



# Care Act 2014

## 2014 CHAPTER 23

### PART 1

#### CARE AND SUPPORT

##### *Enforcement of debts*

#### **69 Recovery of charges, interest etc.**

- (1) Any sum due to a local authority under this Part is recoverable by the authority as a debt due to it.
- (2) But subsection (1) does not apply in a case where a deferred payment agreement could, in accordance with regulations under section 34(1), be entered into, unless—
  - (a) the local authority has sought to enter into such an agreement with the adult from whom the sum is due, and
  - (b) the adult has refused.
- (3) A sum is recoverable under this section—
  - (a) in a case in which the sum becomes due to the local authority on or after the commencement of this section, within six years of the date the sum becomes due;
  - (b) in any other case, within three years of the date on which it becomes due.
- (4) Where a person misrepresents or fails to disclose (whether fraudulently or otherwise) to a local authority any material fact in connection with the provisions of this Part, the following sums are due to the authority from the person—
  - (a) any expenditure incurred by the authority as a result of the misrepresentation or failure, and
  - (b) any sum recoverable under this section which the authority has not recovered as a result of the misrepresentation or failure.
- (5) The costs incurred by a local authority in recovering or seeking to recover a sum due to it under this Part are recoverable by the authority as a debt due to it.

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*Status: This is the original version (as it was originally enacted).*

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- (6) Regulations may—
- (a) make provision for determining the date on which a sum becomes due to a local authority for the purposes of this section;
  - (b) specify cases or circumstances in which a sum due to a local authority under this Part is not recoverable by it under this section;
  - (c) specify cases or circumstances in which a local authority may charge interest on a sum due to it under this Part;
  - (d) where interest is chargeable, provide that it—
    - (i) must be charged at a rate specified in or determined in accordance with the regulations, or
    - (ii) may not be charged at a rate that exceeds the rate specified in or determined in accordance with the regulations.

## **70 Transfer of assets to avoid charges**

- (1) This section applies in a case where an adult's needs have been or are being met by a local authority under sections 18 to 20 and where—
- (a) the adult has transferred an asset to another person (a “transferee”),
  - (b) the transfer was undertaken with the intention of avoiding charges for having the adult's needs met, and
  - (c) either the consideration for the transfer was less than the value of the asset or there was no consideration for the transfer.
- (2) The transferee is liable to pay to the local authority an amount equal to the difference between—
- (a) the amount the authority would have charged the adult were it not for the transfer of the asset, and
  - (b) the amount it did in fact charge the adult.
- (3) But the transferee is not liable to pay to the authority an amount which exceeds the benefit accruing to the transferee from the transfer.
- (4) Where an asset has been transferred to more than one transferee, the liability of each transferee is in proportion to the benefit accruing to that transferee from the transfer.
- (5) “Asset” means anything which may be taken into account for the purposes of a financial assessment.
- (6) The value of an asset (other than cash) is the amount which would have been realised if it had been sold on the open market by a willing seller at the time of the transfer, with a deduction for—
- (a) the amount of any incumbrance on the asset, and
  - (b) a reasonable amount in respect of the expenses of the sale.
- (7) Regulations may specify cases or circumstances in which liability under subsection (2) does not arise.