



# Health And Social Services And Social Security Adjudications Act 1983

## 1983 CHAPTER 41

### PART VII

#### CHARGES FOR LOCAL AUTHORITY SERVICES

#### 17 Charges for local authority services in England and Wales.

- (1) Subject to subsection (3) below, an authority providing a service to which this section applies may recover such charge (if any) for it as they consider reasonable.
- (2) This section applies to services provided under the following enactments—
  - (a) section 29 of the <sup>M1</sup>National Assistance Act 1948 (welfare arrangements for blind, deaf, dumb and crippled persons etc.);
  - (b) section 45(1) of the <sup>M2</sup>Health Services and Public Health Act 1968 (welfare of old people);
  - (c) Schedule 8 to the <sup>M3</sup>National Health Service Act 1977 (care of mothers and young children, prevention of illness and care and aftercare and home help and laundry facilities);
  - (d) section 8 of the <sup>M4</sup>Residential Homes Act 1980 (meals and recreation for old people); and
  - (e) paragraph 1 of Part II of Schedule 9 to this Act

[<sup>F1</sup>other than the provision of services for which payment may be required under section 22 or 26 of the National Assistance Act 1948].

- (3) If a person—
  - (a) avails himself of a service to which this section applies, and
  - (b) satisfies the authority providing the service that his means are insufficient for it to be reasonably practicable for him to pay for the service the amount which he would otherwise be obliged to pay for it,

the authority shall not require him to pay more for it than it appears to them that it is reasonably practicable for him to pay.

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- (4) Any charge under this section may, without prejudice to any other method of recovery, be recovered summarily as a civil debt.

**Textual Amendments**

**F1** Words in S. 17(2) inserted (1.4.1993) by [National Health Service and Community Care Act 1990](#) (c. 19, SIF 113:2), s. 66(1), **Sch. 9 para. 25(1)**; S.I. 1992/2975, art. 2(2), **Sch.**

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**Marginal Citations**

**M1** 1948 c. 29.  
**M2** 1968 c. 46.  
**M3** 1977 c. 49.  
**M4** 1980 c. 7.

**18 Charges for local authority services in Scotland.**

In section 87 of the <sup>M5</sup>Social Work (Scotland) Act 1968 (charges for services and accommodation) there shall be substituted for subsection (1) the following subsections—

“(1) Subject to sections 78 and 78A of this Act (contributions in respect of maintainable children) and to the following provisions of this section, a local authority providing a service under this Act may recover such charge (if any) for it as they consider reasonable.

(1A) If a person—

- (a) avails himself of a service provided under this Act; and
- (b) satisfies the authority providing the service that his means are insufficient for it to be reasonably practicable for him to pay for the service the amount which he would otherwise be obliged to pay for it,

the authority shall not require him to pay more for it than it appears to them that it is reasonably practicable for him to pay.”.

**Marginal Citations**

**M5** 1968 c. 49.

**19 Contributions in respect of children in care.**

- <sup>F2</sup>(1) .....
- <sup>F3</sup>(2) .....
- <sup>F2</sup>(3) .....
- <sup>F2</sup>(4) .....
- <sup>F2</sup>(5) .....

- (6) In section 78 of the <sup>M6</sup>Social Work (Scotland) Act 1968 (duty to make contributions in respect of children in care)—

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- (a) in subsection (1) the words “and is engaged in remunerative employment” shall be omitted; and
- (b) after subsection (2) there shall be inserted the following subsection—

“(2A) No contributions shall be payable under subsection (1)(a) of this section by a contributor during a period when he is in receipt of—

- (a) benefits under the Supplementary Benefits Act 1976; or
- (b) a family income supplement under the Family Income Supplements Act 1970.”.

- (7) After section 78 of the said Act of 1968 there shall be inserted the following section—

**“78A Recovery of contributions.**

- (1) Section 87 of this Act (charges for services and accommodation) shall not apply to provision of services (including accommodation) under this Act in respect of maintainable children, and the provisions of this section shall apply thereto.
- (2) A local authority providing such services may recover from a contributor a contribution (if any) of such amount as is reasonable and, subject to that, may recover—
  - (a) a standard contribution determined by them in respect of maintainable children who are in their care or under their supervision; or
  - (b) such other contribution as they consider reasonable in the circumstances.”.

**Textual Amendments**

- F2** S. 19(1)–(5) repealed (E.W.) (14.10.1991) by [Children Act 1989 \(c. 41, SIF 20\)](#), s. 108(7), [Sch.15](#) (with s. 108(6), [Sch. 14 paras. 1\(1\), 27\(4\)](#)); S.I. 1991/828, [art. 3\(2\)](#)
- F3** S. 19(2) repealed by [Social Security Act 1986 \(c. 50, SIF 113:1\)](#), s. 86(2), [Sch. 11](#)

**Marginal Citations**

- M6** 1968 c. 49.

**20 Power of local authority to limit charge for residential accommodation to minimum rate.**

- (1) In the <sup>M7</sup>National Assistance Act 1948—
  - (a) the following subsection shall be inserted after subsection (5) of section 22 (charges to be made for accommodation)—

“(5A) If they think fit, an authority managing premises in which accommodation is provided for a person shall have power on each occasion when they provide accommodation for him irrespective of his means, to limit to the minimum weekly rate prescribed under subsection (3) above the payments required from him for his accommodation during a period commencing when they begin to provide the accommodation for him and ending not more than eight weeks after that.”; and

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- (b) in section 26(4) (which applies certain provisions of section 22) after the word “Subsections” there shall be inserted the word “(5A),”.
- (2) In section 87(3) of the <sup>M8</sup>Social Work (Scotland) Act 1968 there shall be inserted after the word “(4)” the words “(as amended by section 20 of the Health and Social Services and Social Security Adjudications Act 1983)”.

#### **Marginal Citations**

**M7** 1948 c. 29.

**M8** 1968 c. 49.

## **21 Recovery of sums due to local authority where persons in residential accommodation have disposed of assets.**

- (1) Subject to the following provisions of this section where—
  - (a) a person avails himself of Part III accommodation; and
  - (b) that person knowingly and with the intention of avoiding charges for the accommodation—
    - (i) has transferred any asset to which this section applies to some other person or persons not more than six months before the date on which he begins to reside in such accommodation; or
    - (ii) transfers any such asset to some other person or persons while residing in the accommodation; and
  - (c) either—
    - (i) the consideration for the transfer is less than the value of the asset; or
    - (ii) there is no consideration for the transfer,

the person or persons to whom the asset is transferred by the person availing himself of the accommodation shall be liable to pay to the local authority providing the accommodation or arranging for its provision the difference between the amount assessed as due to be paid for the accommodation by the person availing himself of it and the amount which the local authority receive from him for it.
- (2) This section applies to cash and any other asset which falls to be taken into account for the purpose of assessing under section 22 of the <sup>M9</sup>National Assistance Act 1948 the ability to pay for the accommodation of the person availing himself of it.
- (3) Subsection (1) above shall have effect in relation to a transfer by a person who leaves Part III accommodation and subsequently resumes residence in such accommodation as if the period of six months mentioned in paragraph (b)(i) were a period of six months before the date on which he resumed residence in such accommodation.
- [<sup>F4</sup>(3A) If the Secretary of State so directs, subsection (1) above shall not apply in such cases as may be specified in the direction.]
- (4) Where a person has transferred an asset to which this section applies to more than one person, the liability of each of the persons to whom it was transferred shall be in proportion to the benefit accruing to him from the transfer.
- (5) A person’s liability under this section shall not exceed the benefit accruing to him from the transfer.

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- (6) Subject to subsection (7) below, the value of any asset to which this section applies, other than cash, which has been transferred shall be taken to be the amount of the consideration which would have been realised for it if it had been sold on the open market by a willing seller at the time of the transfer.
- (7) For the purpose of calculating the value of an asset under subsection (6) above there shall be deducted from the amount of the consideration—
  - (a) the amount of any incumbrance on the asset; and
  - (b) a reasonable amount in respect of the expenses of the sale.
- (8) In this Part of this Act “Part III accommodation” means accommodation provided under sections 21 to 26 of the<sup>M10</sup>National Assistance Act 1948, and, in the application of this Part of this Act to Scotland, means accommodation provided under the<sup>M11</sup>Social Work (Scotland) Act 1968 [<sup>F5</sup>or section 7 (functions of local authorities) of the Mental Health (Scotland) Act 1984,].

#### Textual Amendments

- F4** S. 21(3A) inserted (*prosp.*) by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), ss. 45(1), 67(2)
- F5** Words inserted (*prosp.*) by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), ss. 66(1), 67(2), Sch. 9 para. 25(2)

#### Marginal Citations

- M9** 1948 c. 29.
- M10** 1948 c. 29.
- M11** 1968 c. 49.

## 22 Arrears of contributions charged on interest in land in England and Wales.

- (1) Subject to subsection (2) below, where a person who avails himself of Part III accommodation provided by a local authority in England, Wales or Scotland—
    - (a) fails to pay any sum assessed as due to be paid by him for the accommodation; and
    - (b) has a beneficial interest in land in England or Wales,the local authority may create a charge in their favour on his interest in the land.
  - (2) In the case of a person who has interests in more than one parcel of land the charge under this section shall be upon his interest in such one of the parcels as the local authority may determine.
- [<sup>F6</sup>(2A) In determining whether to exercise their power under subsection (1) above and in making any determination under subsection (2) above, the local authority shall comply with any directions given to them by the Secretary of State as to the exercise of those functions.]
- (3) Any interest in the proceeds of sale of land held upon trust for sale is to be treated, subject to subsection (8) below, as an interest in land for the purposes of this section.
  - (4) Subject to subsection (5) below, a charge under this section shall be in respect of any amount assessed as due to be paid which is outstanding from time to time.

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- (5) The charge on the interest of a joint tenant in the proceeds of sale of land held upon trust for sale shall be in respect of an amount not exceeding the value of the interest that he would enjoy in those proceeds if the joint tenancy were severed but the creation of such a charge shall not sever the joint tenancy.
- (6) On the death of a joint tenant in the proceeds of sale of land held upon trust for sale whose interest in the proceeds is subject to a charge under this section—
- (a) if there are surviving joint tenants, their interests in the proceeds; and
  - (b) if the land vests in one person, or one person is entitled to have it vested in him, his interest in it,
- shall become subject to a charge for an amount not exceeding the amount of the charge to which the interest of the deceased joint tenant was subject by virtue of subsection (5) above.
- (7) A charge under this section shall be created by a declaration in writing made by the local authority.
- (8) Any such charge, other than a charge on an interest in the proceeds of sale of land, shall in the case of unregistered land be a land charge of Class B within the meaning of section 2 of the <sup>M12</sup>Land Charges Act 1972 and in the case of registered land be a registrable charge taking effect as a charge by way of legal mortgage.

#### Textual Amendments

- F6** S. 22(2A) inserted (*prosp.*) by [National Health Service and Community Care Act 1990 \(c. 19, SIF 113:2\)](#), [ss. 45\(2\)](#), [67\(2\)](#)

#### Marginal Citations

- M12** 1972 c. 61.

## 23 Arrears of contributions secured over interest in land in Scotland.

- (1) Subject to subsection (2) below, where a person (hereinafter referred to as the debtor) who avails himself of Part III accommodation provided by a local authority in Scotland, England or Wales—
- (a) fails to pay any sum (hereinafter referred to as the debt) assessed as due to be paid by him for the accommodation; and
  - (b) <sup>M13</sup>has an interest in land in Scotland (as defined in section 9(8) of the Conveyancing and Feudal Reform (Scotland) Act 1970),
- the local authority may make in their favour and record in the General Register of Sasines or, as appropriate, register in accordance with the <sup>M14</sup>Land Registration (Scotland) Act 1979 an order (hereinafter referred to as a charging order) over that interest in land in respect of the amount of that debt.
- (2) In the case of a debtor who has more than one interest in land a charging order shall be over such one of those interests as the local authority may determine.

[<sup>F7</sup>(2A) In determining whether to exercise their power under subsection (1) above and in making any determination under subsection (2) above, the local authority shall comply with any directions given to them by the Secretary of State as to the exercise of those functions.]

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- (3) On being so recorded or, as the case may be, registered, a charging order over an interest in land shall create a right which shall be deemed to have been granted by the debtor in favour of the local authority over that interest for the purpose of securing any debt due or to become due by him to the local authority in respect of the provision of the Part III accommodation referred to in subsection (1) above, together with interest thereon as specified in section 24 of this Act, and the local authority shall intimate to the debtor in writing that they have made and recorded or registered the order and inform him of its effect.
- (4) Where the charging order is over an interest in land in which the debtor is uninfected it shall be as valid as if he were infected in that interest.
- (5) Charging orders and the discharge thereof shall be in such form or forms as the Secretary of State may by order prescribe and he may also by order make provision for ascertaining the amount due under the charging order at any time.
- (6) The provisions of Part II of the said Act of 1970 shall apply to a charging order under this section as if it were a standard security in a form prescribed in Schedule 2 to that Act to such extent and with such modifications as the Secretary of State may by order prescribe.
- (7) The power to make an order under subsections (5) and (6) above shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.

#### Textual Amendments

- F7** S. 23(2A) inserted (*prosp.*) by [National Health Service and Community Care Act 1990 \(c. 19, SIF 113:2\)](#), [ss. 45\(2\)](#), [67\(2\)](#)

#### Marginal Citations

- M13** 1970 c. 35.  
**M14** 1979 c. 33.

## 24 Interest on sums charged on or secured over interest in land.

- (1) Any sum charged on or secured over an interest in land under this Part of this Act shall bear interest from the day after that on which the person for whom the local authority provided the accommodation dies.
- [<sup>F8</sup>(2) The rate of interest shall be such reasonable rate as the local authority may determine.]
- [<sup>F8</sup>(2) The rate of interest shall be such reasonable rate as the Secretary of State may direct or, if no such direction is given, as the local authority may determine.]

#### Textual Amendments

- F8** S. 24(2) commencing “The rate of interest shall be such reasonable rate as the Secretary of State may direct” substituted (*prosp.*) for s. 24(2) commencing “The rate of interest shall be such reasonable rate as the local authority” by [National Health Service and Community Care Act 1990 \(c. 19, SIF 113:2\)](#), [ss. 45\(3\)](#), [67\(2\)](#)

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