
STATUTORY INSTRUMENTS

2014 No. 2672

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

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;

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

“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(2);

“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(3)) in respect of which a person is registered under the Health and Social Care Act 2008(4) 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(5);

“council tax” is to be construed in accordance with section 1(1) of the Local Government Finance Act 1992(6);

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

(1) 1992 c.4.
(2) S.I. 2011/517.
(3) 2000 c.14.
(4) 2008 c.14.
(5) 2002 c.21.
(6) 1992 c.14.

- “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(7);
- “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(8);
- “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(9);
- “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(10);
- “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;
- “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(11) or under article 16 of the Personal Injuries (Civilians) Scheme 1983(12);
- “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

(7) 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).

(8) S.I. 1987/1967.

(9) S.I. 2002/1792.

(10) 2012 c.5.

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

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

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(**13**) 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.

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.

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

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(14) 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(15);
 - (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.
- (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;

(14) 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.

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

- (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⁽¹⁶⁾ 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.

(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.

⁽¹⁶⁾ See section 17(10) of the Act as to the meaning of “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⁽¹⁷⁾.

(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⁽¹⁸⁾.

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.

(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⁽¹⁹⁾;
 - (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)⁽²⁰⁾; and

⁽¹⁷⁾ 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".

⁽¹⁸⁾ 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".

⁽¹⁹⁾ [S.I. 2006/213](#). Regulation 35 was amended by [S.I. 2007/2618](#), [2009/2655](#), [2012/757](#) and [2014/591](#).

⁽²⁰⁾ [S.I. 2006/214](#). Regulation 35 was amended by [S.I. 2009/2655](#), [2012/757](#) and [2014/591](#).

- (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)(21).

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)(22).

(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)(23).

(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.

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

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

(23) 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, 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.

(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.

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)(**24**) 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)(**25**).

(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
- (b) that asset is to be treated as if it were actual capital.

(24) 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](#).

(25) 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](#).

(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.

22nd October 2014

Norman Lamb
Minister of State
Department of Health