

2014 No. 600

ENFORCEMENT, ENGLAND AND WALES

TAKING CONTROL OF GOODS

COMMERCIAL RENT ARREARS RECOVERY

**The Tribunals, Courts and Enforcement Act 2007
(Consequential, Transitional and Saving Provision) Order 2014**

Made - - - - - *12th March 2014*
Laid before Parliament *14th March 2014*
Coming into force in accordance with regulation 2

The Lord Chancellor makes the following Order in exercise of the powers conferred by section 145 of the Tribunals, Courts and Enforcement Act 2007^(a) and section 8 of the Law of Distress Amendment Act 1888^(b).

Citation and interpretation

1.—(1) This Order may be cited as the Tribunals, Courts and Enforcement Act 2007 (Consequential, Transitional and Saving Provision) Order 2014.

(2) In this Order—

- (a) “the 2007 Act” means the Tribunals, Courts and Enforcement Act 2007;
- (b) “relevant subordinate legislation” means an instrument made under an Act in or before the Session of Parliament in which the 2007 Act was passed;
- (c) “the Schedule 12 procedure” means the procedure under Schedule 12 of the 2007 Act.

Commencement

2.—(1) Subject to paragraph (2), this Order comes into force on 6th April 2014.

(2) The revocations of the Distress for Rent (Amendment) Rules 2009^(c) and the Distress for Rent (Amendment) Rules 2011^(d) in Part 2 of the Schedule come into force immediately before the repeal of section 8 of the Law of Distress Amendment Act 1888.

General consequential, transitional and saving provision

3.—(1) Subject to any specific amendments or revocations made by this Order—

(a) 2007 c.15
(b) 1888 c. 21
(c) S.I. 2009/873
(d) S.I. 2011/1542

- (a) any reference (however expressed) in relevant subordinate legislation that is or is deemed to be to the use of a power to distrain or to levy distress is to be read, so far as necessary for continuing its effect, as a reference to the use of a power to use the Schedule 12 procedure;
- (b) any reference (however expressed) in relevant subordinate legislation to—
 - (i) a writ of fieri facias (other than a writ of fieri facias de bonis ecclesiasticis);
 - (ii) a warrant of execution; or
 - (iii) a warrant of distress (other than one which confers a power exercisable only against specific goods),
 is to be read, so far as necessary for continuing its effect, as a reference to a writ or warrant of control;
- (c) any form of writ or warrant which describes the writ or warrant as—
 - (i) a writ of fieri facias (other than a writ of fieri facias de bonis ecclesiasticis);
 - (ii) a warrant of execution; or
 - (iii) a warrant of distress (other than one which confers a power exercisable only against specific goods),
 is to be read, so far as necessary for its validity, as describing the writ or warrant as a writ or warrant of control; and
- (d) any reference (however expressed) in any form or notice (whether or not prescribed by virtue of any enactment) or other document—
 - (i) to a bailiff, is to be read as a reference to an enforcement agent; or
 - (ii) to the use of a power to distrain or to levy distress, is to be read as a reference to the use of a power to use the Schedule 12 procedure,
 so far as necessary for the validity of the form, notice or other document or any action pursuant to it.

(2) Where, by virtue of section 66 of the 2007 Act, Part 3 of the 2007 Act does not affect the continuing exercise of a power in relation to goods, the amendments and revocations made by this Order do not apply for the purposes of the continuing exercise of that power in relation to those goods.

Transitional provision where certain pre-commencement enforcement action taken

4.—(1) Paragraph (2) applies where, before 6th April 2014—

- (a) a writ of fieri facias has been issued;
- (b) a High Court Enforcement Officer has made at least one journey to seize goods pursuant to the writ; and
- (c) no goods have been seized and no walking possession agreement has been entered into, but the debtor—
 - (i) has entered into an agreement to pay the amount for which the writ was issued; and
 - (ii) has been making payments in accordance with the agreement through the duration of the writ.

(2) Where this paragraph applies, the action taken is to be regarded as constituting the compliance stage and the first enforcement stage within the meaning of regulation 6 of the Taking Control of Goods (Fees) Regulations 2014(a), but the fees for the compliance stage and the first enforcement stage will not be payable and instead, there may be recovered, as appropriate—

(a) S.I. 2014/1

- (a) the mileage fee (fee 2 in Part A of Schedule 3 to the High Court Enforcement Officers Regulations 2004(a)) in relation to the journey;
- (b) the percentage fee (fee 1 in Part A of Schedule 3 to the High Court Enforcement Officers Regulations 2004) in relation to any amounts paid under the agreement; and
- (c) if the agreement provided for the payment of such a fee, a miscellaneous fee (fee 12 in Part C of Schedule 3 to the High Court Enforcement Officers Regulations 2004).

(3) Paragraph (4) applies where, before 6th April 2014—

- (a) a liability order has been made or (as the case may be) the authority has issued a warrant for the enforcement of a specified debt, under—
 - (i) the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989(b);
 - (ii) the Council Tax (Administration and Enforcement) Regulations 1992(c);
 - (iii) the Child Support (Collection and Enforcement) Regulations 1992(d); or
 - (iv) the Enforcement of Road Traffic Debts Order 1993(e);
- (b) a visit has (or visits have) been made to premises, or premises have been attended, to levy distress or with a view to levying distress; but
- (c) no goods have been seized and possession (whether close or walking possession) has not been taken of any goods.

(4) Where this paragraph applies, the action taken is to be regarded as constituting the compliance stage within the meaning of regulation 5 of the Taking Control of Goods (Fees) Regulations 2014, but the fee for the compliance stage will not be payable and instead, there may be recovered, as appropriate—

- (a) the fees for the matters under heads A(i) and A(ii) in paragraph 1 of Schedule 3 to the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989 in relation to the visit or visits;
- (b) the fees for the matters under heads A(i) and A(ii) in paragraph 1 of Schedule 3 to the Council Tax (Administration and Enforcement) Regulations 1992 in relation to the visit or visits;
- (c) the fees for the matters under heads A and BB in paragraph 1 of Schedule 2 to the Child Support (Collection and Enforcement) Regulations 1992 in relation to the visit or visits and any associated letter; or
- (d) the fees for the matters under heads 1 and 3 in Schedule 1 to the Enforcement of Road Traffic Debts (Certificated Bailiffs) Regulations 1993(f) in relation to the visit or visits and any associated letter.

(5) Paragraph (6) applies where, before 6th April 2014, a bailiff has attended premises to levy distress for rent but the levy has not been made, and possession has not been taken of any goods.

(6) Where this paragraph applies, the action taken is to be regarded as constituting the compliance stage within the meaning of regulation 5 of the Taking Control of Goods (Fees) Regulations 2014, but the fee for the compliance stage will not be payable and instead the fee in paragraph 2 of Appendix 1 to the Distress for Rent Rules 1988(g) may be recovered.

(7) Paragraph (8) applies where, before 6th April 2014—

(a) S.I. 2004/400; amended by S.I. 2004/673
 (b) S.I. 1989/1058; relevant amendments were made by S.I. 1998/3089, regulations 4 and 6 and Schedule 2, by S.I. 2003/2210, regulation 4 (for England), and by S.I. 2004/1013, regulation 3 (for Wales).
 (c) S.I. 1992/613; relevant amendments were made by S.I. 1993/773, regulations 5 and 8 and Schedule 5, by S.I. 1998/295, regulations 6 and 8, and by S.I. 2004/1013, regulation 3 (for Wales).
 (d) S.I. 1992/1989
 (e) S.I. 1993/2073; amended by S.I. 2001/1386
 (f) S.I. 1993/2072
 (g) S.I. 1988/2050. Paragraph 2 was amended by S.I. 2003/1858, rule 2(c).

- (a) a warrant of distress has been issued under section 76(1) of the Magistrates' Courts Act 1980(a); and
- (b) a bailiff has—
 - (i) issued to the debtor a letter or notice requiring payment of the sum within a period specified in the letter or notice and giving notice of the intention to levy the sum if it is not paid within that period; or
 - (ii) has, or has in addition, attended premises to levy the sum, but the levy has not been made, and possession has not been taken of any goods.

(8) Where this paragraph applies, the action taken is to be regarded as constituting the compliance stage within the meaning of regulation 5 of the Taking Control of Goods (Fees) Regulations 2014, but the fee for the compliance stage will not be payable and instead there may be recovered the appropriate fee for the action taken provided for at the time the action was taken in any contractual or other binding arrangement in force between the creditor and the bailiff at that time.

(9) In this article, references to any fees in any subordinate legislation other than the Taking Control of Goods (Fees) Regulations 2014 are references to the fees in that subordinate legislation as it was in force immediately before 6th April 2014.

Saving for regulations treated as if made under section 83 Traffic Management Act 2004

5. The repeal, by paragraph 156 of Schedule 13 to the 2007 Act, of section 83 of the Traffic Management Act 2004(b) does not have the effect of revoking any subordinate legislation having effect by virtue of subsection (4) of section 83 as if made under that section.

Saving for certificates under section 7 of the Law of Distress Amendment Act 1888

6. The—

- (a) repeal, by paragraph 19 of Schedule 14 to the 2007 Act, of section 7 of the Law of Distress Amendment Act 1888(c); and
- (b) revocation, by Part 2 of the Schedule to these Regulations, of the Distress for Rent Rules 1988(d),

do not have the effect of cancelling any certificate granted under section 7 of the Law of Distress Amendment Act 1888 which is in force at the time when the repeal and revocation come into force.

Specific consequential amendments and revocations

7. The rules, regulations and orders listed in the Schedule are amended or revoked as set out in the Schedule.

Signed by the authority of the Lord Chancellor

Edward Faulks
Minister of State
Ministry of Justice

12th March 2014

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- (a) 1980 c. 43. Section 76(1) was amended by the Criminal Justice Act 1982 (c.48), section 78, Schedule 16. Amendments not relevant to this provision are made by the Tribunals, Courts and Enforcement Act 2007.
 - (b) 2004 c. 18; S.I. 1993/2073 and S.I. 2001/1386 were made under section 78 of the Road Traffic Act 1991 (c. 40) and have effect by virtue of section 83(4) as if made under section 83.
 - (c) 1988 c.21
 - (d) S.I. 1988/2050

SCHEDULE

Article 7

Consequential amendments and revocations

PART 1: Amendments

Amendment of Magistrates' Courts Rules

1. The Magistrates' Courts Rules 1981(a) are amended as follows—
 - (a) In rule 2 (Interpretation), in paragraph (1), after the definition of “judgment summons” insert—

““the Schedule 12 procedure” means the procedure in Schedule 12 to the Tribunals, Courts and Enforcement Act 2007 (taking control of goods and selling them to recover a sum of money).”
 - (b) in rule 46 (Notice to defendant of fine or forfeited recognisance), in paragraph (1), for “distress” substitute “control”;
 - (c) in rule 53 (Notice to defendant before enforcing order), in paragraph (1), for “distress” substitute “control”;
 - (d) in rule 54 (Execution of distress warrant)—
 - (i) in paragraph (1)—
 - (aa) for “warrant of distress” substitute “warrant of control”;
 - (bb) in sub-paragraph (a), for “person against whom the distress is to be levied” substitute “debtor”; and
 - (cc) in sub-paragraph (b), for “levy the said sum by distress and sale of the goods belonging to the said person” substitute “recover the said sum from the debtor by way of the Schedule 12 procedure”;
 - (ii) in paragraph (2), for “person against whom the distress is to be levied” substitute “debtor”;
 - (iii) in paragraph (3), for “sum to be levied” substitute “debt”;
 - (iv) in paragraph (3B)—
 - (aa) for “warrant of distress” substitute “warrant of control”;
 - (bb) in sub-paragraph (a), for “person against whom the distress is to be levied” in both places where those words occur substitute “debtor”;
 - (cc) in sub-paragraph (b), for “sum for which distress is levied and the reason for the distress” substitute “debt and the reason for the use of the Schedule 12 procedure”; and
 - (dd) in sub-paragraph (c), for “person against whom the distress is to be levied” substitute “debtor”; and
 - (v) omit paragraphs (4) to (11);
 - (e) in rule 55 (Payment after imprisonment imposed), in paragraph (1)(a) and (c), for “distress” substitute “control”;

(a) S.I. 1981/552, as amended by S.I. 1990/1190 r.3(2), S.I. 1999/2765 r.2, S.I. 2001/167 r.3, S.I. 2001/610 rr.2,3,7, S.I. 2003/1236 rr.9, 29 and S.I. 2005/617, art. 2, Schedule paragraph 85.

- (f) in rule 65 (Particulars of fine enforcement to be entered in register), in paragraph (2)(e), for “distress” substitute “use of the Schedule 12 procedure”; and
- (g) in rule 105 (Signature of forms prescribed by rules made under the Act of 1980), in paragraph (2), for “distress” substitute “control”.

Amendment of Non-Domestic Rating (Collection and Enforcement) Regulations

2.—(1) The Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989(a) are amended as follows—

- (a) in regulation 10 (Interpretation and application of Part III), in paragraph (1)—
 - (i) at the end of the definition of “debtor”, omit “and”;
 - (ii) at the end of the definition of “liability order”, for “.” substitute “; and”; and
 - (iii) after the definition of “liability order” insert—

““Schedule 12” means Schedule 12 to the Tribunals, Courts and Enforcement Act 2007, “the Schedule 12 procedure” means the procedure in that Schedule (taking control of goods and selling them to recover a sum of money), and “enforcement agent” has the meaning given in that Schedule.”;
- (b) for regulation 14 (Distress) substitute—

“Enforcement by taking control of goods

14. Where a liability order has been made, payment may be enforced by using the Schedule 12 procedure.”;

- (c) omit regulation 15 (Appeals in connection with distress);
- (d) in regulation 16 (Commitment to prison)—
 - (i) in paragraph (1)—
 - (aa) for “levy an amount by distress under” substitute “enforce payment by use of the Schedule 12 procedure pursuant to”;
 - (bb) for “person making the distress” substitute “enforcement agent”; and
 - (cc) for “on which to levy the amount” substitute “to enforce payment”;
 - (ii) in paragraph (4)(a), for “the appropriate amount mentioned in regulation 14(2), or (as the case may be) so much of it as remains outstanding” substitute “the amount outstanding (within the meaning of Schedule 12)”;
 - (iii) in paragraph (6A)(a), for “the appropriate amount mentioned in regulation 14(2) (or so much of it as remains outstanding)” substitute “the amount outstanding (within the meaning of Schedule 12)”;
 - (iv) in paragraph (8), for “for want of sufficient distress” substitute “for insufficient recovery by way of the Schedule 12 procedure”;
- (e) in regulation 19 (Relationship between remedies under a liability order), for “distress” in the four places where it occurs, substitute “the Schedule 12 procedure”;
- (f) in regulation 21 (Magistrates’ courts), in paragraph (4), omit “regulation 15 (appeals in connection with distress)”;
- (g) in regulation 24, in paragraph (5)(b), for the words after “connected with” substitute “the use of the Schedule 12 procedure which may be recovered pursuant to regulations under paragraph 62 of Schedule 12.” and
- (h) omit Schedule 3 (Charges connected with distress).

(a) S.I. 1989/1058; relevant amendments were made by S.I. 1998/3089, regulations 4 and 6 and Schedule 2, by S.I. 2003/2210, regulation 4 (for England), and by S.I. 2004/1013, regulation 3 (for Wales).

(2) The Non-Domestic Rating (Collection and Enforcement) (Miscellaneous Provisions) Regulations 1990^(a) are amended as follows—

- (a) In regulation 4 (Joint owners and occupiers: enforcement)—
- (i) in paragraph (6), for “distress may be made” substitute “the Schedule 12 procedure may be used”;
 - (ii) in paragraphs (7) and (8), for “distress has been made” substitute “the Schedule 12 procedure has been used”; and
 - (iii) in paragraph (9), and in the two places in paragraph (10) where it occurs, for “distress” substitute “the Schedule 12 procedure”;
 - (iv) in paragraph (11)—
 - (aa) for “making distress” substitute “using the Schedule 12 procedure”;
 - (bb) for “distress being levied against” substitute “control being taken of”;
 - (cc) for “under Schedule 3 to these Regulations from such a distress” substitute “under the Taking Control of Goods (Fees) Regulations 2014^(b) from the use of the Schedule 12 procedure”; and
 - (dd) for “levy was intended to be made” substitute “Schedule 12 procedure was intended to be used”; and
 - (v) for paragraph (12) substitute—

“(12) Where—

 - (a) a liability order has been made against more than one person in respect of an amount; and
 - (b) a charge has arisen against one of them for the enforcement stage within the meaning of regulation 5 of the Taking Control of Goods (Fees) Regulations 2014 in respect of that amount,

no further charge for the enforcement stage or compliance stage (within the meaning of regulation 5 of the Taking Control of Goods (Fees) Regulations 2014) in consequence of any further use or attempted use of the Schedule 12 procedure in respect of that amount may be recovered from any of them; and a charge for the compliance stage shall be treated for those purposes as a charge with respect to the others as well as that one.”
- (b) in regulation 5 (Enforcement in relation to partnerships), in paragraph (4)—
- (i) for “distress being levied” substitute “the Schedule 12 procedure being used”; and
 - (ii) for “under Schedule 3 to those Regulations from such a distress” substitute “under the Taking Control of Goods (Fees) Regulations 2014 from the use of the Schedule 12 procedure”.

Amendment of Council Tax (Administration and Enforcement) Regulations

3. The Council Tax (Administration and Enforcement) Regulations 1992^(c) are amended as follows—

- (a) in regulation 32 (Interpretation and application of Part VI), in paragraph (1)—
- (i) at the end of the definition of “liability order”, omit “and”;
 - (ii) at the end of the definition of “net earnings”, for “.” substitute “; and”; and
 - (iii) after the definition of “net earnings” insert—

^(a) S.I. 1990/145

^(b) S.I. 2014/1

^(c) S.I. 1992/613; relevant amendments were made by S.I. 1993/773, regulations 5 and 8 and Schedule 5, by S.I. 1998/295, regulations 6 and 8, and by S.I. 2004/1013, regulation 3 (for Wales).

““Schedule 12” means Schedule 12 to the Tribunals, Courts and Enforcement Act 2007, and “the Schedule 12 procedure” means the procedure in that Schedule (taking control of goods and selling them to recover a sum of money).”;

- (b) in regulation 37 (Making of attachment of earnings order), in paragraph (1A)—
 - (i) at the end of sub-paragraph (a), for “; and” substitute “.”; and
 - (ii) omit sub-paragraph (b);
- (c) for regulation 45 (Distress) substitute—

“Enforcement by taking control of goods

45. Where a liability order has been made, payment may be enforced by using the Schedule 12 procedure.”;

- (d) omit regulations 45A (Information preliminary to distress) and 46 (Appeals in connection with distress);
- (e) in regulation 47 (Commitment to prison)—
 - (i) in paragraph (1)—
 - (aa) for “levy an amount by distress under” substitute “enforce payment by use of the Schedule 12 procedure pursuant to”;
 - (bb) for “person making the distress” substitute “enforcement agent”; and
 - (cc) for “on which to levy the amount” substitute “to enforce payment”;
 - (ii) in paragraph (4)(a), for “the appropriate amount mentioned in regulation 45(2), or (as the case may be) so much of it as remains outstanding” substitute “the amount outstanding (within the meaning of Schedule 12)”; and
 - (iii) in paragraph (6A)(a), for “the appropriate amount mentioned in regulation 45(2) (or so much of it as remains outstanding)” substitute “the amount outstanding (within the meaning of Schedule 12)”;
- (f) in regulation 52 (Relationship between remedies), for “distress” in the four places where it occurs, substitute “the Schedule 12 procedure”;
- (g) in regulation 53 (Magistrates’ courts), in paragraph (4), omit “regulation 46 (appeals in connection with distress)”;
- (h) in regulation 54 (Joint and several liability: enforcement)—
 - (i) in paragraph (5)(b), for “a distress may be made” substitute “the Schedule 12 procedure may be used”;
 - (ii) in paragraph (7), for “a distress has been made” substitute “the Schedule 12 procedure has been used”; and
 - (iii) in paragraph (9), for “distress” substitute “the Schedule 12 procedure”;
 - (iv) in paragraph (10)—
 - (aa) for “making distress” substitute “using the Schedule 12 procedure”;
 - (bb) for “distress may be levied against” substitute “control may be taken of”;
 - (cc) for “under Schedule 5 from such a distress” substitute “under the Taking Control of Goods (Fees) Regulations 2014(a) from the use of the Schedule 12 procedure”; and
 - (dd) for “levy was intended to be made” substitute “Schedule 12 procedure was intended to be used”;
 - (v) for sub-paragraph (11) substitute—
“(11) Where—

- (a) a liability order has been made against more than one person in respect of an amount; and
- (b) a charge has arisen against one of them for the enforcement stage within the meaning of regulation 5 of the Taking Control of Goods (Fees) Regulations 2014 in respect of that amount,

no further charge for the enforcement stage or compliance stage (within the meaning of regulation 5 of the Taking Control of Goods (Fees) Regulations 2014) in consequence of any further use or attempted use of the Schedule 12 procedure in respect of that amount may be recovered from any of them; and a charge for the compliance stage shall be treated for those purposes as a charge with respect to the others as well as that one.”;

- (i) in regulation 58 (Outstanding liabilities on death), in paragraph (5)(b), for the words after “charges” substitute “which may be recovered pursuant to the Taking Control of Goods (Fees) Regulations 2014”; and
- (j) omit Schedule 5 (Charges connected with distress).

Amendment of Child Support (Collection and Enforcement) Regulations

4. The Child Support (Collection and Enforcement) Regulations 1992(a) are amended as follows—

- (a) for regulation 30 (Enforcement of liability orders by distress) substitute—

“Enforcement of liability orders by taking control of goods

30. The procedure under Schedule 12 of the Tribunals, Courts and Enforcement Act 2007 pursuant to section 35(1) of the Act may be used anywhere in England and Wales.”; and

- (b) omit regulations 31 (Appeals in connection with distress) and 32 (Charges connected with distress) and Schedule 2 (Charges connected with distress).

Amendment of Enforcement of Road Traffic Debts Order

5. The Enforcement of Road Traffic Debts Order 1993(b) is amended as follows—

- (a) in article 1 (Citation, commencement and interpretation), in paragraph (2)—
 - (i) in the definition of “enforcement officer”, for the words after “means” substitute “a person who is able under section 63 of the Tribunals, Courts and Enforcement Act 2007 to act as an enforcement agent”;
 - (ii) omit the definition of “execution fees”; and
 - (iii) after the definition of “respondent” insert—

“the Schedule 12 procedure” means the procedure in Schedule 12 to the Tribunals, Courts and Enforcement Act 2007 (taking control of goods and selling them to recover a sum of money), and “the amount outstanding” has the meaning given in that Schedule;”;
- (b) in article 2 (Specified debts), in paragraph (2), for “execution” substitute “control”;
- (c) in article 3 (Requirements to be satisfied before taking enforcement proceedings)—
 - (i) in paragraph (1), for “execution” substitute “control”;
 - (ii) in paragraph (3)—
 - (aa) in sub-paragraph (a), for “execution” substitute “the use of the Schedule 12 procedure”;

(a) S.I. 1992/1989

(b) S.I. 1993/2073; amended by S.I. 2001/1386

- (bb) in sub-paragraph (b), for the words after “believe that” substitute “the use of the Schedule 12 procedure will fail to recover the amount outstanding”;
- (iii) in paragraph (4), for “execution” substitute “the use of the Schedule 12 procedure”; and
- (iv) in paragraph (5)—
 - (aa) in the definition of “enforcement proceedings”, for “execution against goods” substitute “the Schedule 12 procedure”; and
 - (bb) in the definition of “no relevant return to the warrant”, for sub-paragraphs (i) and (ii) substitute—
 - “(i) it has not been possible to take control of goods because access has been denied to the premises occupied by the respondent or because the goods have been removed from those premises;
 - (ii) any goods of which control has been taken are insufficient to satisfy the amount outstanding; or”;
- (d) in article 4 (Enforcement of specified debts)—
 - (i) in paragraph (1), for “85 to 104 and 125” substitute “85 to 88 and 104”; and
 - (ii) in paragraph (2), omit “123,” and “, 126”;
- (e) in article 5—
 - (i) in paragraph (1), for “execution in the nature of a writ of fieri facias” substitute “control”; and
 - (ii) in paragraph (2), for the words after “authority” substitute “to use the Schedule 12 procedure against the respondent’s goods (wherever they may be found in England and Wales) to recover the amount outstanding”;
- (f) in article 7—
 - (i) in paragraph (1), for the words after “warrant of” substitute “control issued by it the total amount to be recovered, exclusive of fees for its execution”; and
 - (ii) omit paragraph (2); and
 - (iii) omit articles 9 to 17.

Amendment of Local Authorities (Contracting Out of Billing, Collection and Enforcement Functions) Orders

6.—(1) The Local Authorities (Contracting Out of Tax Billing, Collection and Enforcement Functions) Order 1996(a) is amended as follows—

- (a) in article 1 (Title, commencement and interpretation), after paragraph (2) insert—
 - “(3) In this Order, “the Schedule 12 procedure” means the procedure in Schedule 12 to the Tribunals, Courts and Enforcement Act 2007 (taking control of goods and selling them to recover a sum of money), and “the amount outstanding” has the meaning given in that Schedule.”
- (b) in article 25 (Distress)—
 - (i) for the heading substitute “Enforcement by taking control of goods”;
 - (ii) for sub-paragraph (a), substitute—
 - “(a) of using the Schedule 12 procedure to enforce payment by the debtor of the amount outstanding;”;
 - (iii) in sub-paragraph (b), for “levying distress” substitute “using the Schedule 12 procedure”; and

(a) S.I. 1996/1880

- (iv) in sub-paragraph (c), for the words from “amount mentioned” to “pursuance of the distress,” substitute “amount outstanding is paid or tendered before control is taken of any goods, or after control has been taken of goods”;
- (c) in article 42 (Distress)—
 - (i) for the heading substitute “Enforcement by taking control of goods”;
 - (ii) for sub-paragraph (a), substitute—
 - “(a) of using the Schedule 12 procedure to enforce payment by the debtor of the amount outstanding;”;
 - (iii) in sub-paragraph (b), for “levying distress” substitute “using the Schedule 12 procedure”; and
 - (iv) in sub-paragraph (c), for the words from “amount mentioned” to “pursuance of the distress,” substitute “amount outstanding is paid or tendered before control is taken of any goods, or after control has been taken of goods”;
- (d) in article 58 (Distress)—
 - (i) for the heading substitute “Enforcement by taking control of goods”;
 - (ii) for sub-paragraph (a), substitute—
 - “(a) of using the Schedule 12 procedure to enforce payment by the debtor of the amount outstanding;”;
 - (iii) in sub-paragraph (b), for “levying distress” substitute “using the Schedule 12 procedure”; and
 - (iv) in sub-paragraph (c), for the words from “amount mentioned” to “pursuance of the distress,” substitute “amount outstanding is paid or tendered before control is taken of any goods, or after control has been taken of goods”; and
- (e) in article 70 (Enforcement)—
 - (i) for “distress” where it first occurs, substitute “use of the Schedule 12 procedure”;
 - (ii) in sub-paragraph (c), for “take steps to levy any amount by distress and sale of the goods of” substitute “use the Schedule 12 procedure against”;
 - (iii) in sub-paragraph (d), for “levy distress” substitute “use the Schedule 12 procedure”; and
 - (iv) in sub-paragraph (e), for “which have already been seized” substitute “of which control has already been taken”.

(2) The Local Authorities (Contracting Out of BID Levy Billing, Collection and Enforcement Functions) Order 2005(a) is amended as follows—

- (a) in article 1 (Title, commencement and interpretation)—
 - (i) after the definition of “hereditament”, delete “and”;
 - (ii) at the end of the definition of “liability order”, for “.” substitute “; and”; and
 - (iii) after the definition of “liability order”, insert—
 - ““the Schedule 12 procedure” means the procedure in Schedule 12 to the Tribunals, Courts and Enforcement Act 2007 (taking control of goods and selling them to recover a sum of money), and “the amount outstanding” has the meaning given in that Schedule;”;
- (b) in article 9 (Distress)—
 - (i) for the heading substitute “Enforcement by taking control of goods”;
 - (ii) for sub-paragraph (a), substitute—

- “(a) of using the Schedule 12 procedure to enforce payment by the debtor of the amount outstanding;”;
- (iii) in sub-paragraph (b), for “levying distress” substitute “using the Schedule 12 procedure”; and
- (iv) in sub-paragraph (c), for the words from “amount mentioned” to “pursuance of the distress,” substitute “amount outstanding is paid or tendered before control is taken of any goods, or after control has been taken of goods”; and
- (c) in article 17 (Enforcement)—
 - (i) for “distress” where it first occurs, substitute “use of the Schedule 12 procedure”;
 - (ii) in sub-paragraph (c), for “take steps to levy any amount by distress and sale of the goods of” substitute “use the Schedule 12 procedure against”; and
 - (iii) in sub-paragraph (d), for “which have already been seized” substitute “of which control has already been taken”.

Amendment of Stamp Duty Land Tax (Administration) Regulations

7. The Stamp Duty Land Tax (Administration) Regulations 2003(a) are amended as follows—
- (a) omit regulations 29 to 32; and
 - (b) omit Schedule 3.

Amendment of High Court Enforcement Officers Regulations

8. The High Court Enforcement Officers Regulations 2004(b) are amended as follows—
- (a) in regulation 13 (Fees)—
 - (i) omit paragraph (2); and
 - (ii) after paragraph (3) insert—

“(3A) Where an enforcement officer uses the Schedule 12 procedure and the proceeds, if any, are insufficient to enable the enforcement officer to recover the compliance fee, that fee (or the balance of it which remains outstanding) must be paid by the person on whose application the writ was issued.

(3B) In paragraph (3A), “Schedule 12 procedure” and “compliance fee” have the same meanings as in the Taking Control of Goods (Fees) Regulations 2014(c).”;
 - (b) omit regulation 15;
 - (c) omit Part A of Schedule 3; and
 - (d) omit Schedule 4.

Amendment of Business Improvement Districts Regulations

- 9.—(1) The Business Improvement Districts (England) Regulations 2004(d) are amended as follows.
- (2) In Schedule 4—
- (a) in paragraph 1, after sub-paragraph (9) insert—

“(10) In this Schedule, “the Schedule 12 procedure” means the procedure in Schedule 12 to the Tribunals, Courts and Enforcement Act 2007 (taking control of goods and selling them to recover a sum of money).”;

(a) S.I. 2003/2837
 (b) S.I. 2004/400; amended by S.I. 2004/673
 (c) S.I. 2014/1
 (d) S.I. 2004/2443; amended by S.I. 2013/2265

- (b) in paragraph 9, in sub-paragraph (1), for “Schedules 3 and 4” substitute “Schedule 4”;
- (c) in paragraph 10 (Outstanding liabilities on death), in sub-paragraph (5)(b), for the words after “charges” substitute “which may be recovered pursuant to the Taking Control of Goods (Fees) Regulations 2014”;
- (d) in paragraph 13 (Joint owners and occupiers: enforcement)—
 - (i) in sub-paragraph (5), for “distress may be made” substitute “the Schedule 12 procedure may be used”;
 - (ii) in sub-paragraphs (6) and (7), for “distress has been made” substitute “the Schedule 12 procedure has been used”;
 - (iii) in sub-paragraphs (8) and (9), for “distress” in each place where it occurs substitute “the Schedule 12 procedure”;
 - (iv) in sub-paragraph (10)—
 - (aa) for “making distress” substitute “using the Schedule 12 procedure”;
 - (bb) for “distress being levied against” substitute “control being taken of”;
 - (cc) for “under Schedule 3 to the 1989 Regulations from such a distress” substitute “under the Taking Control of Goods (Fees) Regulations 2014 from the use of the Schedule 12 procedure”; and
 - (dd) for “levy was intended to be made” substitute “Schedule 12 procedure was intended to be used”; and
 - (v) for sub-paragraph (11) substitute—

“(11) Where—

 - (a) a liability order has been made against more than one person in respect of an amount; and
 - (b) a charge has arisen against one of them for the enforcement stage within the meaning of regulation 5 of the Taking Control of Goods (Fees) Regulations 2014 in respect of that amount,

no further charge for the enforcement stage or compliance stage (within the meaning of regulation 5 of the Taking Control of Goods (Fees) Regulations 2014) in consequence of any further use or attempted use of the Schedule 12 procedure in respect of that amount may be recovered from any of them; and a charge for the compliance stage shall be treated for those purposes as a charge with respect to the others as well as that one.”; and
- (e) in paragraph 14 (Enforcement in relation to partnerships), in paragraph (4)—
 - (i) for “distress being levied against” substitute “control being taken of”; and
 - (ii) for “under Schedule 3 to the 1989 Regulations from such a distress” substitute “under the Taking Control of Goods (Fees) Regulations 2014 from the use of the Schedule 12 procedure”.

10.—(1) The Business Improvement Districts (Wales) Regulations 2005(a) are amended as follows.

(2) In Schedule 4—

- (a) in paragraph 1, after sub-paragraph (8) insert—

“(9) In this Schedule, “the Schedule 12 procedure” means the procedure in Schedule 12 to the Tribunals, Courts and Enforcement Act 2007 (taking control of goods and selling them to recover a sum of money).”;
- (b) in paragraph 10 (Outstanding liabilities on death), in sub-paragraph (5)(b), for the words after “charges” substitute “which may be recovered pursuant to the Taking Control of Goods (Fees) Regulations 2014”;

(a) S.I. 2005/1312

- (c) in paragraph 13 (Joint owners and occupiers: enforcement)—
- (i) in sub-paragraph (5), for “distress may be made” substitute “the Schedule 12 procedure may be used”;
 - (ii) in sub-paragraphs (6) and (7), for “distress has been made” substitute “the Schedule 12 procedure has been used”;
 - (iii) in sub-paragraphs (8) and (9), for “distress” in each place where it occurs substitute “the Schedule 12 procedure”;
 - (iv) in sub-paragraph (10)—
 - (aa) for “making distress” substitute “using the Schedule 12 procedure”;
 - (bb) for “distress being levied against” substitute “control being taken of”;
 - (cc) for “under Schedule 3 to the 1989 Regulations from such a distress” substitute “under the Taking Control of Goods (Fees) Regulations 2014 from the use of the Schedule 12 procedure”; and
 - (dd) for “levy was intended to be made” substitute “Schedule 12 procedure was intended to be used”; and

(v) for sub-paragraph (11) substitute—

“(11) Where—

- (a) a liability order has been made against more than one person in respect of an amount; and
- (b) a charge has arisen against one of them for the enforcement stage within the meaning of regulation 5 of the Taking Control of Goods (Fees) Regulations 2014 in respect of that amount,

no further charge for the enforcement stage or compliance stage (within the meaning of regulation 5 of the Taking Control of Goods (Fees) Regulations 2014) in consequence of any further use or attempted use of the Schedule 12 procedure in respect of that amount may be recovered from any of them; and a charge for the compliance stage shall be treated for those purposes as a charge with respect to the others as well as that one.”; and

- (d) in paragraph 14 (Enforcement in relation to partnerships), in paragraph (4)—
- (i) for “distress being levied against” substitute “control being taken of”; and
 - (ii) for “under Schedule 3 to those regulations from such a distress” substitute “under the Taking Control of Goods (Fees) Regulations 2014 from the use of the Schedule 12 procedure”.

(3) In the Welsh text of those Regulations (Rheoliadau Ardaloedd Gwella Busnes (Cymru) 2005), in Schedule 4—

(a) in paragraph 1, after sub-paragraph (8) insert—

“(9) Yn yr Atodlen hon, ystyr “gweithdrefn Atodlen 12” yw’r weithdrefn yn Atodlen 12 i Ddeddf Tribiwnlysoedd, Llysoedd a Gorfodi 2007 (cymryd rheolaeth o nwyddau a’u gwerthu i adennill swm o arian).”;

(b) in paragraph 10 (Atebolrwydd heb ei dalu ar adeg marwolaeth), in sub-paragraph (5)(b), for the words after “ydynt” substitute “y caniateir iddynt gael eu hadennill yn unol â Rheoliadau Cymryd Rheolaeth o Nwyddau (Ffioedd) 2014”;

(c) in paragraph 13 (Cydd-deiliaid a chyd-berchenogion: gorfodi)—

- (i) in sub-paragraph (5), for “cymryd camau atafaelu” substitute “defnyddio gweithdrefn Atodlen 12”;
- (ii) in sub-paragraphs (6) and (7), for “camau atafaelu wedi cael eu cymryd” substitute “gweithdrefn Atodlen 12 wedi ei defnyddio”;
- (iii) in sub-paragraph (8) for “drwy atafaelu” substitute “o dan weithdrefn Atodlen 12, na thrwy”;
- (iv) in sub-paragraph (9)—

- (aa) in paragraph (a) for “drwy atafaelu” substitute “o dan weithdrefn Atodlen 12, na thrwy”;
- (bb) in paragraph (b) for “atafaelau” in each place where it occurs substitute “o dan weithdrefn Atodlen 12”;
- (v) in sub-paragraph (10)—
 - (aa) for “gymryd camau atafaelu” substitute “ddefnyddio gweithdrefn Atodlen 12”;
 - (bb) after the word “atal” for “atafaelau’r” substitute “cymryd rheolaeth o’r”;
 - (cc) for “o dan Atodiad 3 o Reoliadau 1989 o atafaelu’r nwyddau” substitute “o dan Reoliadau Cymryd Rheolaeth o Nwyddau (Ffioedd) 2014 o ddefnyddio gweithdrefn Atodlen 12”; and
 - (dd) for “codi’r lefi” substitute “defnyddio gweithdrefn Atodlen 12”;
- (vi) for sub-paragraph (11) substitute—

“(11) Pan fydd—

 - (a) gorchymyn atebolrwydd wedi ei wneud yn erbyn mwy nag un person o ran swm; a
 - (b) tâl wedi codi yn erbyn un ohonynt ar gyfer y cyfnod gorfodi o fewn ystyr rheoliad 5 o Reoliadau Cymryd Rheolaeth o Nwyddau (Ffioedd) 2014 o ran y swm hwnnw, ni chaniateir ychwanegu tâl pellach ar gyfer y cyfnod gorfodi neu’r cyfnod cydymffurfio (o fewn ystyr rheoliad 5 o Reoliadau Cymryd Rheolaeth o Nwyddau (Ffioedd) 2014) o ganlyniad i unrhyw ddefnydd pellach neu ymgais ar ddefnydd pellach o weithdrefn Atodlen 12 yn erbyn unrhyw un ohonynt o ran y swm hwnnw; a rhaid trin tâl ar gyfer y cyfnod cydymffurfio at y dibenion hynny fel tâl o ran y rhai eraill yn ogystal â hwnnw.”; and
- (d) in paragraph 14 (Gorfodi yng nghyswllt partneriaethau), in paragraph (4)—
 - (i) after the word “atal” for “atafaelau” substitute “cymryd rheolaeth o”; and
 - (ii) for “o dan Atodlen 3 o’r rheoliadau hynny sy’n codi o’r atafaelu” substitute “o dan Reoliadau Cymryd Rheolaeth o Nwyddau (Ffioedd) 2014 o ddefnyddio gweithdrefn Atodlen 12”.

PART 2: Revocations

<i>Instrument revoked</i>	<i>Reference</i>	<i>Extent of revocation</i>
The Distress for Rent Rules 1988	S.I. 1988/2050	The whole Rules
The Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989	S.I. 1989/1058	Schedule 3
The Council Tax (Administration and Enforcement) Regulations 1992	S.I. 1992/613	Regulations 45A and 46; Schedule 5
The Enforcement of Road Traffic Debts (Certificated Bailiffs) Regulations 1993	S.I. 1993/2072	The whole Regulations
The Enforcement of Road Traffic Debts Order 1993	S.I. 1993/2073	Articles 9 to 17
The Distraint by Collectors (Fees, Costs and Charges) Regulations 1994	S.I. 1994/236	The whole Regulations, to the extent that they apply to England and Wales only
The Distraint by Collectors (Fees, Costs and Charges) (Amendment) Regulations 1995	S.I. 1995/2151	The whole Regulations, to the extent that they apply to England and Wales only

The Distress for Customs and Excise Duties and Other Indirect Taxes Regulations 1997	S.I. 1997/1431	The whole Regulations, to the extent that they apply to England and Wales only
The Enforcement of Road Traffic Debts (Certificated Bailiffs) (Amendment) Regulations 1998	S.I. 1998/1351	The whole Regulations
The Distraint by Authorised Officers (Fees, Costs and Charges) Regulations 1999	S.I. 1999/980	The whole Regulations, to the extent that they apply to England and Wales only
The Distress for Rent (Amendment) Rules 1999	S.I. 1999/2360	The whole Rules
The Distress for Rent (Amendment No. 2) Rules 1999	S.I. 1999/2564	The whole Rules
The Distress for Rent (Amendment No. 3) Rules 1999	S.I. 1999/3186	The whole Rules
The Distraint by Collectors (Fees, Costs and Charges) (Stamp Duty Penalties) Regulations 1999	S.I. 1999/3263	The whole Regulations, to the extent that they apply to England and Wales only
The Distress for Rent (Amendment) Rules 2000	S.I. 2000/1481	The whole Rules
The Distress for Rent (Amendment No. 2) Rules 2000	S.I. 2000/2737	The whole Rules
The Distress for Rent (Amendment) Rules 2001	S.I. 2001/4026	The whole Rules
The Enforcement of Road Traffic Debts (Certificated Bailiffs) (Amendment) Regulations 2003	S.I. 2003/1857	The whole Regulations
The Distress for Rent (Amendment) Rules 2003	S.I. 2003/1858	The whole Rules
The Distress for Rent (Amendment No. 2) Rules 2003	S.I. 2003/2141	The whole Rules
The Stamp Duty Land Tax (Administration) Regulations 2003	S.I. 2003/2837	Regulations 29 to 32; Schedule 3
The High Court Enforcement Officers Regulations 2004	S.I. 2004/400	Regulations 15; Schedule 3 Part A; Schedule 4
The Distress for Rent (Amendment) Rules 2009	S.I. 2009/873	The whole Rules
The Distress for Rent (Amendment) Rules 2011	S.I. 2011/1542	The whole Rules

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes consequential amendments in other subordinate legislation, together with transitional and saving provisions, in consequence of the implementation of Part 3 of the Tribunals, Courts and Enforcement Act 2007 (“the 2007 Act”), which provides for the replacement of various powers of enforcement by way of execution and distraint by a procedure in Schedule 12 of the 2007 Act (“the Schedule 12 procedure”) known as taking control of goods, and for the replacement of distress for rent by a power (to be known as commercial rent arrears recovery, or CRAR) to use the taking control of goods procedure.

The Schedule to these Regulations amends or revokes subordinate legislation which contains provision about the exercise of powers which are replaced by the power to use the Schedule 12 procedure.

In addition, transitional and saving provision is made as follows. Provision is made for references to powers replaced by the power to use the Schedule 12 procedure, references to certain warrants or writs which have been renamed by the 2007 Act as warrants or writs of control, and references to bailiffs, to operate as references to the Schedule 12 procedure or power to use that procedure, to the warrants as renamed, and to enforcement agents. Provision is also made for the amendments to subordinate legislation not to apply to continuing enforcement action where Part 3 of the Act has no effect by virtue of section 66 of the 2007 Act. Provision is additionally made for certain types of enforcement action, undertaken before commencement of Part 3 of the 2007 Act but which do not bring the case within the saving provisions of section 66 of that Act (Pre-commencement enforcement not affected), to have effect as constituting the compliance stage under the Taking Control of Goods (Fees) Regulations 2014 and to attract the pre-commencement rates of fees. Provision is further made to ensure that regulations treated as if made under section 83 of the Traffic Management Act 2004 continue to have effect notwithstanding the repeal by the 2007 Act of the section under which they have effect.

A full impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen. An impact assessment was, however, carried out to consider the impact of the implementation of Part 3 of the 2007 Act of which this instrument forms a part, and is available at <https://consult.justice.gov.uk/digital-communications/transforming-bailiff-action>.

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