
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision under the Care Act 2014 (“the Act”) for the limitations on the local authority powers to make a charge for meeting needs under section 14 of the Act (Part 2) and in relation to financial assessments for the purposes of section 17 of the Act (Parts 3 to 5 and Schedules 1 and 2). The duty to carry out a financial assessment under section 17 of the Act applies where the local authority thinks that if it were to meet an adult’s needs for care and support, or a carer’s needs for support, it would charge the adult or carer under section 14(1) of the Act.

Section 14 of the Act (power of local authority to charge) provides that a local authority may make a charge for meeting needs under sections 18 to 20 of the Act. Regulation 3 specifies the services which are to be provided free of charge. These are community equipment (aids and minor adaptations) and, for the first 6 weeks only, intermediate care and reablement support services. Regulation 4 provides that adults suffering from variant Creutzfeldt-Jakob disease are to be provided with any services free of charge. Regulation 5 provides that where a local authority is meeting needs because either Condition 2 in section 18 of the Act or Condition 2 or 4 in section 20 of the Act is met, a charge for putting in place the arrangements to meet needs must be no more than the cost incurred by a local authority.

Section 14(7) of the Act provides that a local authority may not make a charge for services under section 14(1) of the Act if the adult or carer’s income would, after deduction of the amount of the charge, fall below the amount specified in regulations. Regulations 6 and 7 specify the personal expenses allowance for residents or temporary residents provided with accommodation in a care home and the minimum income guaranteed amount for other adults and carers provided with care and support, or support. The personal expenses allowance is £24.40 for each week. The minimum income guaranteed amount in relation to adults who have needs for care and support other than the provision of accommodation in a care home, or a carer who has needs for support, is the aggregate of the amounts set out in regulation 7(1). The amounts reflect the applicable amounts for income support and an additional amount in respect of each child for whom the adult is responsible together with any applicable premiums, in each case together with a buffer of 25%. Applicable premiums include carer premiums and disability premiums payable under the Income Support Regulations. The local authority can also include the listed premiums where it is satisfied that a person would be in receipt of the premium were they to be in receipt of income support. Regulation 8 gives local authorities a power to charge and financially assess short-term residents – persons who are provided with accommodation in a care home for a period not exceeding 8 weeks – as if they are in receipt of care and support in their own homes.

Part 3 makes provision in relation to the assessment of financial resources. Financial assessments must be carried out in accordance with Parts 3 to 5 of these Regulations. In some circumstances an authority is to be treated as having carried out a financial assessment in an adult’s case and being satisfied on that basis that their financial resources exceed, or as the case may be, do not exceed the financial limit (regulation 10). This includes where the authority, with the consent of the adult, has not carried out a financial assessment but is nevertheless satisfied from the evidence available to the authority that the adult’s resources do not exceed the financial limit. For example, where the adult is in receipt of income support.

Regulation 12 specifies the financial limit for the purposes of section 17 of the Act. If the financial resources of an adult who is provided with accommodation in a care home (a permanent resident) exceed (in terms of capital) £23,250, the local authority is not permitted to pay towards the cost of

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the provision of that accommodation. In any other case where the financial limit exceeds (in terms of capital) £23,250, the authority may (but need not) pay towards the cost of care and support.

Part 4 and Schedule 1 make provision for the treatment and calculation of income. Schedule 1 sets out the income that must or may be disregarded by the local authority.

Part 5 and Schedule 2 make provision for the treatment and calculation of capital. Schedule 2 sets out the capital sums that must or may be disregarded by the local authority.

A separate impact assessment has not been prepared for these Regulations. These Regulations are part of a package of legislative measures and the relevant impact assessment can be requested via careactconsultation@dh.gsi.gov.uk or the Department of Health, Richmond House, 79 Whitehall, London, SW1A 2NS and is available online at <http://www.gov.uk/government/organisations/department-of-health>.