIONAL ASSISTANCE (ASSESSMENT OF RESOURCES AND SUMS FOR PERSONAL REQUIREMENTS) (AMENDMENT) (WALES) REGULATIONS 2006**

##### **Purpose and Intended Effect of the Measure**

1. Local authorities are required to charge residents for residential accommodation, whether directly provided or arranged with an independent home, with the aim of recovering as much as possible of the costs. The assessment of a person's ability to pay is laid down in the National Assistance (Assessment of Resources) Regulations 1992.
2. The intended effect of these amendments to the Regulations is threefold. First, to increase from April 2006 the capital limits used in resident charging assessments by at least inflation from £14,750 to £16,000 for the lower limit and from £21,000 to £21,500 for the upper limit. Second, to reflect in the disregards for residential charging assessments certain changes to income-related benefits which are occurring from April 2006 and to introduce civil partners in to the list of "liable relatives" set out in the Regulations.
3. Lastly, these amendments seek to increase the weekly sum which local authorities are to assume that residents in residential care need for their personal requirements, such as clothing, hairdressing, stationery, etc. Such weekly sums are laid down in the National Assistance (Sums for Personal Requirements) Regulations. It has become practice to uprate annually the level of the personal expenses allowance (PEA) by at least inflation. the effect of these amendments to the Regulations is to increase the weekly PEA from £19.10 to £20.00 from April 2006.

##### **Risk Assessment**

4. These Regulations do not address any risk or hazard. They have been prepared to increase the capital limits used in residential charging assessments and to increase the savings disregard, and update the income-related benefits disregards, used in those assessments. They have also been prepared to incorporate civil partners on a par with the responsibilities' of spouses in such assessments and to increase the weekly personal allowance for individuals living in residential care. All these changes are planned to be effective from April 2006. Subject to the Assembly's approval of the amending Regulations, the beneficiaries of these changes are care home residents in Wales who, depending on their financial circumstances, may benefit from increased financial support from their local authority through the increases in the capital limits, or increased disregards in their charging assessments resulting from the changes in disregards being made. In addition, all care home residents receiving

## DRAFT

financial support from local authority will also receive an additional 90 pence per week.

### Options

#### Capital Limits

5. Under the National Assistance (Assessment of Resources) Regulations 1992, local authorities may not financially contribute to the care costs of residents who have assets, including the value of their home, above the upper capital limit. Such residents are, therefore, expected to meet the full costs of their residential accommodation from their own resources. If individuals have assets at or below the lower limit then they receive maximum state financial support, and simply contribute whatever income is deemed appropriate by the residential accommodation charging assessment. The key options in respect of the capital limits are: (a) do nothing, (b) provide for an increase, or (c) uplift the limits by a lesser or greater sum.
6. Reducing the limits is not considered to be either feasible or desirable. In addition, this section does not examine the options for the other minor changes covered by the draft amendments to the Assessment of Resources Regulations given these changes, and their level, are being introduced as a consequence of changes by the Department of Work and Pensions (DWP). As such there is little choice in their introduction except to severely disadvantage those in residential accommodation in Wales. However, their impact and costs following the changes are considered later on.

#### (a) Do Nothing

7. The impact of this option would be that the lower and upper capital limits applied through the charging assessment are maintained at £14,750 and £21,000. These limits were set by amending Regulations, the National Assistance (Assessment of Resources) (Amendment) (Wales) 2005, and came into effect on 11 April 2005. The Welsh Assembly Government has made a previous commitment to keep the capital limits under review. Alongside the commitment there is, therefore, an expectation that they will be considered and increased annually, at least broadly in line with current inflation. The other consideration is that local authority supported residents in English, Scottish and Northern Irish care homes are going to benefit from planned increases by the other 3 devolved administrations.
8. This is an annual increase that local authorities would anticipate and therefore plan for accordingly. The cost of the proposal is estimated at £500,000 per annum based on approximately 16,500 current residents and local authorities' knowledge of the value of their assets and savings. This cost will be contained within the baseline increase in the revenue settlement for local authorities for 2006 - 07. From a financial perspective, a "do nothing" option would mean that there would be an estimated

## DRAFT

£500,000 more within the local government settlement for local authorities to use on other services. However, the Welsh Assembly Government commitment would not be honoured and the expectations of care home residents in Wales would not be met.

### (b) Uplift the Limits to £16,000 and £21,500

9. The proposed amendments to the Regulations provide for an increase of some 8.5% in the lower capital limit and 2.4% in the upper limit (currently £14,750 & £21,000 respectively). This proposal would utilise the same resources of £500,000 per annum as mentioned above. Depending upon individual resident's circumstances, such changes would result in more residents receiving financial support from their local authority, or a higher level of support, although the exact number benefiting in these categories is not known. These changes to the limits will not result in any resident currently receiving local authority support towards their residential charges losing that support. Local authorities are being given written advance notice of the proposed changes, subject to Assembly approval of the necessary Regulations, and so will be able to plan for the increases. We also understand that a lower increase is being planned in England, Scotland and Northern Ireland than in Wales, which will leave residents in care homes in Wales slightly better off than their counterparts in the other 3 administrations.

### (c) Uplift the Limits by a Lesser or Greater Sum

10. The proposed increase in the lower limit is already substantially higher than the current inflation of around 2.7% or the current uplift for pay and prices of 3.3% in Local Government in Wales. The proposed increase in the higher limit is in line with inflation. Implementation of these proposed changes is considered to be affordable within the overall uplift in this year's revenue settlement for local government. Funding is not available to increase the limits any further. A smaller increase is feasible but the potential numbers that would benefit would obviously be reduced. An increase less than inflation would not fulfil the Assembly Government's commitment to ensure the limits remain at least in line with inflation.

### Chosen Option/Make the Legislation

11. For the reasons given above, Option (b) of uplifting the limits to £16,000 and £21,500 respectively was chosen.

### Impact of the Proposed Disregard Changes

#### Savings Disregard Increase

12. From October 2003, as part of Pension Credit, the Department for Work and Pensions (DWP) introduced a weekly savings credit to reward people aged 65 and over with modest savings. In response the Assembly introduced a weekly savings disregard for the purposes of assessing an



## DRAFT

individual's ability to pay for residential care of up to £4.85 for individuals and up to £7.20 for couples. From April 2006, DWP plan to increase the weekly savings credit so that it peaks at £17.88 for individuals and £23.58 for couples to reflect the rise in average earnings for the last 12 months. It is, therefore, proposed that the savings disregard for those in residential care be increased to £5.05 for individuals and £7.50 for couples from April 2006. The other 3 administrations in the UK are proposing the same change.

### Civil Partnerships Act 2004

13. The Civil Partnerships Act 2004, which came into force on 5 December 2005, enables same-sex couples to obtain legal recognition of their relationship by forming a civil partnership. Civil partners will be subject to many of the same legal rights and responsibilities as spouses. An amendment to the National Assistance (Assessment of Resources) Regulations 1992 is required to ensure that civil partners are treated in the same way as spouses for the purposes of charging for residential accommodation.

### Adoption Support Payments

14. In order to reflect the full implementation of the Adoption and Children Act 2002, an update to the disregard in residential charging for adoption support payments is required. The 2002 Act was fully commenced on 30 December 2005. Financial support for adopters is currently disregarded for the purposes of residential charging in the Assessment of Resources Regulations. Those disregard provisions currently refer to transitional powers to make regulations under paragraph 3 of Schedule 4 to the 2002 Act, which was an interim measure pending full commencement of the Adoption and Children Act.

### Personal Expenses Allowance

15. In calculating a resident's charges local authorities are required to allow residents to keep an amount of their weekly income for their personal expenses, known as their personal expenses allowance (PEA). This amount is laid down in the National Assistance (Sums for Personal Expenses) Regulations. It is practice to uprate the PEA each year and in recent years the uplift has reflected average earnings and been roughly in line with those increases made by the other 3 devolved administrations. The key options are: (a) do nothing, (b) provide an uplift to the allowance, or (c) uplift the allowance by a lesser or greater sum.

16. Reducing the weekly allowance for the 16, 500 or so individuals supported by local authorities and living in care homes throughout Wales is not considered feasible or desirable.

### (a) Do Nothing

## DRAFT

17. The impact of this option would be that the allowance is maintained at the level of £19.10 per week. This level was set by the National Assistance (Sums for Personal Requirements) (Wales) Regulations 2005, which came into force on 11 April 2005. It has become practice to uprate annually the PEA and therefore there is an expectation by local authorities and care home residents that the sum will be increased. In addition, the other 3 administrations in the UK plan to increase PEA for residents in care homes in their countries to an amount greater than the current level of £19.10 per week, ie to £19.60 per week. This would mean that care home residents in Wales would be disadvantaged by being treated less favourably than those elsewhere in the UK.
18. This is an annual increase that is planned for by local authorities. The costs of the proposed increase is estimated to be £800,000 based on a 90 pence per week increase for the 16,500 or so local authority supported residents in Wales. This cost is contained within the baseline increase in the revenue settlement for 2006-07. From a financial perspective, a do nothing option would mean that there would remain this amount within the local government settlement for local authorities to use on other services.

### (b) Uplift the Allowance to £20.00

19. Under this option individuals in residential care homes get to keep an increased amount each week for their personal expenses. These amendments to the Regulations provide for a weekly personal expense allowance of £20.00, which is an increase of 90 pence per week on the current level. This represents an increase of 4.7%, which is higher than the pay and prices uplift in the local government revenue settlement (3.3%), average earnings in Wales (3.6%) and current inflation (2.7%). It can be met within the baseline increase in the revenue settlement for local government. Local authorities are being given advance notice of the proposed change, subject to Assembly approval of the necessary Regulations, and so will be able to plan for the increase.

### (c) Uplift the Allowance by a Lesser or Greater Sum

20. The increase proposed in the PEA is considered to be affordable within the revenue settlement; it is also more generous than increases being proposed in this allowance by all 3 other administrations in the UK, who after their increases will have weekly allowances for residents in care homes of £19.60. The proposal in the amendment to the Regulations to increase the allowance to £20.00 per week in Wales means that the amount which individuals receive for personal use will increase by significantly more than current inflation and average earnings over the last 12 months. It will leave people in local authority supported residential care in Wales slightly better off than those elsewhere in the UK. Accordingly, an uplift of a lesser or higher amount is not considered appropriate.

### Chosen Option/Make the Legislation

## DRAFT

21. For the reasons given above, Option (b) of uplifting the PEA to £20.00 per week was chosen.

### Costs

22. The proposed increase in the capital limits will impose costs on local authorities in the region of £500,000 calculated as outlined in Para 9. However, the resources for the increase are within the cost limits allowed for in the local government settlement for 2006-07. There are no financial implications for the Assembly.
23. It is not considered that there will be additional financial consequences for local authorities arising from the changes to the Regulations regarding the proposed increase to the savings credit disregard, and the Adoption Support Payments. It is not clear what financial impact the introduction of the Civil Partnerships Act could have on authorities as there are potential gains and losses for them. However, in view of the likely numbers involved we consider that any impact would be negligible. Again, there are no financial implications for the Assembly.
24. The cost of the proposed uplift to increase the personal expenses allowance for local authority supported care home residents in Wales is approximately £800,000 per annum calculated as outlined in Paragraph 18 above. This cost can be met within the baseline increases in the revenue settlement for local government for 2006-07. There is no cost to individuals or the care home sector more generally and no financial implications for the Assembly.

### Consultation

#### With Stakeholders

25. The proposed amendment to the capital limits and personal expenses allowance for residential charging assessments is part of a regular annual exercise which stakeholders (i.e. local authorities) are aware of, to simply increase existing levels. The proposed amendments to the disregards in calculating residential charges are part of a bi-annual exercise, which stakeholders are again aware of, to simply reflect changes to the income-related benefit Regulations and the introduction of ad hoc payments. As such, it is not considered necessary to consult on these changes, but local authorities are being given written advance notice of the possible changes to enable them to plan ahead.

#### With Subject Committee

26. The Health and Social Services Committee has been notified of this Instrument through the rolling programme of forthcoming legislation put to the Committee on 19 January 2006 (paper No. HSS(2)-01-06(p3a), item No 6 of HSS(2)-01-06). The Committee has identified these Regulations for scrutiny, which will take place at its meeting on 8 March 2006. **[DN – this will need updating in the light of the outcome of the Committee’s scrutiny on that day].**

## **DRAFT**

### **Review**

27. The effect of the changes will be monitored via our regular written contact with local authority financial assessment officers.

### **Summary and Benefits**

28. The range of proposals in these amendments will substantially benefit those in residential care in Wales. They will allow for more residents than presently to be financially supported by their local authority, or for that level of support to rise. They will also allow residents in Wales to benefit fully in disregard in their charging assessments from increases in certain benefits which are occurring from April. In addition, those residents who are supported by their local authority will benefit from a greater increase in their personal allowance than is being proposed for the rest of the UK. Lastly, they will put civil partners on an even footing as spouses for the purposes of residential charging.