



Social Services and Well-being (Wales) Act 2014

2014 anaw 4

PART 5

CHARGING AND FINANCIAL ASSESSMENT

Enforcement of debts

71 Creation of a charge over an interest in land

- (1) Where a person—
 - (a) fails to pay to a local authority an amount that is recoverable by the authority under this Part, and
 - (b) has a legal or beneficial interest in land in Wales or England,the local authority may create a charge in its favour over the person's interest in the land to secure payment of that amount.
- (2) Where the person has interests in more than one parcel of land, the local authority may create the charge over whichever one of those interests it chooses.
- (3) The charge may be in respect of any amount that is recoverable by the local authority under this Part; but this is subject to subsection (4).
- (4) Where the charge is created over the interest of an equitable joint tenant in land, the amount of the charge must not exceed the value of the interest that the person would have in the land if the joint tenancy were severed (but the creation of the charge does not sever the joint tenancy).
- (5) On the death of an equitable joint tenant in land whose interest in the land is subject to a charge under this section, the following persons' interests in land become subject to a charge—
 - (a) if there are surviving joint tenants, their interests in the land;

Status: This is the original version (as it was originally enacted).

- (b) if the land vests in one person, or one person is entitled to have it vested in himself or herself, that person's interest in the land.
- (6) The amount of the charge created under subsection (5) must not exceed the amount of the charge to which the interest of the deceased joint tenant was subject.
- (7) A charge under this section must be created by a declaration in writing made by the local authority.
- (8) A charge under this section, other than a charge over the interest of an equitable joint tenant in land—
 - (a) in the case of unregistered land, is a Class B land charge within the meaning of section 2 of the Land Charges Act 1972;
 - (b) in the case of registered land, is a registrable charge taking effect as a charge by way of legal mortgage.
- (9) Where an amount is charged over a person's interest in land under this section, interest is chargeable upon that amount from the day on which the person mentioned in subsection (1) dies.
- (10) The rate of interest chargeable under subsection (9) is—
 - (a) a rate specified in or determined in accordance with regulations, or
 - (b) if no regulations are made, a rate determined by the local authority.