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STATUTORY INSTRUMENTS

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**1972 No. 1265**

**Health and Personal Social Services  
(Northern Ireland) Order 1972**

**PART XII**

**MISCELLANEOUS AND GENERAL**

*Miscellaneous*

**[<sup>F1</sup>Recovery of cost of accommodation where persons have disposed of assets**

**101A.**—(1) Subject to the following provisions of this Article, where—

- (a) accommodation is provided under Article 15 or 36 for any person; and
- (b) that person knowingly and with the intention of avoiding charges for the accommodation—
  - (i) has transferred any asset to which this Article applies to some other person or persons not more than 6 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 for whom the accommodation is provided shall be liable to pay to [<sup>F2</sup>the appropriate HSC trust] the difference between the amount assessed as due to be paid for the accommodation by the person for whom the accommodation is provided and the amount which [<sup>F3</sup>the trust receives] from him for it.

(2) This Article applies to cash and any other asset which falls to be taken into account for the purpose of assessing under [<sup>F4</sup> Article 36 or 99 the ability of the person for whom accommodation is provided to pay for it or (as the case may be) to make a refund to [<sup>F5</sup>the appropriate HSC trust] in respect of it].

[  
<sup>F6</sup>(2A) “The appropriate HSC trust” is the trust that provided the accommodation, or arranged or secured the provision of it.]

(3) Paragraph (1) shall have effect in relation to a transfer by a person who leaves accommodation provided under Article 15 or 36 and subsequently resumes residence in such accommodation as if the period of 6 months mentioned in sub-paragraph (b)(i) were a period of 6 months before the date on which he resumed residence in such accommodation.

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**Changes to legislation:** *Health and Personal Social Services (Northern Ireland) Order 1972, Section 101A is up to date with all changes known to be in force on or before 19 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

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[  
<sup>F4</sup>(3A) If the Department so directs, paragraph (1) shall not apply in such cases as may be specified in the direction.]

(4) Where a person has transferred an asset to which this Article applies to more than one person, the liability of each of the persons to whom it is transferred shall be in proportion to the benefit accruing to him from the transfer.

(5) A person's liability under this Article shall not exceed the benefit accruing to him from the transfer.

(6) Subject to paragraph (7), the value of any asset to which this Article 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 paragraph (6) 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.]

<b>F1</b>	1986 NI 24
<b>F2</b>	Words in art. 101A(1) substituted (1.4.2022) by <a href="#">Health and Social Care Act (Northern Ireland) 2022 (c. 3), s. 8(1)(b), Sch. 1 para. 49(2)(a)</a> ; S.R. 2022/102, art. 2(b)
<b>F3</b>	Words in art. 101A(1) substituted (1.4.2022) by <a href="#">Health and Social Care Act (Northern Ireland) 2022 (c. 3), s. 8(1)(b), Sch. 1 para. 49(2)(b)</a> ; S.R. 2022/102, art. 2(b)
<b>F4</b>	1991 NI 1
<b>F5</b>	Words in art. 101A(2) substituted (1.4.2022) by <a href="#">Health and Social Care Act (Northern Ireland) 2022 (c. 3), s. 8(1)(b), Sch. 1 para. 49(3)</a> ; S.R. 2022/102, art. 2(b)
<b>F6</b>	Art. 101A(2A) inserted (1.4.2022) by <a href="#">Health and Social Care Act (Northern Ireland) 2022 (c. 3), s. 8(1)(b), Sch. 1 para. 49(4)</a> ; S.R. 2022/102, art. 2(b)

**Changes to legislation:**

Health and Personal Social Services (Northern Ireland) Order 1972, Section 101A is up to date with all changes known to be in force on or before 19 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

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**Changes and effects yet to be applied to :**

- Instrument amended by [1995 c. 51 s.4Sch. para.30](#)

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

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

- art. 56(4C)(4D) substituted by [S.I. 2002/3135 Sch. 1 para. 16](#) (This amendment has not been applied as it has been superceded by the substitution of art. 56 by 2004/311 NI 2 art. 3)
- art. 61-61E and art. 61F and cross-heading substituted for art. 61 by [2008 c. 2 \(N.I.\) s. 2\(2\)](#) (This amending provision is itself amended (13.6.2016) before it comes into force by 2016 c. 26 (N.I.), ss. 9, 20(2))
- art. 98(3) added by [2008 c. 2 \(N.I.\) s. 4\(1\)](#)
- art. 107(1A) inserted by [2008 c. 2 \(N.I.\) s. 4\(4\)\(b\)](#)