



Health And Social Services And Social Security Adjudications Act 1983

1983 CHAPTER 41

PART VII

CHARGES FOR LOCAL AUTHORITY SERVICES

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 ^{M1}National Assistance Act 1948 the ability to pay for the accommodation of the person availing himself of it.

Changes to legislation: *Health And Social Services And Social Security Adjudications Act 1983, Section 21 is up to date with all changes known to be in force on or before 25 May 2023. 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*

- (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.
- [^{F1}(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.
- (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 ^{M2}National Assistance Act 1948, and, in the application of this Part of this Act to Scotland, means accommodation provided under the ^{M3}Social Work (Scotland) Act 1968 [^{F2}or [^{F3}section 25 (care and support services etc.) of the Mental Health (Care and Treatment) (Scotland) Act 2003],].

Textual Amendments

- F1** S. 21(3A) inserted (12.4.1993) by [National Health Service and Community Care Act 1990 \(c. 19, SIF 113:2\)](#), [s. 45\(1\)](#); [S.I. 1992/2975](#), [art. 2\(3\)\(a\)](#).
- F2** Words in s. 21(8) inserted (12.4.1993) by [National Health Service and Community Care Act 1990 \(c. 19, SIF 113:2\)](#), [s. 66\(1\)](#), [Sch. 9 para. 25\(2\)](#); [S.I. 1992/2975](#), [art. 2\(3\)\(b\)](#).
- F3** Words in s. 21(8) substituted (S.) (27.9.2005) by [The Mental Health \(Care and Treatment\) \(Scotland\) Act 2003 \(Modification of Enactments\) Order 2005 \(S.S.I. 2005/465\)](#), [art. 1](#), [Sch. 1 para. 14\(2\)](#)

Commencement Information

- I1** S. 21 wholly in force at 12.4.1993 see s. 32(2) and [S.I. 1992/2974](#), [art. 2](#), [Sch.](#)

Marginal Citations

- M1** 1948 c. 29.
M2 1948 c. 29.
M3 1968 c. 49.

Changes to legislation:

Health And Social Services And Social Security Adjudications Act 1983, Section 21 is up to date with all changes known to be in force on or before 25 May 2023. 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.

[View outstanding changes](#)

Commencement Orders yet to be applied to the Health And Social Services And Social Security Adjudications Act 1983

Commencement Orders bringing legislation that affects this Act into force:

- [S.I. 2004/288 art. 2-6](#) commences (2003 c. 43)
- [S.I. 2004/480 art. 2-5](#) commences (2003 c. 43)
- [S.I. 2004/1009 art. 2](#) commences (2003 c. 43)
- [S.I. 2004/1019 art. 2](#) commences (2003 c. 43)
- [S.I. 2005/2897 art. 2](#) commences (2002 c. 38)
- [S.I. 2005/2925 art. 24-11](#) commences (2003 c. 43)
- [S.I. 2006/345 art. 2-7](#) commences (2003 c. 43)
- [S.I. 2009/3074 art. 23](#) commences (2008 c. 4)
- [S.I. 2011/849 art. 2](#) commences (2010 nawm 2)
- [S.S.I. 2009/267 art. 2](#) commences (2007 asp 4)