

SCHEDULE 2

Regulation 18(2)

Capital to be disregarded

1.—(1) Where A is a temporary resident but not a prospective resident, the value of A's main or only home in circumstances where—

- (a) A is taking reasonable steps to dispose of the dwelling in order that they may acquire another dwelling which they intend to occupy as their main or only home; or
- (b) A intends to return to occupy that dwelling as their main or only home and the dwelling is still available to them.

(2) Where A is a temporary resident who is a prospective resident, the value of A's main or only home in circumstances where A intends, on being provided with or securing in fact accommodation in accordance with the Act—

- (a) to take reasonable steps to dispose of the dwelling in order that they may acquire another dwelling which they intend to occupy as their main or only home; or
- (b) to return to occupy that dwelling as their main or only home and the dwelling to which A intends to return is available to them.

2.—(1) Where A is a permanent resident the value of A's main or only home which A would otherwise normally occupy ("A's home") for a period of 12 weeks beginning with the day on which A first moves into accommodation in a care home ("the first period of permanent residence").

(2) Where A—

- (a) ceases to be a permanent resident; and
- (b) subsequently becomes a permanent resident again at any time within the period of 52 weeks from the end of the first period of permanent residence,

the value of A's home for such period (if any) which when added to the period disregarded under sub-paragraph (1) in respect of their first period of permanent residence does not exceed 12 weeks in total.

(3) Where A—

- (a) ceases to be a permanent resident and is not a person to whom sub-paragraph (2) has applied; and
- (b) subsequently becomes a permanent resident again at any time after a period of more than 52 weeks from the end of the first period of permanent residence,

the value of A's home for a period of 12 weeks beginning with the day on which the second period of permanent residence begins.

(4) In this paragraph, "the second period of permanent residence" ("*yr ail gyfnod preswyllo parhaol*") means the period of permanent residence beginning at any time after the period of 52 weeks referred to in sub-paragraph (3)(b).

3. Where A is a permanent resident and there is an unexpected change in their financial circumstances the local authority may disregard the value of A's main or only home which A would normally otherwise occupy for a period of 12 weeks.

4.—(1) The value of any premises—

- (a) which would be disregarded under paragraph 2 or 4(b) of Schedule 10 to the Income Support Regulations (premises acquired for occupation, and premises occupied by a former partner) but as if for the words "his home" in each provision there were substituted "his main or only home"; or

- (b) which is occupied in whole or in part as their main or only home by a qualifying relative of A's who has occupied the premises as their main or only home since before the date on which A was first provided with or secured accommodation in a care home in accordance with the Act.

(2) A local authority may disregard the value of any premises which is occupied in whole or in part by a qualifying relative of A's as their main or only home where the qualifying relative occupied the premises after the date on which A was first provided with or secured accommodation in a care home in accordance with the Act.

(3) The value of any premises for a period of 12 weeks where the local authority has disregarded the value of the premises under sub-paragraph (1)(b) or (2) and that relative has died or is no longer occupying the premises because they have been provided with or secured accommodation in a care home.

(4) The local authority may disregard the value of any premises for a period of 12 weeks where the premises were occupied in whole or in part by a qualifying relative of A's as their main or only home and that relative is no longer occupying the premises because of an unexpected change in their circumstances.

(5) In this paragraph—

“child” (*“plentyn”*) is to be construed in accordance with section 1 of the Family Law Reform Act 1987(1);

“qualifying relative” (*“perthynas cymwys”*) means the A's—

- (a) partner;
- (b) other family member or relative who is aged 60 or over or who is incapacitated; or
- (c) child who is under 18.

5. Where A is a resident who has ceased to occupy what was formerly the dwelling occupied by them as their main or only home following their estrangement or divorce from their former partner, the value of A's interest in that dwelling where it is still occupied as the home by the former partner who is a lone parent.

6. The value of the proceeds of sale of any premises which would be disregarded under paragraph 3 of Schedule 10 to the Income Support Regulations (proceeds of sale from premises formerly occupied).

7. Any future interest in property which would be disregarded under paragraph 5 of Schedule 10 to the Income Support Regulations (future interests in property other than in certain land or premises).

8. Any assets which would be disregarded under paragraph 6 of Schedule 10 to the Income Support Regulations (business assets), but as if in sub-paragraph (2) of that paragraph for the words from “the claim for income support” to the end of that sub-paragraph there were substituted—

- (a) where A is a resident other than a prospective resident the words “the accommodation was initially provided or secured”;
- (b) where A is a prospective resident, the words “the local authority began to assess A's ability to pay for, contribute, or make reimbursements towards the cost of their accommodation under these Regulations and the Care and Support (Charging) (Wales) Regulations 2015”.

9. Any amount which would be disregarded under paragraph 7(1) of Schedule 10 to the Income Support Regulations (arrears of specified payments), but as if the words “Subject to sub-paragraph (2)” at the beginning of that sub-paragraph were omitted and as if the reference in paragraph (a) of that sub-paragraph to paragraphs 6, 8 or 9 of Schedule 9 to the Income Support

(1) 1987 c. 42.

Regulations (other income to be disregarded) were a reference to paragraphs 7 to 10 of Schedule 1 (sums to be disregarded in the calculation of income).

10. Any arrears of, or any concessionary payment made to compensate for arrears due to the non-payment of—

- (a) child tax credit;
- (b) working tax credit;
- (c) a payment which is made under any of—
 - (i) the Order in Council of 19 December 1881;
 - (ii) the Royal warrant of 27 October 1884;
 - (iii) the Order by his Majesty of 14 January 1922,

to a widow, widower or surviving civil partner under any power of Her Majesty otherwise than under an enactment to make provision about pensions for or in respect of persons who have been disabled or have died in consequence of service as members of the armed forces of the Crown and whose service in such capacity terminated before 31 March 1973, but only for a period of 52 weeks from the date of the receipt of the arrears or the concessionary payment.

11. Any amount which would be disregarded under paragraph 8 or 9 of Schedule 10 to the Income Support Regulations (property repairs and housing association deposits).

12. Any personal possessions except those which had or have been acquired by A with the intention of reducing their capital in order to satisfy a local authority that they were unable to pay towards the cost of their care and support or support.

13. Any amount which would be disregarded under paragraph 11 of Schedule 10 to the Income Support Regulations (income under an annuity).

14. Any amount which would be disregarded under paragraph 12 of Schedule 10 to the Income Support Regulations (personal injury trusts).

15. Any amount which would be disregarded under paragraph 12A of Schedule 10 to the Income Support Regulations (personal injury payments) with the exception of any payment or any part of any payment that has been specifically identified by a court to deal with the cost of providing care.

16. Any amount which would be disregarded under paragraph 13 of Schedule 10 to the Income Support Regulations (life interest or life rent).

17. The value of the right to receive any income which is disregarded under paragraph 20 of Schedule 1 (sums to be disregarded in the calculation of income).

18. Any amount which would be disregarded under paragraph 15, 16, 18, 18A or 19 of Schedule 10 to the Income Support Regulations (surrender value of life insurance policy, outstanding instalments, social fund payments, local welfare provision and tax refunds on certain loan interest).

19. Any capital which under regulation 16 (capital treated as income) is to be treated as income.

20. Any amount which would be disregarded under paragraphs 21 to 24 of Schedule 10 to the Income Support Regulations (charge or commission for converting capital into sterling, the Macfarlane Trusts, the Fund and the Independent Living Fund, value of the right to receive personal or occupational pension, value of funds under personal pension scheme and rent).

21. Any amount paid under or by the Welsh Independent Living Scheme.

22. The value of any premises which would be disregarded under paragraph 27 or 28 of Schedule 10 to the Income Support Regulations (premises a claimant intends to occupy) but as if for the words “his home” in each provision there were substituted “his main or only home”.

23. Any amount which would be disregarded under paragraphs 29 to 31, 34 and 36 to 43 of Schedule 10 to the Income Support Regulations (fund payments in kind, training bonuses, housing benefit compensation, juror or witness payments, reduction of liability for personal community charge, housing grants, travelling expenses and health service supplies, welfare food payments, health in pregnancy grant, prison visiting scheme payments, special war widows payments, disabled persons' employment payments, and blind homeworkers' payments).

24. The value of any premises occupied in whole or in part by a third party where the local authority considers it would be reasonable to disregard the value of those premises.

25. Any amount which—

- (a) falls within paragraph 44(2)(a) (damages for personal injury), and would be disregarded under paragraph 44(1)(a) or (b), of Schedule 10 to the Income Support Regulations; or
- (b) would be disregarded under paragraph 45(a) of that Schedule.

26. Any amount which would be disregarded under paragraph 61 of Schedule 10 to the Income Support Regulations (ex-gratia payment made by the Secretary of State in consequence of imprisonment or internment by the Japanese during the Second World War).

27. Any payment which would be disregarded under paragraph 64 of Schedule 10 to the Income Support Regulations (payments under a trust established out of funds provided by the Secretary of State in respect of persons who suffered or are suffering from variant Creutzfeldt-Jakob disease).

28. Any payment made by a local authority to or on behalf of A relating to welfare services in respect of which the Welsh Ministers have paid a grant to the local authority under section 93(2) of the Local Government Act 2000 where A qualified for the payment.

29. Any payment made to A pursuant to regulations made under section 2(6)(b) or 3 of the Adoption and Children Act 2002.

30. Any payment made to A under section 2 or 3 of the Age-Related Payments Act 2004 (entitlement: basic or special cases)(2).

31. Any payment made to A under Part 2 (payments to persons over the age of 65) or Part 3 (payments to persons in receipt of guarantee credit) of the Age-Related Payments Regulations 2005(3).

32. Any payment made to A under section 63(6)(b) of the Health Services and Public Health Act 1968 ("the 1968 Act") (travelling and other allowances to persons availing themselves of instruction) for the purpose of meeting childcare costs where the instruction is provided pursuant to—

- (a) section 63(1)(a) of the 1968 Act; or
- (b) section 63(1)(b) of the 1968 Act and where A is employed, or has it in contemplation to be employed, in an activity involved in or connected with a service which must or may be provided or secured as part of the health service.

33. Any payment made in accordance with regulations made pursuant to section 14F of the Children Act 1989 (special guardian support services) to A where A is a prospective special guardian or a special guardian.

34. Any payment made to A under regulations made under section 7 of the Age-Related Payments Act 2004 (power to provide future payments).

(2) 2004 c. 10.

(3) S.I. 2005/1983.