

WELSH STATUTORY INSTRUMENTS

2015 No. 1844

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

PROSPECTIVE

PART 1

General

Title, commencement and application

1.—(1) The title of these Regulations is the Care and Support (Financial Assessment) (Wales) Regulations 2015.

(2) These Regulations come into force on 6 April 2016.

(3) These Regulations apply in relation to Wales.

Commencement Information

II Reg. 1 in force at 6.4.2016, see [reg. 1\(2\)](#)

Interpretation

2.—(1) In these Regulations—

“the Act” (“*y Ddeddf*”) means the Social Services and Well-being (Wales) Act 2014;

“the 1992 Act” (“*Deddf 1992*”) means the Social Security Contributions and Benefits Act 1992(1);

“the Charging Regulations” (“*y Rheoliadau Gosod Ffioedd*”) means the Care and Support (Charging) (Wales) Regulations 2015(2);

“the Income Support Regulations” (“*y Rheoliadau Cymhorthdal Incwm*”) means the Income Support (General) Regulations 1987(3);

“the Pension Credit Regulations” (“*y Rheoliadau Credyd Pensiwn*”) means the State Pension Credit Regulations 2002(4);

“A” (“*A*”) means an adult—

(a) whose financial resources are to be assessed in accordance with regulation 6 or regulation 8, or

(1) 1992 c. 4.
(2) 2015/1843 (W. 271)
(3) S.I. 1987/1967.
(4) S.I. 2002/1792.

Status: This version of this Instrument contains provisions that are prospective.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Care and Support (Financial Assessment) (Wales) Regulations 2015. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (b) who falls within the circumstances specified in regulation 7;
- “armed forces independence payment” (“*taliad annibyniaeth y lluoedd arfog*”) means armed forces independence payment under the Armed Forces and Reserved Forces (Compensation Scheme) Order 2011⁽⁵⁾;
- “attendance allowance” (“*lwfans gweini*”) has the same meaning as in the Income Support Regulations;
- “child benefit” (“*budd-dal plant*”) means a child benefit under the 1992 Act;
- “child tax credit” (“*credyd treth plant*”) means a child tax credit under the Tax Credits Act 2002⁽⁶⁾;
- “council tax” (“*treth gyngor*”) is to be construed in accordance with section 1(1) of the Local Government Finance Act 1992⁽⁷⁾;
- “direct payment” (“*taliad uniongyrchol*”) has the meaning given in sections 50(7) and 52(7) of the Act;
- “disability living allowance” (“*lwfans byw i’r anabl*”) means a disability living allowance under the 1992 Act;
- “employed earner” (“*enillydd cyflogedig*”) is to be construed in accordance with section 2(1) (a) of the 1992 Act⁽⁸⁾;
- “flat-rate charge” (“*ffi unffurf*”) means a fixed rate charge which is imposed by a local authority regardless of the means of the person who is liable to be charged for—
- (a) care and support arranged or provided by a local authority under Part 4 of the Act (meeting needs); or
- (b) services provided under section 15 (preventative services) or for assistance provided under section 17 (provision of information, advice and assistance) of the Act;
- “guardian’s allowance” (“*lwfans gwarcheidwad*”) means a guardian’s allowance under the 1992 Act;
- “home visiting facility” (“*cyfleuster ymweld â’r cartref*”) means a visit (or visits) which are undertaken by an appropriate officer of a local authority to a person’s current place of residence, or at such other venue as the person reasonably requests, for the purposes of gathering information to inform a financial assessment for that person and for providing information and offering assistance in relation to that process;
- “income support” (“*cymhorthdal incwm*”) means income support under the 1992 Act;
- “lone parent” (“*unig riant*”) has the same meaning as in the Income Support Regulations;
- “partner” (“*partner*”) has the same meaning as in the Income Support Regulations;
- “pension credit age” (“*oedran credyd pensiwn*”) means the qualifying age for state pension credit within the meaning of section 1(6) of the State Pension Credit Act 2002⁽⁹⁾;
- “permanent resident” (“*preswylydd parhaol*”) means a resident who is not a temporary resident or a short-term resident;
- “personal independence payment” (“*taliad annibyniaeth bersonol*”) means a personal independence payment under Part 4 of the Welfare Reform Act 2012⁽¹⁰⁾;

(5) S.I. 2011/517.

(6) 2002 c. 21.

(7) 1992 c. 14.

(8) 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).

(9) 2002 c. 16.

(10) 2012 c. 5.

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“personal pension scheme” (“*cynllun pensiwn personol*”) has the same meaning as in the Income Support Regulations;

“prospective resident” (“*darpar breswylydd*”) means a person for whom accommodation in a care home is proposed to be provided under the Act(11);

“reablement” (“*gofal a chymorth ailalluogi*”) means care and support—

- (a) provided or arranged by a local authority for A under Part 2 or 4 of the Act; or
- (b) secured or arranged by A, where A is or will be receiving direct payments made in accordance with section 50 or 52 of the Act; and
- (c) which—
 - (i) consists of a programme of care and support,
 - (ii) is for a specified(12) period of time (“the specified period”), and
 - (iii) has as its purpose the provision of assistance to A to enable A to maintain or regain the ability to live independently in A’s only or main home;

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

“savings credit” (“*credyd cynilion*”) means a savings credit under the State Pension Credit Act 2002;

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

“severe disablement occupational allowance” (“*hwfans galwedigaethol anabledd difrifol*”) 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(13) or under article 16 of the Personal Injuries (Civilians) Scheme 1983(14);

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

“standard amount” (“*swm safonol*”) means the amount which a person would be required to pay by virtue of section 50 or 52 of the Act towards securing the provision of care and support in respect of which direct payments are being considered or made if no financial assessment is carried out in accordance with these Regulations or determination as to A’s ability to pay an amount is undertaken in accordance with the Charging Regulations;

“temporary resident” (“*preswylydd dros dro*”) means a resident whose stay is—

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

“working day” (“*diwrnod gwaith*”) means any day other than—

- (a) a Saturday or a Sunday,
- (b) Christmas day or Good Friday, or
- (c) a bank holiday in England and Wales under the Banking and Financial Dealings Act 1971(15);

“working tax credit” (“*credyd treth gwaith*”) means a working tax credit under the Tax Credits Act 2002.

(11) See section 197(1) of the Act for the meaning of “care home”.

(12) A local authority will specify the duration of the period of reablement A requires based on A’s assessed needs.

(13) S.I. 2006/606; article 10 was amended by S.I. 2008/679 and 2013/630.

(14) S.I. 1983 / 686; article 16 was amended by S.I. 1984/1675 and 2001/420.

(15) 1971 c. 80.

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

(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 35, 36, 40 or 45 of the Act, or where the prospective resident is in receipt of direct payments, as a reference to accommodation which will be secured by virtue of sections 50 or 52 of the Act.

(4) In these Regulations references to provision of or securing of care and support are, in the case of carer, to be read as meaning the provision or securing of support.

Commencement Information

I2 Reg. 2 in force at 6.4.2016, see [reg. 1\(2\)](#)

PART 2

Assessment of financial resources

Information to be provided by local authority

3. Before a local authority carries out a financial assessment in accordance with these Regulations it must give A the following—

- (a) details of care and support to meet A’s needs which are offered or being provided for A and in respect of which it thinks it would impose a charge under section 59 of the Act;
- (b) details of the care and support that A has been assessed as requiring and for which direct payments⁽¹⁶⁾ are being considered or made in accordance with section 50 or 52 of the Act;
- (c) where paragraph (a) applies, details of its charging policy for the provision of care and support, including—
 - (i) which elements, if any, are subject to a charge,
 - (ii) the standard charge⁽¹⁷⁾ which may be imposed in relation to any of them,
 - (iii) any care and support, assistance or service for which a flat-rate charge is imposed,
 - (iv) the maximum weekly charge⁽¹⁸⁾ that may be imposed or the maximum weekly charge that the local authority applies, where that charge is lower;
- (d) where paragraph (b) applies, details of its direct payments policy, which must include the following—
 - (i) details of the care and support, if any, for which direct payments may be, or are being provided, in respect of which A may be required to pay towards the cost of securing,

⁽¹⁶⁾ “Direct payment” is defined in section 50(7) and 52(7) of the Act.

⁽¹⁷⁾ “Standard charge” is defined in section 63(3) of the Act as meaning “...the amount that a local authority would charge under section 59 if no determination were made under section 66 as to a person’s ability to pay that amount”. Section 59(2) of the Act (power to impose charges) provides that a charge imposed under subsection (1) may cover only the reasonable cost that the local authority incurs in meeting the needs to which the charge applies.

⁽¹⁸⁾ “The maximum weekly charge” is specified in regulation 7 of the Charging Regulations and applies in relation to the provision of care and support to meet an assessed need otherwise than by the provision of accommodation in a care home.

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- (ii) details of the standard amount which A may be required to pay towards the cost of securing such care and support,
 - (iii) any care and support, assistance or service for which a flat-rate charge is imposed,
 - (iv) the amount of the maximum weekly contribution or reimbursement⁽¹⁹⁾ that may be imposed or the amount of the maximum weekly contribution or reimbursement that the local authority applies, where that amount is lower;
- (e) details of its financial assessment process;
 - (f) details of the information and any documents that A is required to provide to the local authority for the purposes of the financial assessment, and the time limit, and format for providing them;
 - (g) information about the consequences of failing to provide the information and documents within the time limit and in an appropriate format;
 - (h) information about the consequences of not providing the information or documents required for the purposes of the assessment or of refusing to allow the local authority to carry out a financial assessment;
 - (i) information about the statement of determination of A's ability to pay a charge for, or to pay towards the cost of securing, A's care and support that the local authority will provide following the completion of the financial assessment process⁽²⁰⁾;
 - (j) details of the capital limit specified in regulation 11 or regulation 26 of the Charging Regulations and information about the consequences of⁽²¹⁾ A being assessed as having capital in excess of that limit;
 - (k) details of any home visiting facility that the local authority provides within its area;
 - (l) the names of an individual or individuals within the authority who may be contacted if A requires additional information or assistance in respect of the financial assessment process; and
 - (m) information about A's right to appoint a third party to assist, or to act on A's behalf, in respect of all or part of the financial assessment process and the contact details of any organisation in its area which provides this type of support or assistance.

Commencement Information

I3 Reg. 3 in force at 6.4.2016, see [reg. 1\(2\)](#)

Time limits

4.—(1) Subject to paragraph (2), a local authority must allow A 15 working days, or such longer time limit as it thinks reasonable, to provide the information and documents described in regulation 3(f).

⁽¹⁹⁾ “The maximum weekly contribution or reimbursement” and the basis upon which a local authority may calculate it are specified in regulation 22 of the Charging Regulations and applies in relation to the making of direct payments to secure the provision of care and support to meet an assessed need otherwise than by the provision of accommodation in a care home.

⁽²⁰⁾ A local authority is required to provide a statement of determination in regulation 14 (statement of determination) or regulation 29 (statement of determination – direct payments) of the Charging Regulations.

⁽²¹⁾ Regulation 2 of the Charging Regulations defines the “capital limit”. The capital limit is the maximum amount of capital which a person may have, above which that person will be required to pay the standard charge or standard amount in full. The amount of the capital limit is specified in the Charging Regulations, in regulation 11 (which relates to charges) and regulation 26 (which relates to direct payments).

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(2) If A makes a reasonable request for an extension of the time limit specified in paragraph (1), giving reasons why the extension is required, a local authority must agree to the request and advise A of the period of the extension.

(3) If a local authority refuses a request for an extension of the time limit, it must inform A of its refusal and it must give reasons for its refusal.

Commencement Information

I4 Reg. 4 in force at 6.4.2016, see [reg. 1\(2\)](#)

Format

5.—(1) The information provided by a local authority in accordance with regulation 3 may be in electronic or paper format, and must be in a format that is appropriate to A’s communication needs.

(2) The information and documents to be provided by A under regulation 3(f) must be in electronic or paper format or such other format that the local authority has agreed to accept.

Commencement Information

I5 Reg. 5 in force at 6.4.2016, see [reg. 1\(2\)](#)

Duty to carry out a financial assessment

6.—(1) Where a local authority thinks—

- (a) it would impose a charge under section 59 of the Act (power to impose a charge), were it to meet A’s needs for care and support;
- (b) that if it were to make payments towards meeting the cost of A’s needs for care and support by making direct payments by virtue of section 50 or 52 of the Act⁽²²⁾, it would require A to pay by way of reimbursement⁽²³⁾ (in the case of a gross payment) or contribution (in the case of a net payment) towards the costs of securing the provision of that care and support,

it must carry out an assessment of A’s financial resources in accordance with these Regulations.

(2) The duty in paragraph (1) does not apply where A falls within any of the circumstances specified in regulation 7.

Commencement Information

I6 Reg. 6 in force at 6.4.2016, see [reg. 1\(2\)](#)

Circumstances in which there is no duty to carry out a financial assessment

7.—(1) A local authority is under no duty to carry out an assessment of A’s financial resources in circumstances, where A—

⁽²²⁾ Section 53(3) of the Act (direct payments: further provision) provides that regulations made in accordance with sections 50, 51, or 52 of the Act may make provision in relation to direct payments which corresponds to the provision which is made, or may be made, under sections 59 to 67 or section 73 of the Act.

⁽²³⁾ “Reimbursement”, “gross payment”, “contribution” and “net payment” are defined in section 53(2) of the Act.

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- (a) has been assessed as needing or is receiving care and support, assistance or a service or any combination of the same for which the local authority applies a flat-rate charge;
- (b) declines to undergo a financial assessment;
- (c) fails to provide the local authority with the information or documents required by the authority in accordance with regulation 3(f) within a reasonable time or at all;
- (d) is suffering from any form of Creutzfeldt-Jakob disease, where that disease has been diagnosed by a registered medical practitioner;
- (e) has been offered or is receiving care and support, advice or a service, or has been offered or provided with direct payments to secure the provision of care and support as part of a package of after-care services in accordance with section 117 of the Mental Health Act 1983 (after-care)(24);
- (f) has been offered or is receiving reablement for the first 6 weeks of the specified period or, if the specified period is less than 6 weeks, for that period;
- (g) has been assessed as needing, or is receiving, only advocacy services(25).

(2) Where paragraph (1)(c) applies, a local authority may, if it considers that it has sufficient information, make an assessment of A's financial resources on the basis of the partial information or partial document (or both) that is in its possession.

Commencement Information

17 Reg. 7 in force at 6.4.2016, see [reg. 1\(2\)](#)

Power to carry out a financial assessment

8. A local authority may carry out a new assessment of A's financial resources in accordance with these Regulations if any of the circumstances specified in regulation 15 (revised determination) or regulation 30 (revised determination) of the Charging Regulations apply in A's case.

Commencement Information

18 Reg. 8 in force at 6.4.2016, see [reg. 1\(2\)](#)

Financial assessment process

9.—(1) Where a local authority carries out a financial assessment in accordance with regulation 6 (duty to carry out a financial assessment) or regulation 8 (power to carry out a financial assessment), it must ensure that the process of assessment that it employs gives effect to the requirements of this regulation.

(2) Where a local authority is meeting or proposing to meet A's needs for care and support, or where it is making, or is proposing to make, direct payments towards the cost of securing the provision of care and support to meet A's needs otherwise than by the provision of accommodation in a care home, it must—

- (a) calculate A's capital in accordance with the provisions of Part 4;
- (b) disregard the value of A's only or main home from that calculation.

(24) 1983 c. 20.

(25) "Advocacy services" is defined in section 181(2) of the Act as "...services which provide assistance (by way of representation or otherwise) to persons for purposes relating to their care and support".

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(3) Where a local authority is meeting or proposing to meet A's needs for care and support, or where it is making, or is proposing to make, direct payments towards the cost of securing care and support to meet A's needs by the provision of accommodation in a care home, it must calculate A's capital in accordance with the provisions of Part 4.

(4) The provision made in paragraphs (2) and (3) does not affect the discretion of a local authority to apply criteria that are more generous to A than the provision made by these Regulations.

Commencement Information

I9 Reg. 9 in force at 6.4.2016, see [reg. 1\(2\)](#)

Duty of local authority to carry out a financial assessment of a short-term resident as if the resident is receiving care and support otherwise than the provision of accommodation in a care home

10. Where A is a short-term resident, a local authority must carry out an assessment of A's financial resources as if A is receiving care and support, or is receiving direct payments to secure the provision of care and support, other than by the provision of accommodation in a care home.

Commencement Information

I10 Reg. 10 in force at 6.4.2016, see [reg. 1\(2\)](#)

Saving

11.—(1) Where, immediately before the coming into force of these Regulations an assessment of A's financial resources has effect, such assessment will continue to have effect notwithstanding that it was not made in accordance with the Act and these Regulations.

(2) An assessment referred to in paragraph (1) will continue to have effect until replaced by an assessment of A's financial resources carried out in accordance with the Act and these Regulations.

Commencement Information

I11 Reg. 11 in force at 6.4.2016, see [reg. 1\(2\)](#)

Rounding of fractions

12. Where any assessment of A's financial resources results in a fraction of a penny, that fraction is, if it would be to A's advantage, to be treated as a penny, otherwise it is to be disregarded.

Commencement Information

I12 Reg. 12 in force at 6.4.2016, see [reg. 1\(2\)](#)

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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.

Commencement Information

I13 Reg. 13 in force at 6.4.2016, see [reg. 1\(2\)](#)

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(**26**);

(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)(**27**); 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).

Commencement Information

I14 Reg. 14 in force at 6.4.2016, see [reg. 1\(2\)](#)

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.

Commencement Information

I15 Reg. 15 in force at 6.4.2016, see [reg. 1\(2\)](#)

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

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

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

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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 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.

Commencement Information

I16 Reg. 16 in force at 6.4.2016, see [reg. 1\(2\)](#)

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.

Commencement Information

I17 Reg. 17 in force at 6.4.2016, see [reg. 1\(2\)](#)

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PART 4

Treatment and calculation of capital

Calculation of capital

18.—(1) The capital of A to be taken into account in a financial assessment is, subject to paragraph (2), to be the whole of A’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 person’s capital under paragraph (1).

Commencement Information

I18 Reg. 18 in force at 6.4.2016, see [reg. 1\(2\)](#)

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 to the Income and Corporation Taxes Act 1998⁽²⁸⁾ 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, 8, 14, 22 and 24 of Schedule 2, any income of A 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 A.

(4) Where A is an employed earner, any advance of earnings or any loan made by A’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 the Independent Living Fund, or the Welsh Independent Living Scheme⁽²⁹⁾, is to be treated as capital.

(6) Any voluntary payment of income made by a third party to A for the purpose of helping A to discharge any arrears of the payments, contributions, or reimbursements required by the local authority from the person for accommodation provided or secured in accordance with the Act is to be treated as the capital of A.

(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.

Commencement Information

I19 Reg. 19 in force at 6.4.2016, see [reg. 1\(2\)](#)

⁽²⁸⁾ 1998 c. 1.

⁽²⁹⁾ The former recipients of payments from the Independent Living Fund (which has now closed) will receive payments from the Welsh Independent Living Scheme with effect from July 2015.

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Calculation of capital in the United Kingdom

20. Capital which A 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.

Commencement Information

I20 Reg. 20 in force at 6.4.2016, see [reg. 1\(2\)](#)

Calculation of capital outside the United Kingdom

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

Commencement Information

I21 Reg. 21 in force at 6.4.2016, see [reg. 1\(2\)](#)

Notional capital

22.—(1) A is to be treated as possessing capital of which A has deprived themselves for the purpose of decreasing the amount that they may be liable to pay, reimburse or contribute towards the cost of the care and support to meet their needs, 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 A;
- (b) to the extent that the capital which A is treated as possessing is reduced in accordance with regulation 23 (diminishing notional capital rule); 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 or death, administered by the Court) refers.

(2) Subject to paragraph (3), A 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).

(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 (calculation of capital).

(4) Where A 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 A does possess.

Commencement Information

I22 Reg. 22 in force at 6.4.2016, see [reg. 1\(2\)](#)

Status: This version of this Instrument contains provisions that are prospective.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Care and Support (Financial Assessment) (Wales) Regulations 2015. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

Diminishing notional capital rule

23.—(1) Where A 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 A is liable to pay, contribute or make reimbursements towards the cost of their care and support, at a higher rate than that at which A would have been assessed as liable to pay, contribute, or make reimbursements if A had had no notional capital, the amount of A’s notional capital is to be reduced by the method set out in paragraph (2).

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

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

Commencement Information

I23 Reg. 23 in force at 6.4.2016, see [reg. 1\(2\)](#)

Capital jointly held

24.—(1) Where A 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 A 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 A’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.

Commencement Information

I24 Reg. 24 in force at 6.4.2016, see [reg. 1\(2\)](#)

27 October 2015

Mark Drakeford
Minister for Health and Social Services, one of
the Welsh Ministers

Status:

This version of this Instrument contains provisions that are prospective.

Changes to legislation:

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Changes and effects yet to be applied to :

- Sch. 1 para. 1 coming into force by [S.I. 2015/1844 reg. 1\(2\)](#)
- Sch. 1 para. 2 coming into force by [S.I. 2015/1844 reg. 1\(2\)](#)
- Sch. 1 para. 3 coming into force by [S.I. 2015/1844 reg. 1\(2\)](#)
- Sch. 1 para. 4 coming into force by [S.I. 2015/1844 reg. 1\(2\)](#)
- Sch. 1 para. 5 coming into force by [S.I. 2015/1844 reg. 1\(2\)](#)
- Sch. 1 para. 6 coming into force by [S.I. 2015/1844 reg. 1\(2\)](#)
- Sch. 1 para. 7 coming into force by [S.I. 2015/1844 reg. 1\(2\)](#)
- Sch. 1 para. 8 coming into force by [S.I. 2015/1844 reg. 1\(2\)](#)
- Sch. 1 para. 9 coming into force by [S.I. 2015/1844 reg. 1\(2\)](#)
- Sch. 1 para. 10 coming into force by [S.I. 2015/1844 reg. 1\(2\)](#)
- Sch. 1 para. 11 coming into force by [S.I. 2015/1844 reg. 1\(2\)](#)
- Sch. 1 para. 12 coming into force by [S.I. 2015/1844 reg. 1\(2\)](#)
- Sch. 1 para. 13 coming into force by [S.I. 2015/1844 reg. 1\(2\)](#)
- Sch. 1 para. 14 coming into force by [S.I. 2015/1844 reg. 1\(2\)](#)
- Sch. 1 para. 15 coming into force by [S.I. 2015/1844 reg. 1\(2\)](#)
- Sch. 1 para. 16 coming into force by [S.I. 2015/1844 reg. 1\(2\)](#)
- Sch. 1 para. 17 coming into force by [S.I. 2015/1844 reg. 1\(2\)](#)
- Sch. 1 para. 18 coming into force by [S.I. 2015/1844 reg. 1\(2\)](#)
- Sch. 1 para. 19 coming into force by [S.I. 2015/1844 reg. 1\(2\)](#)
- Sch. 1 para. 20 coming into force by [S.I. 2015/1844 reg. 1\(2\)](#)
- Sch. 1 para. 21 coming into force by [S.I. 2015/1844 reg. 1\(2\)](#)
- Sch. 1 para. 22 coming into force by [S.I. 2015/1844 reg. 1\(2\)](#)
- Sch. 1 para. 23 coming into force by [S.I. 2015/1844 reg. 1\(2\)](#)
- Sch. 1 para. 24 coming into force by [S.I. 2015/1844 reg. 1\(2\)](#)
- Sch. 1 para. 25 coming into force by [S.I. 2015/1844 reg. 1\(2\)](#)
- Sch. 1 para. 26 coming into force by [S.I. 2015/1844 reg. 1\(2\)](#)
- Sch. 1 para. 27 coming into force by [S.I. 2015/1844 reg. 1\(2\)](#)
- Sch. 1 para. 28 coming into force by [S.I. 2015/1844 reg. 1\(2\)](#)
- Sch. 1 para. 29 coming into force by [S.I. 2015/1844 reg. 1\(2\)](#)
- Sch. 1 para. 30 coming into force by [S.I. 2015/1844 reg. 1\(2\)](#)
- Sch. 1 para. 31 coming into force by [S.I. 2015/1844 reg. 1\(2\)](#)
- Sch. 1 para. 32 coming into force by [S.I. 2015/1844 reg. 1\(2\)](#)
- Sch. 1 para. 33 coming into force by [S.I. 2015/1844 reg. 1\(2\)](#)
- Sch. 1 para. 34 coming into force by [S.I. 2015/1844 reg. 1\(2\)](#)
- Sch. 1 para. 35 coming into force by [S.I. 2015/1844 reg. 1\(2\)](#)
- Sch. 1 para. 36 coming into force by [S.I. 2015/1844 reg. 1\(2\)](#)
- Sch. 1 para. 37 coming into force by [S.I. 2015/1844 reg. 1\(2\)](#)
- Sch. 1 para. 38 coming into force by [S.I. 2015/1844 reg. 1\(2\)](#)
- Sch. 1 para. 39 coming into force by [S.I. 2015/1844 reg. 1\(2\)](#)
- Sch. 1 para. 40 coming into force by [S.I. 2015/1844 reg. 1\(2\)](#)
- Sch. 1 para. 41 coming into force by [S.I. 2015/1844 reg. 1\(2\)](#)
- Sch. 1 para. 42 coming into force by [S.I. 2015/1844 reg. 1\(2\)](#)
- Sch. 1 para. 43 coming into force by [S.I. 2015/1844 reg. 1\(2\)](#)
- Sch. 1 para. 44 coming into force by [S.I. 2015/1844 reg. 1\(2\)](#)
- Sch. 1 para. 45 coming into force by [S.I. 2015/1844 reg. 1\(2\)](#)
- Sch. 1 para. 46 coming into force by [S.I. 2015/1844 reg. 1\(2\)](#)

- reg. 21 coming into force by S.I. 2015/1844 reg. 1(2)
- reg. 22 coming into force by S.I. 2015/1844 reg. 1(2)
- reg. 23 coming into force by S.I. 2015/1844 reg. 1(2)
- reg. 24 coming into force by S.I. 2015/1844 reg. 1(2)

Changes and effects yet to be applied to the whole Instrument associated Parts and Chapters:

Whole provisions yet to be inserted into this Instrument (including any effects on those provisions):

- Sch. 1 para. 16A inserted by S.I. 2017/214 reg. 4(b)
- Sch. 1 para. 44A44B inserted by S.I. 2022/99 reg. 3(a)(ii)
- Sch. 2 para. 35 inserted by S.I. 2019/234 reg. 3
- Sch. 2 para. 36-39 inserted by S.I. 2022/99 reg. 3(b)(ii)
- Sch. 2 para. 4041 inserted by S.I. 2023/67 reg. 3(a)(ii)
- Sch. 2 para. 40 words substituted by S.I. 2023/424 Sch. para. 61