
STATUTORY INSTRUMENTS

2014 No. 2672

**The Care and Support (Charging and
Assessment of Resources) Regulations 2014**

PART 5

Treatment and calculation of capital

Calculation of capital

18.—(1) The capital of the adult to be taken into account in a financial assessment is, subject to paragraph (2), to be the whole of the adult's capital calculated in accordance with this Part and any income treated as capital under regulation 19.

(2) Any capital, where applicable, specified in Schedule 2 is to be disregarded in the calculation of the adult's capital under paragraph (1).

Income treated as capital

19.—(1) Any amount by way of refund of income tax deducted from profits or emoluments chargeable to income tax under Schedule D or E is to be treated as capital.

(2) Any holiday pay which is not earnings is to be treated as capital.

(3) Except income derived from capital disregarded under paragraphs 1, 4, 9, 15, 22 and 24 of Schedule 2, any income of the adult which is derived from capital is to be treated as capital but only on the date on which it is normally due to be paid to the adult.

(4) In the case of the adult's employment as an employed earner, any advance of earnings or any loan made by the adult's employer is to be treated as capital.

(5) Any charitable or voluntary payment which is not made or due to be made at regular intervals, other than one made under the Fund, the Eileen Trust, the Macfarlane Trust, the Macfarlane (Special Payments) Trust, the Macfarlane (Special Payments) (No. 2) Trust or the Independent Living Fund, is to be treated as capital.

(6) Any voluntary payment of income made by a third party to the adult for the purpose of helping the adult to discharge any arrears of the payments required by the local authority from the adult for accommodation provided under the Act is to be treated as the capital of the adult.

(7) In this regulation, "the Fund", "the Eileen Trust", "the Macfarlane Trust", "the Macfarlane (Special Payments) Trust", "the Macfarlane (Special Payments) (No. 2) Trust" and "the Independent Living Fund" have the same meaning as in the Income Support Regulations.

Calculation of capital in the United Kingdom

20. Capital which the adult possesses in the United Kingdom is to be calculated at its current market or surrender value (whichever is the higher), less—

(a) where there would be expenses attributable to sale, 10%; and

- (b) the amount of any encumbrance secured on it.

Calculation of capital outside the United Kingdom

21. Capital which the adult possesses outside of the United Kingdom shall be calculated in accordance with the method set out in regulation 50 of the Income Support Regulations (calculation of capital outside the United Kingdom).

Notional capital

22.—(1) The adult is to be treated as possessing capital of which the adult has deprived themselves for the purpose of decreasing the amount that they may be liable to pay towards the cost of meeting their needs for care and support, or their needs for support, except—

- (a) where that capital is derived from a payment made in consequence of any personal injury and is placed on trust for the benefit of the adult;
- (b) to the extent that the capital which the adult is treated as possessing is reduced in accordance with regulation 23; or
- (c) any sum to which paragraph 44(1) or 45(a) of Schedule 10 to the Income Support Regulations (disregard of compensation for personal injuries which is administered by the Court)(1) refers.

(2) Subject to paragraph (3), the adult may be treated as possessing any payment of capital which would be treated as capital possessed by a claimant of income support under regulation 51(2) or (3) of the Income Support Regulations (notional capital)(2).

(3) For the purposes of paragraph (2), regulation 51(2)(c) of the Income Support Regulations applies as if for the reference to Schedule 10 to the Income Support Regulations there were substituted a reference to Schedule 2 to these Regulations.

(4) Where the adult is treated as possessing capital under paragraph (1) or (2), the provisions of this Part apply for the purposes of calculating its amount as if it were actual capital the adult does possess.

Diminishing notional capital rule

23.—(1) Where the adult is treated as possessing capital under regulation 22 (“notional capital”), for each week or part of a week that the local authority has determined that the adult is liable to pay towards the cost of their care and support, or support, at a higher rate than that at which the adult would have been assessed as liable to pay if the adult had had no notional capital, the amount of the adult’s notional capital is to be reduced by the method set out in paragraph (2).

(2) The local authority must reduce the amount of adult’s notional capital by the difference between—

- (a) the higher rate referred to in paragraph (1); and
- (b) the rate at which the adult would have been assessed as liable to pay towards the cost of that care and support, or support for that week or part of a week if the adult had been assessed as possessing no notional capital.

(1) Paragraphs 44 and 45 were inserted by S.I. 1994/2139. Paragraph 44 was substituted by S.I. 2006/2378. Paragraph 45 was amended by S.I. 1997/2197 and 2003/2279.

(2) Relevant amending instruments are: S.I. 1991/1559, 1993/315, 1995/2303, 1997/65, 1998/663, 1998/1445, 1998/2117, 1999/2640, 2001/3767, 2002/841, 2003/455, 2005/574, 2005/2465, 2005/2878, 2006/588, 2007/719, 2007/1749, 2008/3157 and 2010/641.

Capital jointly held

24.—(1) Where the adult and one or more other persons are beneficially entitled in possession to any capital asset except an interest in land—

- (a) unless paragraph (2) applies, each person is to be treated as if each of them were entitled in possession to an equal share of the whole beneficial interest; and
- (b) that asset is to be treated as if it were actual capital.

(2) This paragraph applies where the local authority is satisfied that the adult is beneficially entitled in possession to a share which is less than or, as the case may be, more than an equal share of the whole beneficial estate.

(3) Where paragraph (2) applies the adult's share of the whole beneficial interest will be the actual share (as determined by the local authority) and is to be treated as if it were actual capital.

Calculation of tariff income from capital

25.—(1) Where the adult's capital calculated in accordance with this Part exceeds £14,250, it is to be treated as equivalent to a weekly income of £1 for each complete £250 in excess of £14,250 but not exceeding £23,250.

(2) Notwithstanding paragraph (1) where any part of the excess is not a complete £250, that part is also to be treated as equivalent to a weekly income of £1.

(3) For the purposes of paragraph (1), capital includes any income treated as capital under regulation 19 (income treated as capital).