



# Social Services and Well-being (Wales) Act 2014

2014 anaw 4

## PART 5

### CHARGING AND FINANCIAL ASSESSMENT

#### *Enforcement of debts*

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

- (1) This section applies in a case where the needs of a person (“P”) have been or are being met by a local authority under sections 35 to 42 or section 45 and where—
  - (a) a person (“the transferor”) (who may be P but need not be so) has transferred an asset to another person (a “transferee”),
  - (b) the transfer was undertaken with the intention of avoiding charges for having P’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 transferor were it not for the transfer of the asset, and
  - (b) the amount it did in fact charge the transferor.
- (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) In this section “asset” means anything which may be taken into account for the purposes of a financial assessment.

*Changes to legislation: Social Services and Well-being (Wales) Act 2014, Section 72 is up to date with all changes known to be in force on or before 15 May 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*

- (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 encumbrance 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.

**Commencement Information**

**II** S. 72 in force at 6.4.2016 by [S.I. 2016/412](#), **art. 2** (with [art. 4](#), [Schs. 1, 2](#))

**Changes to legislation:**

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[View outstanding changes](#)

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

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

- s. 162(4)(ga) inserted by [2022 asc 1 Sch. 4 para. 30\(2\)\(b\)](#)
- s. 163(4A) inserted by [2014 c. 23 s. 75\(10\)](#) (Effect inserting (4) not applied at s. 163 as it appears to relate to s. 194 in view of the title of the section as cited i.e. "ordinary residence". In s. 194 another (4), identically worded, is inserted on the same date by S.I. 2016/413, regs. 2(1), 316(a))