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

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**2014 No. 2672**

**SOCIAL CARE, ENGLAND**

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

*Made* - - - - -

*22nd October 2014*

*Laid before Parliament*

*30th October 2014*

*Coming into force in accordance with regulation 1*

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**SCHEDULE 1** — Sums to be disregarded in the calculation of income

PART 1 — Sums to be disregarded

PART 2 — Special Provisions Relating to Charitable or Voluntary Payments  
and Certain Pensions

**SCHEDULE 2** — Capital to be disregarded

The Secretary of State makes these Regulations in exercise of the powers in sections 14(5) to (8),  
17(7) to (13) and 125(7) and (8) of the Care Act 2014(a).

## PART 1

### General

#### **Citation and commencement**

**1.** These Regulations may be cited as the Care and Support (Charging and Assessment of Resources) Regulations 2014 and come into force immediately after sections 14(5) and 17(7) of the Act are both fully in force.

#### **Interpretation**

**2.—(1)** In these Regulations—

“the Act” means the Care Act 2014;

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(a) 2014 c.23. The powers to make regulations are exercisable by the Secretary of State, *see* section 125(1). Sections 14(5) to (8) and 17(7) to (13) were commenced for the purposes of making regulations by S.I. 2014/2473. Section 17(8) was commenced in modified form.

“the 1992 Act” means the Social Security Contributions and Benefits Act 1992(a);

“the adult” in relation to a financial assessment carried out by a local authority for the purposes of section 17(1), (3) or (4) of the Act means the adult or, as the case may be, the carer in respect of whom the authority is carrying out the financial assessment;

“armed forces independence payment” means armed forces independence payment under the Armed Forces and Reserved Forces (Compensation Scheme) Order 2011(b);

“attendance allowance” has the same meaning as in the Income Support Regulations;

“care home” means a care home (within the meaning given in section 3 of the Care Standards Act 2000(c)) in respect of which a person is registered under the Health and Social Care Act 2008(d) for the regulated activity of the provision of residential accommodation together with nursing or personal care;

“carer premium” means a carer premium under the Income Support Regulations;

“child benefit” means a child benefit under the 1992 Act;

“child tax credit” means a child tax credit under the Tax Credits Act 2002(e);

“council tax” is to be construed in accordance with section 1(1) of the Local Government Finance Act 1992(f);

“couple” has the same meaning as in the Income Support Regulations;

“disability living allowance” means a disability living allowance under the 1992 Act;

“disability premium” means a disability premium under the Income Support Regulations;

“employed earner” is to be construed in accordance with section 2(1)(a) of the 1992 Act(g);

“enhanced disability premium” means an enhanced disability premium under the Income Support Regulations;

“guardian’s allowance” means a guardian’s allowance under the 1992 Act;

“income support” means income support under the 1992 Act;

“Income Support Regulations” means the Income Support (General) Regulations 1987(h);

“lone parent” has the same meaning as in the Income Support Regulations;

“partner” has the same meaning as in the Income Support Regulations;

“Pension Credit Regulations” means the State Pension Credit Regulations 2002(i);

“pension credit age” means the qualifying age for state pension credit within the meaning of section 1(6) of the State Pension Credit Act 2002;

“permanent resident” means a resident who is not a temporary resident or a short-term resident;

“personal independence payment” means a personal independence payment under Part 4 of the Welfare Reform Act 2012(j);

“personal pension scheme” has the same meaning as in the Income Support Regulations;

“prospective resident” means a person for whom accommodation in a care home is proposed to be provided under the Act;

“resident” means a person who is provided with accommodation in a care home under the Act;

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(a) 1992 c.4.

(b) S.I. 2011/517.

(c) 2000 c.14.

(d) 2008 c.14.

(e) 2002 c.21.

(f) 1992 c.14.

(g) Section 2(1)(a) was amended by paragraphs 169 and 171 of Schedule 6 to the Income Tax (Earnings and Pensions) Act 2003 (c.1) and section 15(1) of the National Insurance Contributions Act 2014 (c.7).

(h) S.I. 1987/1967.

(i) S.I. 2002/1792.

(j) 2012 c.5.

“savings credit” means a savings credit under the State Pension Credit Act 2002;

“self-employed earner” is to be construed in accordance with section 2(1)(b) of the 1992 Act;

“severe disablement occupational allowance” means a severe disablement occupational allowance paid under article 10 of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006(a) or under article 16 of the Personal Injuries (Civilians) Scheme 1983(b);

“short-term resident” means a person who is provided with accommodation in a care home under the Act for a period not exceeding 8 weeks;

“temporary resident” means a resident whose stay is—

- (a) unlikely to exceed 52 weeks; or
- (b) in exceptional circumstances, unlikely to substantially exceed that period;

“working tax credit” means a working tax credit under the Tax Credits Act 2002.

(2) Where reference is made in these Regulations to the application of a provision in the Income Support Regulations, any reference to “claimant” in the provision of the Income Support Regulations is to be construed as a reference to the adult concerned.

(3) In these Regulations any reference to a resident’s accommodation in a care home, or to accommodation provided for a resident in a care home, is to be construed in the case of a resident who is a prospective resident as a reference to accommodation to be provided for that resident under section 18, 19 or 20 of the Act.

## PART 2

### Power of the local authority to charge for care and support

#### Services to be provided free of charge

3.—(1) A local authority(c) must not make a charge for meeting needs under section 14(1) of the Act where the care and support, or support which is provided to an adult, under section 18, 19 or 20 of the Act, is a service specified in paragraph (2)(a) or (b).

(2) The following are specified—

- (a) a service which consists of the provision of community equipment (aids and minor adaptations);
- (b) intermediate care and reablement support services for the first 6 weeks of the specified period or, if the specified period is less than 6 weeks, for that period.

(3) In this regulation—

“community equipment (aids and minor adaptations)” means an aid, or a minor adaptation to property, for the purpose of assisting with nursing at home or aiding daily living and for the purposes of this paragraph, an adaptation is minor if the cost of making the adaptation is £1,000 or less;

“intermediate care and reablement support services” means care and support, or support provided to an adult by the local authority under section 18, 19 or 20 of the Act which—

- (a) consists of a programme of care and support, or support;
- (b) is for a specified period of time (“the specified period”); and
- (c) has as its purpose the provision of assistance to an adult to enable the adult to maintain or regain the ability needed to live independently in their own home.

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(a) S.I. 2006/606. Article 10 was amended by S.I. 2008/679 and 2013/630.

(b) S.I. 1983/686. Article 16 was amended by S.I. 1984/1675 and 2001/420.

(c) See section 1(4) of the Act as to the meaning of “local authority”; the definition is limited to local authorities in England.

### **Adults to whom services are to be provided free of charge**

**4.** A local authority must not make a charge for meeting needs under section 14(1) of the Act where the care and support is provided to an adult, under section 18, 19 or 20 of the Act, suffering from variant Creutzfeldt-Jakob disease.

### **Costs of putting in place arrangements to meet needs**

**5.** Where a local authority is meeting needs because Condition 2 in section 18, or Condition 2 or 4 in section 20, of the Act is met, the charge the authority may make under section 14(1)(b) of the Act may only cover the cost that the authority incurs in putting in place the arrangements for meeting those needs.

### **Personal expenses allowance for residents or temporary residents provided with accommodation in a care home**

**6.** The amount specified for the purposes of section 14(7) of the Act(a) in relation to a resident or temporary resident provided with accommodation in a care home is £24.40 each week.

### **Minimum income guaranteed amount for other adults and carers whose needs are being met otherwise than by the provision of accommodation in a care home**

**7.—(1)** Subject to paragraph (8), the amount specified for each week for the purposes of section 14(7) of the Act (“the minimum income guaranteed amount”) in relation to the adult concerned specified in paragraph (2), (3), (4), (5), (6) or, as the case may be, (7) is the aggregate of—

- (a) the amount specified in relation to that adult in that paragraph(b);
  - (b) where the adult concerned is responsible for, and a member of the same household as, a child, the amount of £82.95 in respect of each child; and
  - (c) any applicable premium under paragraphs (4) to (7).
- (2) Where the adult concerned is a single person and—
- (a) is aged 18 or older but less than 25, the amount of £71.70;
  - (b) is aged 25 or older but less than pension credit age, the amount of £90.50;
  - (c) has attained pension credit age, the amount of £185.45.
- (3) Where the adult concerned is a lone parent aged 18 or over, the amount of £90.50.
- (4) Where the adult concerned is a member of a couple and—
- (a) one or both are aged 18 or over, the amount of £71.05;
  - (b) one or both have attained pension credit age, the amount of £141.55.
- (5) Where the adult concerned is a single person who is in receipt of, or the local authority considers would, if in receipt of income support, be in receipt of—
- (a) disability premium, the amount of the applicable premium is £39.85;
  - (b) enhanced disability premium, the amount of the applicable premium is £19.45.
- (6) Where the adult concerned is a member of a couple and one member of that couple is in receipt of, or the local authority considers would, if in receipt of income support, be in receipt of—
- (a) disability premium, the amount of the applicable premium is £28.35;
  - (b) enhanced disability premium, the amount of the applicable premium is £13.95.

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(a) Under section 14(7) of the Act, the local authority may not make a charge under section 14(1) of the Act if the income of the adult concerned would, after deduction of the charge, fall below the amount specified in regulations.

(b) A buffer of 25% has been added to each specified amount and the applicable premium.

(7) Where the adult concerned is in receipt of, or the local authority considers would, if in receipt of income support be in receipt of, carer premium, the amount of the applicable premium is £42.75.

(8) Where a local authority provides non-care related support for the adult concerned the minimum income guaranteed amount in relation to that adult is the amount calculated in accordance with paragraph (1) less an amount equal to the cost the local authority incurs in providing that non-care related support for the adult concerned.

(9) In this regulation—

“the adult concerned” means—

(a) an adult who has needs for care and support under section 18, 19 or 20 of the Act other than the provision of accommodation in a care home;

(b) a carer who has needs for support under section 20 of the Act;

“non-care related support” includes support which consists of services or activities such as the provision of meals on wheels, shopping or transport services or recreational activities.

**Power of the local authority to financially assess and charge a short-term resident as if the resident is receiving care and support or support other than the provision of accommodation in a care home**

8. A local authority may, if it thinks fit, financially assess and charge a short-term resident as if they are receiving care and support, or support under section 18, 19 or 20 of the Act other than the provision of accommodation in a care home.

## PART 3

### Assessment of financial resources

**Financial assessment**

9. A local authority must carry out a financial assessment of the adult under section 17(1), (3) or (4) of the Act in accordance with the provisions of Parts 3 to 5 of these Regulations.

**Circumstances in which an authority is to be treated as having carried out a financial assessment (including light touch assessments)**

10.—(1) A local authority is to be treated as having carried out a financial assessment in an adult’s case and being satisfied on that basis that the adult’s financial resources exceed the financial limit(a) where—

(a) the adult has refused a financial assessment; or

(b) the authority has been unable to carry out a full financial assessment because of the adult’s refusal to co-operate with the assessment and the local authority nevertheless decides to meet some or all of the adult’s needs for care and support, or for support.

(2) A local authority is to be treated as having carried out a financial assessment in an adult’s case and being satisfied on that basis that the adult’s financial resources do not exceed the financial limit where—

(a) with the consent of the adult, the authority has not carried out a financial assessment in accordance with these Regulations; and

(b) the authority is satisfied from the evidence available to it that the adult’s financial resources do not exceed the financial limit.

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(a) See section 17(10) of the Act as to the meaning of “the financial limit”.

(3) A local authority is to be treated as having carried out a financial assessment in an adult's case and being satisfied on that basis that the adult's financial resources exceed the financial limit where—

- (a) with the consent of the adult, the authority has not carried out a financial assessment in accordance with these Regulations; but
- (b) the authority is satisfied from the evidence available to it that the adult's financial resources do exceed the financial limit.

### **Rounding of fractions**

**11.** Where any financial assessment of the adult concerned, under section 17(1), (3) or (4) of the Act, results in a fraction of a penny, that fraction is, if it would be to that adult's advantage, to be treated as a penny, otherwise it is to be disregarded.

### **Financial limit - capital**

**12.—(1)** If the financial resources of an adult who is a permanent resident (in terms of capital) exceed £23,250, the local authority is not permitted to pay towards the cost of the provision of accommodation in a care home for that adult(a).

(2) If the financial resources of an adult who has needs for care and support other than as a permanent resident (in terms of capital) exceed £23,250, the local authority may (but need not) pay towards the cost of that care and support.

(3) If the financial resources of a carer whose needs involve the provision of support (in terms of capital) exceed £23,250, the local authority may (but need not) pay towards the cost of the provision of that support for the carer(b).

## **PART 4**

### Treatment and calculation of income

#### **Calculation of income**

**13.—(1)** The income of the adult is to be calculated on a weekly basis—

- (a) by determining, in accordance with this Part, the weekly amount of the adult's total income;
- (b) by adding to that amount the adult's weekly tariff income from capital calculated in accordance with regulation 25 (calculation of tariff income from capital).

(2) For the purposes of paragraph (1) income includes capital treated as income under regulation 16 and notional income under regulation 17.

#### **Earnings to be disregarded**

**14.—(1)** Earnings derived from employment as an employed earner or a self-employed earner are to be disregarded in the calculation of the adult's income for the purposes of the financial assessment.

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(a) See section 17(8) of the Act as to the requirement for regulations to make provision as to cases or circumstances in which, if the financial resources of an adult exceed a specified level, a local authority is not permitted to, or may (but need not) pay towards the cost of the provision of care and support for the adult. Section 17(8) has been commenced in modified form for the purposes of making regulations by S.I. 2014/2473. See also section 17(10) of the Act as to the meaning of "the financial limit".

(b) See section 17(9) of the Act as to the requirement for regulations to make provision as to cases circumstances in which, if the financial resources of a carer exceed a specified level, a local authority is not permitted to, or may (but need not), pay towards the cost of the provision of support for the carer. See also section 17(10) of the Act as to the meaning of "the financial limit".

(2) For the purposes of this regulation—

- (a) earnings in relation to an employed earner has the same meaning—
  - (i) as in regulation 35 of the Housing Benefit Regulations 2006(a);
  - (ii) where the earner has attained the qualifying age for state pension credit, as in regulation 35 of the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006 (earnings of employed earners)(b); and
- (b) earnings in relation to a self-employed earner has the same meaning as in regulation 37 of the Income Support Regulations (earnings of self-employed earners)(c).

#### **Other sums to be disregarded**

**15.**—(1) There is to be disregarded in the calculation of the adult's total income for the purposes of the financial assessment any sum, where applicable, specified in Part 1 of Schedule 1, in accordance with Part 2 of that Schedule.

(2) In a case where the adult has needs for care and support other than the provision of accommodation in a care home, or the carer has needs for support, a local authority may in carrying out the calculation of the adult or carer's income for the purposes of the financial assessment, disregard such other sums the adult or carer may receive as the authority considers appropriate.

#### **Capital treated as income**

**16.**—(1) Any capital payable to the adult by instalments which are outstanding on the date on which the adult first becomes liable to pay for their care and support, or support, is to be treated as income if the aggregate of the instalments outstanding and the amount of the adult's capital calculated in accordance with Part 5 exceed the amount specified in regulation 41(1) of the Income Support Regulations (capital treated as income)(d).

(2) Any payment received under an annuity is to be treated as income.

(3) Any earnings to the extent that they are not a payment of income are to be treated as income.

(4) Any payment of capital made or due to be made to a local authority by a third party pursuant to an agreement between the authority and the third party in connection with the liability of the adult to pay the local authority for accommodation provided under the Act is to be treated as part of the income of the adult, unless it is a voluntary payment made for the purposes of discharging any arrears of payments required by the local authority from the adult for their accommodation.

(5) Where an agreement or court order provides that payments are to be made to the adult in consequence of any personal injury to them and that such payments are to be made wholly or partly by way of periodical payments, any such periodical payments received by the adult, to the extent that they are not a payment of income, are to be treated as income.

#### **Notional income**

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

(2) The adult is to be treated as possessing any income which would be treated as income possessed by a claimant of income support under regulation 42(2) to (4A) of the Income Support Regulations (notional income)(e).

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(a) S.I. 2006/213. Regulation 35 was amended by S.I. 2007/2618, 2009/2655, 2012/757 and 2014/591.

(b) S.I. 2006/214. Regulation 35 was amended by S.I. 2009/2655, 2012/757 and 2014/591.

(c) Regulation 37 was amended by S.I. 1991/387, 1992/2155, 1994/2139 and 1999/2165.

(d) Paragraph (1) was substituted by S.I. 1999/3178 and amended by S.I. 2005/2465.

(e) Relevant amending instruments are: S.I. 1991/1559, 1992/468, 1992/1198, 1993/315, 1994/527, 1995/2303, 1995/2792, 1996/206, 1998/563, 1998/663, 1998/1445, 1998/2117, 1999/2640, 1999/3156, 1999/3178, 1999/3324, 2001/859,

(3) Subject to paragraph (4), the adult is to be treated as possessing any income paid or due to be paid to a local authority by a third party pursuant to an agreement between the local authority and the third party made in connection with the liability of the adult to pay towards the cost of accommodation provided for the adult under the Act.

(4) The adult is not to be treated as possessing any voluntary payment of income made by a third party to a local authority for the purpose of discharging any arrears of the payments required by the authority from the adult for accommodation provided under the Act.

## 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.

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2001/1029, 2002/841, 2002/3019, 2003/455, 2005/574, 2005/2465, 2005/2687, 2005/2878, 2006/588, 2007/719, 2007/1749, 2008/698, 2008/2767, 2008/3157, 2009/2655, 2010/641, 2011/1707, 2011/2425 and 2013/276.

## **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)(a) 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)(b).

(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.

## **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

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(a) 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.

(b) 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.

(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).

Signed by authority of the Secretary of State for Health.

*Norman Lamb*  
Minister of State  
Department of Health

22nd October 2014

## **SCHEDULE 1**

Regulation 15

### **Sums to be disregarded in the calculation of income**

#### **PART 1**

##### **Sums to be disregarded**

**1.** Any amount paid by way of tax on income which is taken into account under regulation 13 (calculation of income).

**2.**—(1) Subject to sub-paragraph (2), where the adult has needs for care and support other than the provision of accommodation in a care home, or is a temporary resident, any housing-related costs which the adult is liable to meet in respect of the adult's main or only home.

(2) Sub-paragraph (1) does not apply to the extent that the housing-related costs which the adult is liable to meet are a payment or an amount which is disregarded under paragraph 3.

(3) In this paragraph, "housing-related costs" means any mortgage repayments, payments by way of rent or ground rent, council tax or service charges (other than service charges which are ineligible under Schedule 1 to the Housing Benefit Regulations 2006).

**3.**—(1) Any payment which would be disregarded under paragraph 5 of Schedule 9 to the Income Support Regulations (housing benefit)(a).

(2) Any payment of income support towards housing costs determined in accordance with Schedule 3 to the Income Support Regulations (housing costs) or any amount that the local authority considers would be determined as a payment towards housing costs if the adult were in receipt of income support.

(3) Any payment which would be disregarded under paragraph 46 of Schedule 9 to the Income Support Regulations (reduction of liability for council tax)(b).

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(a) Paragraph 5 was substituted by S.I. 2008/3157.

(b) Paragraph 46 was substituted by S.I. 2008/698 and amended by S.I. 2013/443.

**4.**—(1) Where a local authority takes into account in the calculation of income any disability benefits the adult receives, any disability-related expenditure incurred by the adult.

(2) In this paragraph—

“disability benefits” means any attendance allowance (other than severe disablement occupational allowance), disability living allowance or personal independence payment;

“disability-related expenditure” includes payment for any community alarm system, costs of any privately arranged care services required including respite care, and the costs of any specialist items needed to meet the adult’s disability.

**5.** Any direct payment received by the adult or in the case of an adult without capacity, the authorised person(a), in accordance with sections 31 to 33 of the Act.

**6.** Any payment in respect of any expenses incurred by the adult who is—

- (a) engaged by a charitable or voluntary body; or
- (b) a volunteer,

if the adult derives no remuneration or profit from the employment.

**7.** Any payment which would be disregarded under paragraph 3 or 4A of Schedule 9 to the Income Support Regulations (employed earner expenses and statutory sick pay in Northern Ireland)(b).

**8.** The mobility component of any disability living allowance or the mobility component of personal independence payment.

**9.** Any armed forces independence payment.

**10.** Any payment which would be disregarded under paragraph 8 of Schedule 9 to the Income Support Regulations (mobility supplement).

**11.** If the adult is a temporary resident—

- (a) any attendance allowance;
- (b) the care component of any disability living allowance; or
- (c) the daily living component of any personal independence payment.

**12.** Any concessionary payment made to compensate for the non-payment of—

- (a) any payment specified in paragraph 8 or 11; or
- (b) any income support.

**13.** Any amount which would be disregarded under paragraph 10 or 11 of Schedule 9 to the Income Support Regulations (payments to medal recipients and educational awards)(c).

**14.** Any amount which would be disregarded under paragraph 13 of Schedule 9 to the Income Support Regulations (participants in training schemes)(d).

**15.**—(1) Except where sub-paragraph (2) applies, and subject to paragraphs 45 and 46, any relevant payment made or due to be made at regular intervals other than any payment which is to be disregarded under paragraph 31.

(2) Subject to paragraph 46, any relevant payment made or due to be made at regular intervals which is intended and used for any item which was not specified in the personal budget but was specified in the care and support plan or support plan.

(3) In this paragraph, “relevant payment” means—

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(a) See section 32(4) of the Act for the definition of “authorised person”.

(b) Paragraph 4A was inserted by S.I. 1988/663 and amended by S.I. 2002/2689 and 2012/757.

(c) Paragraph 11 was substituted by S.I. 2004/1708 and amended by S.I. 2008/3157 and 2011/2425.

(d) Paragraph 13 was substituted by S.I. 2004/565 and amended by S.I. 2008/1554.

- (a) a charitable payment;
- (b) a voluntary payment;
- (c) a payment (not falling within sub-paragraph (a) or (b)) from a trust whose funds are derived from a payment made in consequence of any personal injury to the adult;
- (d) a payment under an annuity purchased—
  - (i) pursuant to any agreement or court order to make payments to the adult; or
  - (ii) from funds derived from a payment made, in consequence of any personal injury to the adult; or
- (e) a payment (not falling within sub-paragraphs (a) to (d)) received by virtue of any agreement or court order to make payments to the resident in consequence of any personal injury to the adult.

**16.**—(1) Subject to sub-paragraphs (2) and (3), where the adult—

- (a) is not residing with their spouse or civil partner; and
- (b) at least 50% of any occupational pension of the adult, or of any income from a personal pension scheme of the adult, is being paid to, or in respect of, their spouse for that spouse's maintenance or their civil partner for that civil partner's maintenance, an amount equal to 50% of the pension, pensions or income concerned.

(2) Where the adult is entitled to pensions or income referred to in sub-paragraph (1) from more than one source, all pensions and income to which the adult is entitled are to be aggregated for the purposes of that sub-paragraph.

(3) This paragraph does not have effect in respect of that part of any pension or income referred to in sub-paragraph (1) to which the adult's spouse or civil partner is legally entitled, whether or not under a court order.

**17.** Any amount which would be disregarded under paragraph 16 of Schedule 9 to the Income Support Regulations (specified pensions)(a) save for paragraph 16(cc), but as if the reference in paragraph 16 of that Schedule to paragraphs 36 and 37 of Schedule 9 to the Income Support Regulations were a reference to paragraph 46 of this Schedule and as if the reference in paragraph 16(a) of Schedule 9 to the Income Support Regulations to paragraph 8 or 9 of Schedule 9 to the Income Support Regulations were a reference to paragraph 10 or 11 of this Schedule.

**18.** Any guaranteed income payment referred to in article 15(1)(c) of the Armed Forces and Reserve Forces (Compensation Scheme) Order 2011(b).

**19.** Subject to paragraph 46, £10 of any survivor's guaranteed income payment referred to in article 29(1)(a) of the Armed Forces and Reserve Forces (Compensation Scheme) Order 2011 and, if the amount of that payment has been abated to less than £10 by a pension falling within article 39(1)(a) of that Order, so much of that pension as would not, in aggregate with the amount of any survivor's guaranteed income payment disregarded, exceed £10.

**20.** Any payment which would be disregarded under paragraphs 17 to 20 of Schedule 9 to the Income Support Regulations (annuities, payments by third parties towards living costs, contractual payments in respect of occupation of a dwelling and payments by lodgers)(c).

**21.** Any income in kind.

**22.**—(1) Any income derived from capital to which the adult is or is treated under regulation 24 (capital jointly held) as beneficially entitled but, subject to sub-paragraph (2), not income derived from capital disregarded under paragraph 1, 4, 9, 15 or 22 of Schedule 2.

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(a) Paragraph 16 was substituted by S.I. 1995/2792 and amended by S.I. 2000/2239, 2002/841, 2005/574, 2005/2877, 2008/3157 and 2009/2655.

(b) S.I. 2011/517.

(c) Paragraph 17 was amended by S.I. 1994/2139. Paragraph 18 was substituted by S.I. 1995/516. Paragraphs 19 and 20 were substituted by S.I. 1994/527 and paragraph 19 amended by S.I. 1995/516 and 2007/2618.

(2) Any income derived from capital disregarded under paragraph 4, 22 or 24 of Schedule 2 but only to the extent of any mortgage repayments and payments of council tax or water charges which the adult is liable to make in respect of the dwelling or premises in the period during which that income accrued.

**23.** Any income which would be disregarded under paragraph 23 of Schedule 9 to the Income Support Regulations (income outside the United Kingdom).

**24.** Any amount which would be disregarded under paragraph 24 of Schedule 9 to the Income Support Regulations (charge or commission for converting income into sterling).

**25.**—(1) Any payment made to the adult in respect of a child or young person who is a member of the adult's family—

- (a) pursuant to regulations made under section 2(6)(b) or 3 of the Adoption and Children Act 2002(a);
- (b) in accordance with an adoption allowance scheme made under section 71 of the Adoption and Children (Scotland) Act 2007 (adoption allowances schemes)(b);
- (c) which is a payment made by a local authority in pursuance of section 15(1) of, and paragraph 15 of Schedule 1 to, the Children Act 1989 (local authority contribution to a child's maintenance where a child is living with a person as a result of a child arrangements order)(c).

(2) Any payment, other than a payment to which sub-paragraph (1)(a) applies, made to the adult pursuant to regulations made under section 2(6)(b) of the Adoption and Children Act 2002.

**26.** Any payment which would be disregarded under paragraph 26 or 28 of Schedule 9 to the Income Support Regulations (provision of accommodation and maintenance for children in care, and local authorities' duty to promote the welfare of children and powers to grant financial assistance to persons in or formerly in their care)(d).

**27.** Any payment received under an insurance policy, taken out to insure against the risk of being unable to maintain repayments on a loan to acquire or retain an interest in a dwelling occupied by the adult as their main or only home, or for repairs and improvements to that home, and used to meet such repayments, to the extent that it does not exceed the aggregate of—

- (a) the amount payable, calculated on a weekly basis, of any interest on the loan;
- (b) the amount of any payment, calculated on a weekly basis, due on the loan attributable to the repayment of capital; and
- (c) the amount, calculated on a weekly basis, of the premium due on that policy.

**28.** Any payment which would be disregarded under paragraph 31 or 31A of Schedule 9 to the Income Support Regulations (social fund payments and local welfare provision)(e).

**29.** Any payment of income which under regulation 19 (income treated as capital) is to be treated as capital.

**30.** Any payment which would be disregarded under paragraph 33 of Schedule 9 to the Income Support Regulations (pensioner's Christmas bonus)(f).

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(a) 2002 c.38.  
(b) 2007 asp 4.  
(c) 1989 c.41. Section 15(1) was amended by paragraph 10(1) of Schedule 16 to the Courts and Legal Services Act 1990 (c.41). Paragraph 15 of Schedule 1 was amended by section 78(3) of the Civil Partnership Act 2004 (c.33) and paragraph 40(4) of Schedule 2 to the Children and Families Act 2014 (c.6).  
(d) Paragraph 26 was substituted by S.I. 2010/2429. Paragraph 28 was substituted by S.I. 2008/698 and amended by S.I. 2010/2429.  
(e) Paragraph 31 was substituted by S.I. 1992/468 and amended by S.I. 2008/3157. Paragraph 31A was inserted by S.I. 2013/443.  
(f) Paragraph 33 was amended by S.I. 2008/3157.

**31.** Any payment which would be disregarded under paragraph 39 of Schedule 9 to the Income Support Regulations (the Fund, the Macfarlane Trusts and other trusts and Funds and the Independent Living Fund)(**a**).

**32.** Any amount which would be disregarded under paragraphs 40, 43 and 48 to 51 of Schedule 9 to the Income Support Regulations (housing benefit compensation, juror and witness payments, travelling expenses and health service supplies, welfare food payments, prison visiting scheme payments and disabled persons' employment payments)(**b**).

**33.**—(1) Any child benefit, except in circumstances where the adult is accompanied by the child or qualifying young person in respect of whom the child benefit is payable, and accommodation is provided for that child or qualifying young person under the Act.

(2) In this paragraph, "child" and "qualifying young person" have the same meaning as in section 142 of the 1992 Act(**c**).

**34.** Any payment which would be disregarded under paragraph 53 of Schedule 9 to the Income Support Regulations (increases in rates of benefits etc)(**d**).

**35.** Any payment which would be disregarded under paragraphs 54 to 56 of Schedule 9 to the Income Support Regulations (supplementary pensions etc)(**e**).

**36.** Any payment made by a local authority to or on behalf of the adult relating to the provision of a service, where—

- (a) that service is provided to develop or sustain the capacity of the adult to live independently in the community; and
- (b) any charge for that service would be a service charge of the kind specified in Schedule 1B to the Housing Benefit (General) Regulations 1987(**f**) as in force immediately before the 1st April 2003.

**37.** The amount of any payment made by the adult to the local authority in payment of a charge imposed on the adult by the authority under the Local Authorities (Charges for Specified Welfare Services) (England) Regulations 2003(**g**).

**38.** Any guardian's allowance.

**39.** Any child tax credit.

**40.**—(1) Where the adult is in receipt of savings credit as a person who has no partner and has qualifying income not exceeding the standard minimum guarantee—

- (a) the amount of that savings credit where the amount received is £5.75 or less; or
- (b) £5.75 of that savings credit where the amount received is greater than £5.75.

(2) Where the adult—

- (a) has no partner;
- (b) has attained the age of 65; and
- (c) has qualifying income in excess of the standard minimum guarantee,

a sum of £5.75.

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- (a) Paragraph 39 was inserted by S.I. 1988/663, substituted by S.I. 1991/1175 and amended by S.I. 1992/1101, 1993/963, 1993/1249, 2000/1981, 2004/2308, 2005/2877, 2005/3391, 2008/2767, 2010/641 and 2011/2425.
  - (b) Paragraph 40 was inserted by S.I. 1988/1445. Paragraph 43 was inserted by S.I. 1988/2022. Paragraphs 48 to 50 were inserted by S.I. 1990/1776. Paragraphs 48 and 49 were substituted by S.I. 2008/3157. Paragraph 50 was amended by S.I. 2007/2128 and 2008/3157. Paragraph 51 was inserted by S.I. 1992/468 and amended by S.I. 2004/565.
  - (c) Section 142 was substituted by section 1(2) of the Child Benefit Act 2005 (c.6).
  - (d) Paragraph 53 was inserted by S.I. 1994/527 and substituted by S.I. 2008/3157.
  - (e) Paragraphs 54 to 56 were inserted by S.I. 1994/2139. Paragraphs 55 and 56 were amended by S.I. 2005/2877 and paragraph 56 amended by S.I. 2008/3157.
  - (f) S.I. 1987/1971. Schedule 1B was inserted by S.I. 1999/2734. The Regulations were revoked from 6th March 2006 by S.I. 2006/217.
  - (g) S.I. 2003/907.

(3) Where the adult is in receipt of savings credit as a person who has a partner and has qualifying income not exceeding the standard minimum guarantee—

- (a) the amount of that savings credit where the amount received is £8.60 or less; or
- (b) £8.60 of that savings credit where the amount received is greater than £8.60.

(4) Subject to sub-paragraph (5), where the adult—

- (a) has a partner;
- (b) has—
  - (i) attained the age of 65; or
  - (ii) has attained pension credit age and the adult's partner has attained the age of 65; and
- (c) has qualifying income in excess of the standard minimum guarantee,

a sum of £8.60.

(5) Where—

- (a) the sum referred to in sub-paragraph (4) has been disregarded in the assessment of the adult's partner's income under these Regulations; or
- (b) the adult's partner is in receipt of savings credit,  
sub-paragraph (4) does not apply to the adult.

(6) For the purposes of this paragraph—

- (a) the adult has a partner if the adult would be considered to have a partner for the purposes of the Pension Credit Regulations;
- (b) “qualifying income” is to be construed in accordance with regulation 9 of the Pension Credit Regulations(a) and for the purposes of sub-paragraphs (3) and (4) the adult's qualifying income includes any qualifying income of the adult's partner;
- (c) “standard minimum guarantee” means, for the purposes of—
  - (i) sub-paragraphs (1) and (2), the amount prescribed by regulation 6(1)(b) of the Pension Credit Regulations(b); and
  - (ii) sub-paragraphs (3) and (4), the amount prescribed by regulation 6(1)(a) of the Pension Credit Regulations.

**41.** Any payment made to a temporary resident in lieu of concessionary coal pursuant to section 19(1)(b) or (c) of the Coal Industry Act 1994(c).

**42.** Any payment made to the adult under section 63(6)(b) of the Health Services and Public Health Act 1968(d) (“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 the adult 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.

**43.** Any payment made in accordance with regulations made pursuant to section 14F of the Children Act 1989 (special guardian support services)(e) to an adult who is a prospective special guardian or a special guardian.

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(a) Regulation 9 was amended by S.I. 2008/1554 and 2013/630.

(b) The amounts in regulation 6 were up-rated by S.I. 2014/516.

(c) 1994 c.21.

(d) 1968 c.46. Section 63(1)(a) was amended by paragraph 95(2)(a) of Schedule 1 to the Health Authorities Act 1995 (c.17), paragraph 3(a) of Schedule 4 to the Health Act 1999 (c.8), paragraph 2 of Schedule 5 to the National Health Service Reform and Health Care Professions Act 2002 (c.17), paragraph 12(2) of Schedule 5 to the Health and Social Care Act 2012 (c.7) and S.I. 2007/961.

(e) Section 14F was inserted by section 115(1) of the Adoption and Children Act 2002 (c.38).

**44.**—(1) Where the adult is a student, any grant or other award, student loan, income used to make repayments on a student loan or other payment received by that student for the purposes of their course of study at an educational establishment.

(2) In this paragraph, “course of study”, student and “student loan” have the same meaning as in the Income Support Regulations.

## PART 2

Special provisions relating to charitable or voluntary payments and certain pensions

**45.** Paragraph 15 does not apply to any payment which is made or due to be made—

- (a) by the adult for the maintenance of any member of the adult’s family or of the adult’s former partner or of the adult’s children; or
- (b) by a third party pursuant to an agreement between the local authority and that third party in connection with the liability of the adult to pay the local authority for the adult’s accommodation.

**46.** The total income to be disregarded pursuant to paragraphs 15(2) and 17 must in no case exceed the amount per week specified in paragraph 36 of Schedule 9 to the Income Support Regulations (ceiling for aggregated disregards)(a).

## SCHEDULE 2

Regulation 18(2)

### Capital to be disregarded

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

- (a) the adult 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) the adult intends to return to occupy that dwelling as their main or only home and the dwelling is still available to them.

(2) Where the adult is a temporary resident who is a prospective resident, the value of the adult’s main or only home in circumstances where the adult intends, on being provided in fact with accommodation under 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 the adult intends to return is available to them.

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

(2) Where the adult—

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

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(a) Paragraph 36 was amended by S.I. 1990/1657, 1996/462, 2000/1922 and 2006/2378.

(3) Where the adult—

- (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 residence, the value of the adult'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” means the period of permanent residence beginning at any time after the period of 52 weeks referred to in subparagraph (3)(b).

**3.** Where the adult is a permanent resident and there is an unexpected change in their financial circumstances the local authority may disregard the value of the adult's main or only home which the adult 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)(a) 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 the adult who has occupied the premises as their main or only home since before the date on which the adult was first provided with accommodation in a care home under 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 the adult as their main or only home where the qualifying relative occupied the premises after the date on which the adult was first provided with accommodation in a care home under 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 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 the adult 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” is to be construed in accordance with section 1 of the Family Law Reform Act 1987(b);

“qualifying relative” means the adult'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.** In the case of an adult who 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 the adult's interest in that dwelling where it is still occupied as the home by the former partner who is a lone parent.

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(a) Paragraph 2 was amended by S.I. 1988/1445. Paragraph 4(b) was amended by S.I. 1988/910 and 2005/2877.

(b) 1987 c.42. Section 1 was amended by paragraph 51 of Schedule 3 to the Adoption and Children Act 2002, paragraph 24 of Schedule 6 to the Human Fertilisation and Embryology Act 2008 (c.22) and S.I. 2014/560.

**6.** In the case of an adult who is in receipt of care and support other than the provision of accommodation in a care home, the value of the adult's main or only home.

**7.** 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).

**8.** 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)(**a**).

**9.** Any assets which would be disregarded under paragraph 6 of Schedule 10 to the Income Support Regulations (business assets)(**b**), 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) in the case of the adult who is a resident other than a prospective resident the words "the accommodation was initially provided";
- (b) in the case of the adult who is a prospective resident, the words "the local authority began to assess the adult's ability to pay for their accommodation under these Regulations".

**10.** Any amount which would be disregarded under paragraph 7(1) of Schedule 10 to the Income Support Regulations (arrears of specified payments)(**c**), but as if the words "Subject to subparagraph (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 Regulations (other income to be disregarded) were a reference to paragraphs 8 to 11 of Schedule 1 to these Regulations (other income to be disregarded).

**11.** 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 19th December 1881;
  - (ii) the Royal warrant of 27th October 1884;
  - (iii) the Order by his Majesty of 14th 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 31st March 1973,

but only for a period of 52 weeks from the date of the receipt of the arrears or the concessionary payment.

**12.** Any amount which would be disregarded under paragraph 8 or 9 of Schedule 10 to the Income Support Regulations (property repairs and amounts deposited with a housing association).

**13.** Any personal possessions except those which had or have been acquired by the adult 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.

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(a) Paragraph 5 was substituted by S.I. 1995/2303.

(b) Paragraph 6 was amended by S.I. 1990/1776, 1998/1174 and 2000/2910.

(c) Paragraph 7(1) was amended by S.I. 1991/2742, 1996/1944, 2001/2333, 2002/2380, 2005/574, 2008/698, 2008/1554 and 2013/630.

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

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

**16.** Any amount which would be disregarded under paragraph 12A of Schedule 10 to the Income Support Regulations (personal injury payments)(**b**) 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.

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

**18.** The value of the right to receive any income which is disregarded under paragraph 21 of Schedule 1 (income to be disregarded).

**19.** 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)(**c**).

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

**21.** 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)(**d**).

**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)(**e**) 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(**f**), 34(**g**) and 36 to 43(**h**) 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—

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(a) Paragraph 12 was substituted by S.I. 1990/1776 and amended by S.I. 2006/2378.

(b) Paragraph 12A was inserted by S.I. 2006/2378.

(c) Paragraph 18 was substituted by S.I. 1992/468. Paragraphs 18 and 19 were amended by S.I. 2008/3157. Paragraph 18A was inserted by S.I. 2013/443.

(d) Paragraphs 22, 23 and 24 were inserted by S.I. 1988/663. Paragraph 22 was substituted by S.I. 1991/1175 and amended by S.I. 1992/1101, 1993/1249, 2000/1981, 2004/1141, 2005/2877, 2005/3391, 2008/2767, 2010/641 and 2011/2425. Paragraph 23 was amended by S.I. 1991/1559. Paragraph 23A was inserted by S.I. 1995/2303 and amended by S.I. 2007/1749. Paragraph 24 was amended by S.I. 1995/2303.

(e) Paragraphs 27 and 28 were inserted by S.I. 1988/910 and paragraph 27 substituted by S.I. 1988/2202.

(f) Paragraphs 29 to 31 were inserted by S.I. 1988/1445. Paragraph 29 was amended by S.I. 1990/127, 1992/1101, 2007/2538, 2008/2767, 2010/641 and 2011/2425. Paragraph 30 was substituted by S.I. 2004/565.

(g) Paragraph 34 was inserted by S.I. 1988/2202.

(h) Paragraphs 36 and 37 were inserted by S.I. 1990/547 and paragraph 36 amended by S.I. 1993/315, 2008/698 and 2013/443. Paragraphs 38 to 41 were inserted by S.I. 1990/1776 and paragraphs 38 and 39 substituted by S.I. 2008/3157. Paragraph 39A was inserted by S.I. 2009/583. Paragraph 40 was amended by S.I. 2007/2128 and 2008/3157. Paragraph 41 was substituted by S.I. 2008/3157. Paragraphs 42 and 43 were inserted by S.I. 1992/468 and paragraph 42 amended by S.I. 2004/565.

- (a) falls within paragraph 44(2)(a), and would be disregarded under paragraph 44(1)(a) or (b), of Schedule 10 to the Income Support Regulations(a); 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 a person's imprisonment or internment by the Japanese during the Second World War)(b).

**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)(c).

**28.** Any payment made by a local authority to or on behalf of the adult relating to the provision of a service, where—

- (a) that service is provided to develop or sustain the capacity of the adult to live independently in the community; and
- (b) any charge for that service would be a service charge of the kind specified in Schedule 1B to the Housing Benefit (General) Regulations 1987 as in force immediately before 1st April 2003.

**29.** Any payment made by the adult to the local authority in payment of a charge imposed on the adult by the authority under the Local Authorities (Charges for Specified Welfare Services) (England) Regulations 2003.

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

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

**32.** Any payment made to the adult 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(e).

**33.** Any payment made to the adult 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 the adult 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.

**34.** Any payment made in accordance with regulations made pursuant to section 14F of the Children Act 1989 (special guardian support services) to an adult who is a prospective special guardian or a special guardian.

**35.** Any payment made to the adult under regulations made under section 7 of the Age-Related Payments Act 2004 (power to provide future payments)(f).

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(a) 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.

(b) Paragraph 61 was inserted by S.I. 2001/22 and amended by S.I. 2005/2877.

(c) Paragraph 64 was inserted by S.I. 2001/1118 and amended by S.I. 2005/2687 and 2006/718.

(d) 2004 c.10.

(e) S.I. 2005/1983.

(f) Section 7 was amended by S.I. 2013/1442.

## 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 Creutzfeld-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 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>.

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