

SL(6)588 – The Care and Support (Charging) and (Financial Assessment) (Wales) (Miscellaneous Amendments) Regulations 2025

Background and Purpose

These Regulations (“the 2025 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 govern local authorities in exercising their discretion to set a charge, contribution, or reimbursement for care and support services provided under Part 4 (meeting needs) and Part 5 (charging and financial assessment) of the Social Services and Well-being (Wales) Act 2014.

The Financial Assessment Regulations set out the method by which local authorities must carry out an assessment of a person’s financial resources in order to determine a charge where appropriate.

The 2025 Regulations amend the Charging Regulations to apply an uplift to the minimum income amount which a person in a residential care home is entitled to keep of their net weekly income, applying an increase from £43.90 to £44.65 per week. The 2025 Regulations also amend the Financial Assessment Regulations to direct that payments made by the Ministry of Defence under the new Lesbian, Gay, Bisexual and Transgender Financial Recognition Scheme are disregarded for the calculation of capital for when determining a charge.

Procedure

Negative

These 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

The following point is identified for reporting under Standing Order 21.2 in respect of this instrument.

- 1. Standing Order 21.2(v) – that for any particular reason its form or meaning needs further explanation**



Regulation 3 inserts a new paragraph 42 into Schedule 2 to the Financial Assessment Regulations, which refers to the Lesbian, Gay, Bisexual and Transgender Financial Recognition Scheme. Can the Welsh Government confirm why a definition is not provided for this term, or a footnote with a hyperlink to the UK Government website which publishes information about the Scheme to aid the reader?

Merits Scrutiny

The following two points are identified for reporting under Standing Order 21.3 in respect of this instrument.

2. 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 footnote (1) on page 4 of the 2025 Regulations, the relevant amendment history is incomplete as it does not include “S.I. 2023/424” which amended Schedule 2 to the Financial Assessment Regulations. This is significant because it appears that UK S.I. 2023/424 only amended the English text of paragraph 40 of Schedule 2 to the Financial Assessment Regulations. Therefore, the bilingual text of that provision is no longer equivalent in meaning although both language texts have equal status in law.

3. 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

These Regulations were not subject to any consultation. The Explanatory Memorandum states:

Consultation on amending the Charging Regulations is not required. A consultation on the principle of the changes being made by the amending regulations to the Charging Regulations was originally held between 21 December 2016 and 25 January 2017. Changes do not reflect a change in Welsh Government policy but instead act to update regulations to keep pace with the uplifts applied to state pension and benefits. As such consultation on an annual basis is not undertaken.

Consultation on amending the Financial Assessment Regulations is not required. Amendments in relation to the new disregards arising from changes in UK Government policy in non-devolved areas could affect a small number of individuals and does not reflect a change in Welsh Government policy (sic). Changes to the regulations are merely a technical adjustment to ensure the regulations accurately reflect the financial support schemes identified above to ensure any awards made to individuals are protected from care and support charging.

Welsh Government response

A Welsh Government response is required to reporting points 1 and 2.



Government Response:

Technical Scrutiny point 1: The Welsh Government notes the reporting point. The term used is the name given by the Ministry of Defence to the scheme. The Ministry of Defence has no other scheme which could be confused with the Lesbian, Gay, Bisexual and Transgender Financial Recognition Scheme. We note that since the Regulations were drafted that UK Treasury has made a set of Regulations for income tax purposes which makes reference to the scheme – S.I. 2025/12. A definition is provided in the Treasury Regulations but the explanation in that definition says more or less the same as the definition itself so it could be argued that it doesn't offer much more information to the reader than the title of the scheme itself. Welsh Government's view is that as the scheme is unique further explanation is not needed even if it is true that a reader would have been assisted if the footnote had contained a link to the UK Government website which contains information on the scheme.

Merit Scrutiny point 2: The Welsh Government is grateful to the Committee for pointing out that the Secretaries of State for Energy Security and Net Zero, for Science, Innovation and Technology, for Business and Trade, and for Culture, Media and Sport, and the Transfer of Functions (National Security and Investment Act 2021 etc) Order 2023 (S.I. 2023/424) made consequential amendments to the English text of the Financial Assessment Regulations but omitted to make the equivalent change to the Welsh text. Writing Laws for Wales recommends that only relevant amending instruments are cited in a footnote. It would not be usual to cite instruments making minor consequential amendments. In our view this is not changed by the equivalence issue which you have helpfully pointed out, however the Government intends to address this matter in the omnibus amending statutory instrument that will be laid before summer recess.

Legal Advisers

Legislation, Justice and Constitution Committee

20 February 2025



Senedd Cymru

Pwyllgor Deddfwriaeth, Cyfiawnder a'r Cyfansoddiad

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Welsh Parliament

Legislation, Justice and Constitution Committee