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WELSH STATUTORY INSTRUMENTS

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**2015 No. 1844**

**The Care and Support (Financial  
Assessment) (Wales) Regulations 2015**

**PART 3**

**Treatment and calculation of income**

**Calculation of income**

**13.**—(1) A's income is to be calculated on a weekly basis by determining, in accordance with this Part, the weekly amount of A's total income.

(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 A's income for the purposes of the financial assessment.

(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<sup>(1)</sup>;
  - (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)<sup>(2)</sup>; 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).

**Other sums to be disregarded**

**15.** There is to be disregarded in the calculation of A'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.

**Capital treated as income**

**16.**—(1) Any capital payable to A by instalments which are outstanding on the date on which A first becomes liable to pay for (or where A is or will be receiving direct payments, contribute or make reimbursements towards the cost of securing the provision of) the care and support, is to be treated as income if the aggregate of the instalments outstanding and the amount of A's capital

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(1) [S.I. 2006/213](#). Regulation 35 was amended by [S.I. 2007/2618](#), [2009/2655](#), [2014/591](#) and [3255](#).

(2) [S.I. 2006/214](#). Regulation 35 was amended by [S.I. 2009 / 2655](#), [2012/757](#), [2014/591](#) and [3255](#).

calculated in accordance with Part 4 exceeds the amount specified in regulation 41(1) of the Income Support Regulations (capital treated as income).

(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) Subject to paragraph (5), A is to be treated as possessing any capital 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 A's liability to pay, contribute or make reimbursements to the local authority towards the cost of accommodation provided or secured for A under the Act.

(5) A is not to be treated as possessing any voluntary payment of capital made by a third party to a local authority for the purpose of discharging any arrears of the payments, contributions or reimbursements required by the local authority from A for accommodation provided or secured under the Act.

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

### **Notional income**

**17.—**(1) A is to be treated as possessing income which A has deprived himself or herself for the purpose of decreasing the amount A is or may be liable to pay towards the cost of meeting or securing the provision of care and support to meet A's needs.

(2) A 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).

(3) Subject to paragraph (4), A 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 A's liability to pay, contribute, or make reimbursements to the local authority towards the cost of accommodation provided or secured for A under the Act.

(4) A 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, contributions or reimbursements required by the authority from A for accommodation provided or secured in accordance with the Act.