

CARE ACT 2014

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 1 – Care and Support

Enforcement of debts

Section 69 – Recovery of charges, interest etc.

407. This section allows authorities to recover as a debt any sums owed, such as unpaid charges and interest. This section replaces sections 22 and 24 of the Health and Social Services and Social Security Adjudications Act 1983 and section 45 of the National Assistance Act 1948.
408. The exception to this is cases where an authority could (in accordance with regulations under section 34) enter into a deferred payment agreement, unless the authority offers someone this option and they refuse (*subsection 2*). This exception is to ensure that a local authority cannot use the debt recovery power as an alternative to entering a deferred payment arrangement.
409. Under *subsection (3)*, sums are recoverable within six years (if they become due following commencement of this section), or within 3 years (if they became due before commencement).
410. When someone misrepresents or fails to disclose any material fact in connection with the provisions in this Part, the authority may recover as a debt, expenditure incurred as a result of the misrepresentation or failure and any sum it would have recovered but for the misrepresentation or failure (*subsection 4*).
411. *Subsection (5)* provides that an authority can recover as a debt the legal and administrative costs it incurs in pursuing that debt.
412. *Subsection (6)* provides a power for regulations to determine the date when a debt becomes due, to specify exceptions to when an authority can recover a debt and to specify when an authority may charge interest on the sum owed, at a rate in accordance with the regulations.

Section 70 – Transfer of assets to avoid charges

413. Where a person's needs for care and support have been or are being met by a local authority, the local authority may, under section 14, impose a charge on the person to cover all or part of the cost of meeting the person's needs. If the person has transferred assets to another individual in order to avoid these charges, *subsections (2) and (4)* enable the local authority to recover the lost income from the individual, or individuals.
414. *Subsection (3)* limits the amount the local authority may recover so that it cannot recover more than the individual gained from the transfer.
415. What constitutes an asset and how it should be valued, is set out in *subsections (5) and (6)*.