STATUTORY INSTRUMENTS

2013 No. 1894

ENFORCEMENT, ENGLAND AND WALES

TAKING CONTROL OF GOODS

COMMERCIAL RENT ARREARS RECOVERY

The Taking Control of Goods Regulations 2013

Made - - - -	*26th July 2013*
Laid before Parliament	*30th July 2013*
Coming into force - -	*6th April 2014*

The Lord Chancellor makes the following Regulations in exercise of the powers conferred by sections 73(8), 77(4), 81(5) and (6) and 90 of and paragraphs 3(1), 7(2) and (4), 8, 13(3), 14(3), 15(3), 19A(2) and (4), 22(1), 24(1), 25(1) and (2), 28(2) and (3), 31(2) and (4), 32(1) and (2), 33(2), 34(4), 35(2), 36, 39(2), 40(2) and (3), 41(3) and (5), 42, 43(1), (2) and (3), 48(1), (3) and (4), 49(3) and (4), 54(2) and 60(4) and (5) of Schedule 12 to the Tribunals, Courts and Enforcement Act 2007(**1**).

PART 1

INTRODUCTORY

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Taking Control of Goods Regulations 2013 and come into force on 6th April 2014.

(2) These Regulations extend to England and Wales only.

Interpretation

General interpretation

2. In these Regulations—

"the Act" means the Tribunals, Courts and Enforcement Act 2007;

(**1**) 2007 c. 15. Section 90 and Schedule 12 are prospectively amended by the Crime and Courts Act 2013 (c.22), section 25(8).

"child" means a person under the age of 16;

"clear days" means that in computing the number of days—

(a) the day on which the period begins; and

(b) if the end of the period is defined by reference to an event, the day on which that event occurs,

are not included;

"controlled goods" has the meaning given in paragraph 3(1) of Schedule 12 (general interpretation);

"co-owner" has the meaning given in paragraph 3(1) of Schedule 12 (general interpretation);

"CRAR" has the meaning given in section 72 of the Act (commercial rent arrears recovery (CRAR));

"creditor" has the meaning given in paragraph 1(6) of Schedule 12 (the procedure);

"debtor" has the meaning given in paragraph 1(5) of Schedule 12 (the procedure);

"disabled person" means a person—

(a) whose sight, hearing or speech is substantially impaired;

(b) who has a mental disorder; or

(c) who is physically substantially disabled by any illness, any impairment present since birth, or otherwise;

"enforcement agent" has the meaning given in paragraph 2(1) of Schedule 12 (enforcement agents);

"net unpaid rent" has the meaning given in section 77(5) of the Act (the rent recoverable);

"notice of enforcement" means the notice of enforcement required by paragraph 7(1) of Schedule 12;

"notice of the enforcement agent's intention to re-enter premises" means the notice of the enforcement agent's intention to re-enter premises required by paragraph 19A(1)(d) of Schedule 12;

"older person" means a person aged 65 or over;

"premises" has the meaning given in paragraph 3(1) of Schedule 12 (general interpretation);

"reference number" means a reference number assigned to the debt by the enforcement agent or the enforcement agent's office;

"relevant premises" has the meaning given by paragraph 14(4) and (6) of Schedule 12 (entry without warrant);

"Schedule 12" means Schedule 12 to the Act;

"securities" has the meaning given in paragraph 3(1) of Schedule 12 (general interpretation);

"specified premises" means premises specified in a warrant issued under paragraph 15(1) of Schedule 12 (entry under warrant);

"the sum outstanding" means the outstanding debt together with any interest and any costs of enforcement to date;

"taking control of goods" has the meaning given by paragraph 13(1) of Schedule 12 (ways of taking control).

Application

Application of these Regulations

3.—(1) These Regulations apply in relation to taking control of goods and selling them in the exercise of a power to use the procedure in Schedule 12.

(2) These Regulations apply to all such cases except to the extent that they provide otherwise.

Exempt Goods

Exempt goods

4.—(1) Subject to paragraph (2) and to regulation 5, the following goods of the debtor are exempt goods—

(a) items or equipment (for example, tools, books, telephones, computer equipment and vehicles) which are necessary for use personally by the debtor in the debtor's employment, business, trade, profession, study or education, except that in any case the aggregate value of the items or equipment to which this exemption is applied shall not exceed £1,350;

(b) such clothing, bedding, furniture, household equipment, items and provisions as are reasonably required to satisfy the basic domestic needs of the debtor and every member of the debtor's household, including (but not restricted to)—

(i) a cooker or microwave;

(ii) a refrigerator;

(iii) a washing machine;

(iv) a dining table large enough, and sufficient dining chairs, to seat the debtor and every member of the debtor's household;

(v) beds and bedding sufficient for the debtor and every member of the debtor's household;

(vi) one landline telephone, or if there is no landline telephone at the premises, a mobile or internet telephone which may be used by the debtor or a member of the debtor's household;

(vii) any item or equipment reasonably required for—

(aa) the medical care of the debtor or any member of the debtor's household;

(bb) safety in the dwelling-house; or

(cc) the security of the dwelling-house (for example, an alarm system) or security in the dwelling-house;

(viii) sufficient lamps or stoves, or other appliance designed to provide lighting or heating facilities, to satisfy the basic heating and lighting needs of the debtor's household; and

(ix) any item or equipment reasonably required for the care of—

(aa) a person under the age of 18;

(bb) a disabled person; or

(cc) an older person;

(c) assistance dogs (including guide dogs, hearing dogs and dogs for disabled persons), sheep dogs, guard dogs or domestic pets;

(d) a vehicle on which a valid disabled person's badge is displayed because it is used for, or in relation to which there are reasonable grounds for believing that it is used for, the carriage of a disabled person;

(e) a vehicle (whether in public ownership or not) which is being used for, or in relation to which there are reasonable grounds for believing that it is used for, police, fire or ambulance purposes; and

(f) a vehicle displaying a valid British Medical Association badge or other health emergency badge because it is being used for, or in relation to which there are reasonable grounds for believing that it is used for, health emergency purposes.

(2) Paragraph (1)(a) does not apply where the debt is being enforced under—

(i) section 62A of the Local Government Finance Act 1988(**2**);

(ii) section 54 of the Land Drainage Act 1991(**3**);

(iii) paragraph 12 of Schedule 15 to the Water Resources Act 1991(**4**); or

(iv) section 127 of the Finance Act 2008(**5**).

Exempt goods: goods which are also premises and are occupied as only or principal home

5. Where any goods of the debtor are also premises and are occupied by the debtor or another person as the debtor's or that person's only or principal home, those goods are exempt goods.

PART 2

PROCEDURE FOR TAKING CONTROL OF GOODS

Notice of enforcement prior to taking control of goods

Minimum period of notice

6.—(1) Subject to paragraph (3), notice of enforcement must be given to the debtor not less than 7 clear days before the enforcement agent takes control of the debtor's goods.

(2) Where the period referred to in paragraph (1) includes a Sunday, bank holiday, Good Friday or Christmas Day that day does not count in calculating the period.

(3) The court may order that a specified shorter period of notice may be given to the debtor.

(4) The court may only make an order under paragraph (3) where it is satisfied that, if the order is not made, it is likely that goods of the debtor will be moved to premises other than relevant premises, or otherwise disposed of, in order to avoid the goods being taken control of by the enforcement agent.

Form and contents of notice

7. Notice of enforcement must be given in writing, and must contain the following information—

(a) the name and address of the debtor;

(**2**) 1988 c. 41.

(**3**) 1991 c. 59. Section 54 was amended by the Tribunals Courts and Enforcement Act 2007, section 62(3), and Schedule 13, paragraph 100 .

(**4**) 1991 c. 57. Paragraph 12 was amended by the Environment Act 1995. section 120, Schedule 22, paragraphs 128 and 187, the Local Government and Finance Act 1992 (c. xx), section 117(1), Schedule 13, paragraph 98 and (prospectively) by the Tribunals, Courts and Enforcement Act 2007, section 62(3) and Schedule 13, paragraph 99.

(**5**) 2008 c. 9.

(b) the reference number or numbers;

(c) the date of notice;

(d) details of the court judgment or order or enforcement power by virtue of which the debt is enforceable against the debtor;

(e) the following information about the debt—

(i) sufficient details of the debt to enable the debtor to identify the debt correctly;

(ii) the amount of the debt including any interest due as at the date of the notice;

(iii) the amount of any enforcement costs incurred up to the date of notice; and

(iv) the possible additional costs of enforcement if the sum outstanding should remain unpaid as at the date mentioned in paragraph (h);

(f) how and between which hours and on which days payment of the sum outstanding may be made;

(g) a contact telephone number and address at which, and the days on which and the hours between which, the enforcement agent or the enforcement agent's office may be contacted; and

(h) the date and time by which the sum outstanding must be paid to prevent goods of the debtor being taken control of and sold and the debtor incurring additional costs.

Method of giving notice and who must give it

8.—(1) Notice of enforcement must be given—

(a) by post addressed to the debtor at the place, or one of the places, where the debtor usually lives or carries on a trade or business;

(b) by fax or other means of electronic communication;

(c) by delivery by hand through the letter box of the place, or one of the places, where the debtor usually lives or carries on a trade or business;

(d) where there is no letterbox, by affixing the notice at or in a place where it is likely to come to the attention of the debtor;

(e) where the debtor is an individual, to the debtor personally; or

(f) where the debtor is not an individual (but is, for example, a company, corporation or partnership), by delivering the notice to—

(i) the place, or one of the places, where the debtor carries on a trade or business; or

(ii) the registered office of the company or partnership.

(2) Notice must be given by the enforcement agent or the enforcement agent's office.

Taking control of goods

Time limit for taking control of goods

9.—(1) Subject to paragraphs (2) and (3), the enforcement agent may not take control of goods of the debtor after the expiry of a period of 12 months beginning with the date of notice of enforcement.

(2) Where—

(a) after giving notice of enforcement the enforcement agent enters into an arrangement with the debtor for the repayment, by the debtor, of the sum outstanding by instalments (a repayment arrangement); and

(b) the debtor breaches the terms of the repayment arrangement,

the period in paragraph (1) begins with the date of the debtor's breach of the repayment arrangement.

(3) The court may order that the period in paragraph (1) be extended by 12 months.

(4) The court may make an order under paragraph (3) only—

(a) on application by the enforcement agent or the creditor;

(b) on one occasion; and

(c) if the court is satisfied that the applicant has reasonable grounds for not taking control of goods of the debtor during the period referred to under paragraph (1).

Circumstances in which the enforcement agent may not take control of goods

10.—(1) The enforcement agent may not take control of goods of the debtor where—

(a) the debtor is a child;

(b) a child or vulnerable person (whether more than one or a combination of both) is the only person present in the relevant or specified premises in which the goods are located; or

(c) the goods are also premises in which a child or vulnerable person (whether more than one or a combination of both) is the only person present.

(2) Where an item which belongs to the debtor is in use by any person at the time at which the enforcement agent seeks to take control of it, the enforcement agent may not do so if such action is in all the circumstances likely to result in a breach of the peace.

(3) In paragraph (2), "in use" means that the item is in the hands of, or being operated by, the person.

Circumstances in which the enforcement agent may not take control of goods: highways

11.—(1) This regulation applies in relation to relevant goods which the enforcement officer finds on a highway (see paragraph 13(1)(b) of Schedule 12).

(2) In this regulation—

(a) "relevant goods" means—

(i) animals or livestock; or

(ii) any goods which the enforcement agent believes to be or to include—

(aa) hazardous goods or materials; or

(bb) perishable goods or materials;

(b) "hazardous goods or materials" includes—

(i) nuclear matter;

(ii) radioactive waste; and

(iii) any other article or substance that has been and remains contaminated (whether radioactively or chemically); and

(c) "livestock" includes cattle, sheep, pigs, horses and poultry.

(3) The enforcement agent may not take control of any relevant goods if—

(a) to do so would pose a risk to public health; and

(b) the enforcement agent is or ought to be aware of that risk.

(4) Where paragraph (1) applies the enforcement agent may not take control of a debtor's vehicle in which such goods are contained.

Days for taking control of goods

12. The enforcement agent may take control of goods of the debtor on any day of the week.

Prohibited hours for taking control

13.—(1) Subject to paragraph (2), the enforcement agent may not take control of goods of the debtor before 6 a.m. or after 9 p.m. on any day.

(2) Paragraph (1) does not apply where—

(a) the court, on application by the enforcement agent, orders otherwise;

(b) goods are located on the debtor's or another person's premises which are used (whether wholly or partly) to carry on a trade or business and the premises (or part of the premises) are open for the conduct of that trade or business during hours that are prohibited under paragraph (1); or

(c) the enforcement agent has begun to take control of goods during hours that are not prohibited under paragraph (1), or during hours to which paragraph (1) does not apply by virtue of sub-paragraph (a) or (b), and to complete taking control of goods it is reasonably necessary for the enforcement agent to continue to do so during prohibited hours, provided the duration of time spent in taking control of goods is reasonable.

Who may enter into a controlled goods agreement

14.—(1) Subject to paragraph (2), a controlled goods agreement, as defined by paragraph 13(4) of Schedule 12, may only be entered into by an enforcement agent and—

(a) a debtor who is not a child;

(b) a person, aged 18 or over, authorised by the debtor to enter into a controlled goods agreement on the debtor's behalf; or

(c) a person in apparent authority who is on the premises, where those premises are used (whether wholly or partly) to carry on a trade or business.

(2) The enforcement agent may not enter into a controlled goods agreement with the debtor or another person who it appears (or ought to appear) to the enforcement agent does not understand the effect of, and would therefore not be capable of entering into, such an agreement.

Controlled goods agreements

15.—(1) This regulation applies where a controlled goods agreement is entered into under paragraph 13(1)(d) of Schedule 12.

(2) The agreement must be in writing and signed by the enforcement agent and—

(a) the debtor;

(b) the person authorised by the debtor in accordance with regulation 14(1)(b); or

(c) the person in apparent authority in accordance with regulation 14(1)(c).

(3) The agreement must contain the following information—

(a) the name and address of the debtor;

(b) the reference number or numbers and the date of the agreement;

(c) the names of the persons entering into the agreement;

(d) a contact telephone number and address at which, and the days on which and the hours between which the enforcement agent or the enforcement agent's office may be contacted;

(e) a list of the goods of which control has been taken with a description to enable the debtor to identify the goods correctly, including, where applicable—

(i) the manufacturer, model and serial number of the goods;

(ii) in the case of a vehicle, the manufacturer, model, colour and registration mark of the vehicle; and

(iii) the material, colour and usage, and (where appropriate) any other identifying characteristic of the goods; and

(f) the terms of the arrangement entered into between the enforcement agent and the debtor for the repayment, by the debtor, of the sum outstanding.

(4) At the time of entering into the agreement, the enforcement agent must give a copy of the signed agreement to the person who signed it under paragraph (2).

(5) Where the enforcement agent enters into the agreement with a person authorised by the debtor in accordance with regulation 14(1)(b) or with a person in apparent authority in accordance with regulation 14(1)(c), the enforcement agent must also provide the debtor with a copy of the signed agreement by—

(a) leaving it in a conspicuous place on the relevant or specified premises, where the enforcement agent has taken control of the goods on such premises; or

(b) delivering it to any relevant premises, in a sealed envelope addressed to the debtor, where the enforcement agent has taken control of the goods on a highway.

(6) Where the enforcement agent leaves a copy of the agreement in a conspicuous place on the relevant or specified premises under paragraph (5)(a) and the enforcement agent knows that a person other than the debtor is on the premises or that there are other occupiers, the copy must be left in a sealed envelope addressed to the debtor.

(7) Paragraph (3)(e) is complied with if—

(a) the enforcement agent provides the debtor with a list of goods of which control has been taken under regulation 30(2)(f)(i) or regulation 33(1)(e) at the same time as entering into the controlled goods agreement; and

(b) the goods of which control has been taken are the same as those referred to in the list mentioned in sub-paragraph (a).

Ways of securing goods

Securing goods of the debtor on premises where found

16.—(1) Subject to paragraphs (2) and (3), an enforcement agent who is securing goods of the debtor on the premises on which they are found (under paragraph 13(1)(a) of Schedule 12) may secure the goods—

(a) in a cupboard, room, garage or outbuilding;

(b) in the case of goods on premises (or on a part of the premises) which are not occupied for residential purposes, by the enforcement agent remaining on the premises to guard the goods of the debtor of which the enforcement agent has taken control;

(c) by fitting an immobilisation device (which must be provided by the enforcement agent); or

(d) by securing—

(i) the whole of the premises, where the premises are occupied solely for the purpose of a trade or business; or

(ii) such part of the premises, where the premises are occupied for residential and trade or business purposes, that is occupied solely for the purpose of a trade or business.

(2) The enforcement agent may not secure goods in any of the ways listed under paragraph (1)(a) to (c) where any person (whether or not the debtor) in occupation of the premises, or any part of the premises, would, as a result, be deprived of adequate access to essential facilities, including exempt goods, or adequate means of entering and leaving the premises, including means of emergency entry and escape.

(3) Where the goods are secured by fitting an immobilisation device under paragraph (1)(c), the enforcement agent must, at the time of immobilising the goods, provide a written warning to the debtor, signed by the enforcement agent, to be affixed in a prominent position on the immobilised goods, which must contain the following information—

(a) that the enforcement agent has immobilised the goods;

(b) the date and time of immobilisation;

(c) that the goods have been immobilised because the debtor has failed to pay the sum outstanding;

(d) a telephone number, which is available 24 hours every day, for enquiries; and

(e) the reference number or numbers.

(4) Premises may only be secured under paragraph (1)(d) if it is not practicable either—

(a) to secure the goods in any of the other ways listed under paragraph (1); or

(b) to take control of the goods under paragraph 13(1)(c) of Schedule 12.

Securing goods of the debtor on a highway or elsewhere

17.—(1) Subject to paragraph (3), where the enforcement agent is proceeding under paragraph 13(1)(b) or (c) of Schedule 12 the enforcement agent may secure goods of the debtor by fitting an immobilisation device.

(2) Where the goods are secured by fitting an immobilisation device, the enforcement agent must—

(a) provide the immobilisation device; and

(b) provide a written warning to the debtor in accordance with regulation 16(3).

(3) This regulation does not apply where the goods to be secured on a highway under paragraph 13(1)(b) of Schedule 12 are a vehicle.

Securing goods of the debtor on a highway and removal: vehicles

18.—(1) Where the enforcement agent is proceeding under paragraph 13(1)(b) of Schedule 12 and the goods to be secured are a vehicle, those goods must be secured in accordance with this regulation.

(2) The vehicle must be secured by an immobilisation device, unless the debtor voluntarily surrenders the keys to the vehicle to the enforcement agent.

(3) The immobilisation device must be provided by the enforcement agent.

(4) At the time of immobilising the goods, the enforcement agent must provide a written warning to the debtor in accordance with regulation 16(3).

(5) A vehicle must remain immobilised where it is positioned for a period of not less than 2 hours from the time of immobilisation unless the sum outstanding is paid or an agreement to release the vehicle, on part payment of the sum outstanding, is made between the enforcement agent and the debtor.

(6) On expiry of the period of time referred to under paragraph (5), the enforcement agent may remove the vehicle to storage.

(7) Where a vehicle is removed to storage, the enforcement agent must comply with the requirements of regulation 34 (care of controlled goods).

Removal and securing goods of the debtor: location

19. Subject to regulation 34 (care of controlled goods), where the enforcement agent takes control of the goods of the debtor under paragraph 13(1)(c) of Schedule 12 the enforcement agent must, save in exceptional circumstances, remove the goods and secure them in or at a place which is within a reasonable distance from the place where control was taken of the goods.

Entry

Mode of entry or re-entry to premises

20. The enforcement agent may enter relevant or specified premises under paragraph 14 or 15 of Schedule 12 respectively, or re-enter premises under paragraph 16 of Schedule 12, only by—

(a) any door, or any usual means by which entry is gained to the premises (for example, a loading bay to premises where a trade or business is carried on); or

(b) any usual means of entry, where the premises are a vehicle, vessel, aircraft, hovercraft, a tent or other moveable structure.

Days of entry

21.—(1) This regulation applies where the enforcement agent is—

(a) entering or remaining on relevant or specified premises under paragraph 14 or 15 of Schedule 12 to search for and take control of goods; or

(b) re-entering or remaining on premises under paragraph 16 of Schedule 12 to inspect controlled goods or to remove them for storage or sale.

(2) The enforcement agent may enter, re-enter or remain on the premises on any day of the week.

Hours of entry

22.—(1) This regulation applies where the enforcement agent is entering, re-entering or remaining on premises in the circumstances mentioned in regulation 21(1).

(2) Subject to paragraphs (3) to (5), the enforcement agent may only enter, re-enter or remain on the premises after 6 a.m. and before 9 p.m. on any day.

(3) Where premises are used (whether wholly or partly) for a trade or business, the enforcement agent may enter, re-enter or remain on the premises (or part of the premises so used) during any hours when the premises (or part of the premises) are open for the conduct of that trade or business.

(4) Where the enforcement agent has, during hours permitted under paragraph (2), (3) or (5), already entered or re-entered premises, the enforcement agent may, outside such permitted hours, remain on the premises, if it is reasonably necessary for him to continue to search for and take control of goods, inspect controlled goods or remove controlled goods for storage or sale, provided the duration of time spent is reasonable.

(5) The court may authorise the enforcement agent to enter, re-enter or remain on premises during times other than those permitted by paragraph (2), (3) or (4) if (and only if) an application for authorisation is made to the court by the enforcement agent.

Restrictions on entry and re-entry to, and remaining on, premises

23.—(1) This regulation applies where the enforcement agent is entering, re-entering or remaining on premises in the circumstances mentioned in regulation 21(1).

(2) The enforcement agent may enter, re-enter or remain on the premises only if—

(a) the debtor is not a child; or

(b) a child or vulnerable person (whether more than one or a combination of both) is not the only person present in the premises which the enforcement agent proposes to enter or re-enter.

Restrictions on repeated entry (with or without warrant) to premises

24.—(1) This regulation applies where the enforcement agent, having entered relevant or specified premises under paragraph 14 or 15 of Schedule 12 respectively, has determined that there are no or insufficient goods of the debtor on the premises of which control may be taken that will pay the sum outstanding.

(2) The enforcement agent may enter the premises on a second or subsequent occasion only—

(a) if the enforcement agent has reason to believe that, since the occasion of the enforcement agent's last entry, there have been brought on to the premises further goods of the debtor of which control has not yet been, but may be, taken; or

(b) where the enforcement agent was prohibited from taking control of particular goods at the time of the original entry by virtue of regulation 10(2) (control not to be taken of goods if those goods are in use and the enforcement agent considers that a breach of the peace would be likely if an attempt were made to take control of them).

(3) Paragraph (2)(b) does not authorise the enforcement agent to enter to take control of any goods other than those to which that paragraph applies, except to the extent that paragraph (2)(a) also applies.

Minimum period of notice of intention to re-enter premises

25.—(1) Subject to paragraph (3), notice of the enforcement agent's intention to re-enter premises must be given to the debtor not less than 2 clear days before the enforcement agent re-enters the premises.

(2) Where the period referred to in paragraph (1) includes a Sunday, bank holiday, Good Friday or Christmas Day that day does not count in calculating the period.

(3) The court may order that a specified shorter period of notice may be given to the debtor.

(4) The court may only make an order under paragraph (3) where it is satisfied that, if the order is not made, it is likely that goods of the debtor will be moved to premises other than relevant premises, or otherwise disposed of, in order to avoid the goods being inspected or removed for storage or sale.

Form and contents of notice of re-entry

26. Notice of the enforcement agent's intention to re-enter premises must be in writing, be signed by the enforcement agent and contain the following information—

(a) the name and address of the debtor;

(b) the reference number or numbers;

(c) the date of the notice;

(d) sufficient details of the controlled goods agreement, the repayment terms of which the debtor has failed to comply with, to enable the debtor to identify the agreement correctly;

(e) how the debtor has failed to comply with the repayment terms of the controlled goods agreement;

(f) the amount of the sum outstanding as at the date of the notice;

(g) how and between which hours and on which days payment of the sum outstanding may be made;

(h) a contact telephone number and address at which, and the days on which and hours between which, the enforcement agent or the enforcement agent's office may be contacted;

(i) the date and time by which the sum outstanding must be paid to prevent the controlled goods being inspected or removed for storage or sale; and

(j) that the enforcement agent may if necessary use reasonable force to re-enter the premises to inspect the goods or remove them for storage or sale.

Method of giving notice of re-entry and who must give it

27.—(1) Notice of the enforcement agent's intention to re-enter premises must be given—

(a) by fax or other means of electronic communication;

(b) by delivery by hand through the letter box of the place, or one of the places, where the debtor usually lives or carries on a trade or business;

(c) where there is no letterbox, by affixing the notice at or in a place that it is likely to come to the attention of the debtor;

(d) where the debtor is an individual, to the debtor personally; or

(e) where the debtor is not an individual (but is, for example, a company, corporation or partnership), by delivering the notice to—

(i) the place, or one of the places, where the debtor carries on a trade or business; or

(ii) the registered office of the company or partnership.

(2) The notice must be given by the enforcement agent.

Issue of warrant authorising enforcement agent to use reasonable force to enter premises

28.—(1) This regulation applies where the enforcement agent has power to enter premises under paragraph 14 or 15 of Schedule 12.

(2) The conditions of which the court must be satisfied before it issues a warrant under paragraph 20(2) of Schedule 12, or includes provision in a warrant under paragraph 21(2) of that Schedule, are—

(a) either—

(i) the enforcement agent is attempting to recover a debt enforceable under section 127 of the Finance Act 2008(**6**); or

(ii) the premises are premises to which the goods have been deliberately removed in order to avoid control being taken of them;

(b) there are, or are likely to be, goods of the debtor on the premises of which control can be taken;

(c) the enforcement agent has explained to the court—

(i) the likely means of entry, and the type and amount of force that will be required to make the entry;

(**6**) 2008 c. 9.

(ii) how, after entry, the enforcement agent proposes to leave the premises in a secure state; and

(d) in all the circumstances it is appropriate for the court to give an authorisation, having regard (among other matters) to—

(i) the sum outstanding;

(ii) the nature of the debt.

Issue of warrant authorising enforcement agent to use reasonable force in relation to goods on a highway

29.—(1) This regulation applies where an enforcement agent is taking control of goods on a highway.

(2) The conditions of which the court must be satisfied before it issues a warrant under paragraph 31(1) of Schedule 12 are—

(a) the enforcement agent is attempting to recover a debt enforceable by virtue of a writ or warrant referred to in paragraph (3) or under section 127 of the Finance Act 2008;

(b) the enforcement agent has explained to the court the type and amount of force that will be required to take control of the goods; and

(c) in all the circumstances an authorisation ought to be given, having regard to (among other matters)—

(i) the sum outstanding; and

(ii) the nature of the debt.

(3) The writs and warrants (as the case may be) mentioned in paragraph (2)(a) are—

(a) a High Court writ of control which confers a power to recover a sum of money;

(b) a High Court writ of delivery which confers a power to take control of goods and sell them to recover a sum of money;

(c) a High Court writ of possession which confers a power to take control of goods and sell them to recover a sum of money;

(d) a county court warrant of control pursuant to section 85 of the County Courts Act 1984(**7**) except such a warrant which is issued to recover a traffic contravention debt as defined by section 82 of the Traffic Management Act 2004(**8**);

(e) a county court warrant of delivery which confers a power to take control of goods and sell them to recover a sum of money;

(f) a county court warrant of possession which confers a power to take control of goods and sell them to recover a sum of money;

(g) a magistrates' court warrant of control pursuant to section 76 of the Magistrates' Courts Act 1980(**9**).

(**7**) 1984 c. 28. Section 85 was amended by the Courts and Legal Services Act 1990 (c. 41), section 74(1) and (3) and is prospectively amended by the Tribunals, Courts and Enforcement Act 2007, sections 62(3), 67 and 146 and Schedule 13, paragraphs 68 and 69.

(**8**) 2004 c.18. Section 82 is prospectively amended by the Tribunals, Courts and Enforcement Act 2007, sections 62(3) and 146, Schedule 13, paragraph 156(a) and Schedule 23, Part 3.

(**9**) 1980 c. 43. Section 76 was amended by the Criminal Justice Act 1982 (c. 48), section 78 and Schedule 16 and is prospectively amended by the Tribunals, Courts and Enforcement Act 2007, section 62(3) and Schedule 13, paragraphs 45 and 46.

Notice after entry and taking control of goods

Form and contents of notice after entry, and/or taking control of goods on a highway

30.—(1) This regulation applies to the notices required by paragraph 28(1) and paragraph 33(1) of Schedule 12.

(2) Subject to regulations 31 and 32, the notice must be in writing, be signed by the enforcement agent and contain the following information—

(a) the name and address of the debtor;

(b) the enforcement agent's name, the reference number or numbers and the date of the notice;

(c) that the enforcement agent has done one or more of the following—

(i) entered the premises;

(ii) taken control of goods on a highway;

(iii) entered a vehicle on a highway with the intention of taking control of goods;

(d) the address of the premises which the enforcement agent has entered or the location on the highway where the enforcement agent has taken control of goods or entered a vehicle;

(e) where a vehicle on a highway has been entered with the intention of taking control of goods, the manufacturer, model, colour and registration mark of that vehicle; and

(f) whether or not the enforcement agent has taken control of goods of the debtor and, if so, the location where and the time when control has been taken of the goods and—

(i) a list of the goods of which control has been taken with a description to enable the debtor to identify the goods correctly, including, where applicable—

(aa) the manufacturer, model and serial number of the goods;

(bb) in the case of a vehicle, the manufacturer, model, colour and registration mark of the vehicle; and

(cc) the material, colour and usage, and (where appropriate) any other identifying characteristic, of the goods;

(ii) the amount of the sum outstanding as at the date of the notice;

(iii) the date and time by which the sum outstanding must be paid to prevent the controlled goods being sold;

(iv) how and between which hours and on which days payment of the sum outstanding may be made; and

(v) that the controlled goods will be released on payment in full (or may be released on part payment) of the sum outstanding.

(3) Where the enforcement agent is—

(a) re-entering premises under paragraph 16 of Schedule 12 to inspect goods of which control has previously been taken; and

(b) not using force to effect the re-entry,

the requirement to provide notice under paragraph 28(1) of Schedule 12 does not apply.

(4) Paragraph (2)(f)(i) is complied with if—

(a) the enforcement agent provides the debtor with a list of goods of which control has been taken under regulation 15(3)(e) or regulation 33(1)(e) at the same time as the notice; and

(b) the goods of which control has been taken are the same as those referred to in the list mentioned in sub-paragraph (a).

Additional notice requirements where goods are immobilised

31.—(1) Subject to paragraph (2), where control is taken of goods of the debtor in any of the ways listed under paragraph 13(1) of Schedule 12 and the goods have been immobilised, the notice mentioned in regulation 30(1) must also contain the information mentioned in regulation 16(3) (written warning on immobilisation).

(2) Where control is taken of goods under paragraph 13(1)(b) of Schedule 12 (goods found on a highway and secured on a highway) and the goods are a vehicle which are immobilised, the notice mentioned in regulation 30(1) must also contain the information mentioned in regulation 18(4) (written warning on immobilisation).

Additional notice requirements where goods are removed for storage or sale

32.—(1) Where control is taken of goods of the debtor under paragraph 13(1)(c) of Schedule 12 or controlled goods are removed to storage or for sale, the notice under regulation 30(1) must also contain the following information—

(a) that the enforcement agent has removed controlled goods to secure storage or for sale;

(b) a list of the goods so removed (where the goods are different to those included in a list provided by virtue of regulation 30(2)(f)(i);

(c) the date of removal of the goods to storage or for sale;

(d) the daily or weekly storage charge payable, where the goods are removed to storage; and

(e) the procedure for collection by or on behalf of the debtor of goods of which control has been taken on payment of the sum outstanding or on part payment of the sum outstanding where an agreement is made between the enforcement agent and the debtor.

(2) Where any of the information required by paragraph (1) is not known to the enforcement agent at the time of providing the notice to the debtor under regulation 30(1) the enforcement agent must provide such information, in writing, to the debtor, as soon as reasonably practicable.

(3) Paragraph (1)(b) is complied with if the enforcement agent provides the debtor with a copy of the inventory required by paragraph 34 of Schedule 12 at the same time as the notice, which describes all goods removed to storage or for sale.

Inventory

Inventory of goods of which control has been taken: form and contents

33.—(1) The inventory required by paragraph 34 of Schedule 12 must be in writing, be signed by the enforcement agent and contain the following information—

(a) the name and address of the debtor;

(b) the enforcement agent's name, the reference number or numbers and the date of the inventory;

(c) the name and address of the co-owner, if any;

(d) that the enforcement agent has taken control of the goods of the debtor or of the debtor and the co-owner as specified in the inventory; and

(e) a list of the goods of which control has been taken with a description to enable the debtor or the co-owner to identify the goods correctly, including, where applicable—

(i) the manufacturer, model and serial number of the goods;

(ii) in the case of a vehicle, the manufacturer, model, colour and registration mark of the vehicle; and

(iii) the material, colour and usage, and (where appropriate) any other identifying characteristic, of the goods.

(2) The inventory may be combined with a controlled goods agreement under regulation 15(1) or the notice required by paragraph 28(1) or 33(1) of Schedule 12 if—

(a) the enforcement agent provides the debtor with the inventory at the same time as the controlled goods agreement or the notice; and

(b) the goods of which control has been taken are the same as those listed in the list of goods of which control has been taken required by regulation 15(3)(e) or regulation 30(2)(f)(i).

Dealing with controlled goods

Care of controlled goods

34.—(1) Where the enforcement agent removes controlled goods, other than securities, from premises or a highway where the enforcement agent has found them—

(a) the enforcement agent must keep the controlled goods, so long as they remain in the enforcement agent's control, in a similar condition to that in which the enforcement agent found them immediately prior to taking control of them;

(b) the goods must be removed to storage, unless the goods are removed for sale; and

(c) the storage must be secure and the conditions of that storage such as to prevent damage to or deterioration of the goods for so long as they remain in the enforcement agent's control.

(2) The enforcement agent must not remove controlled goods to a place where there would be at any time a contravention of any prohibition or restriction imposed by or under any enactment.

Valuation

Valuation of controlled goods

35.—(1) This regulation applies where an enforcement agent makes (paragraph (2)) or obtains (paragraph (3)) a valuation of controlled goods as required by paragraph 36(1) of Schedule 12.

(2) Where the enforcement agent makes the valuation—

(a) the valuation must be in writing, signed by the enforcement agent and set out—

(i) the enforcement agent's name, the reference number or numbers and the date of the valuation; and

(ii) where appropriate, a separate value for each item of goods of which control has been taken; and

(b) the enforcement agent must provide a copy of the written valuation, once made, to the debtor and any co-owner.

(3) Where the enforcement agent obtains the valuation the enforcement agent must—

(a) only instruct a qualified, independent valuer;

(b) instruct the valuer to make a written valuation and, where appropriate, to value each item of goods separately; and

(c) provide a copy of the written valuation, once made by the valuer, to the debtor and any co-owner.

PART 3

SALE OF CONTROLLED GOODS

Part 3 not to apply to securities

36. This Part does not apply to controlled goods which are securities.

Notice of sale

Minimum period before sale

37.—(1) Subject to paragraph (2), the minimum period before sale required by paragraph 39 of Schedule 12 is 7 clear days from removing controlled goods for sale.

(2) Sale may take place on the day after removing controlled goods for sale where, if the sale were to take place after the expiry of the period of time referred to in paragraph (1), the goods would become unsaleable, or their sale value would be extinguished or substantially reduced due to the nature or any characteristic of those goods.

Minimum period of notice of sale

38.—(1) Subject to paragraph (2), the minimum period of notice of the date, time and place of sale required by paragraph 40 of Schedule 12 is 7 clear days before the sale of the goods.

(2) Notice may be given on the day before the sale of the goods where, if the sale were to take place after the expiry of the period of time referred to in paragraph (1), the goods would become unsaleable, or their sale value would be extinguished or substantially reduced due to the nature or any characteristic of those goods.

Form and contents of notice of sale

39.—(1) Notice of the date, time and place of the sale required by paragraph 40 of Schedule 12 must be in writing, be signed by the enforcement agent and contain the following information—

(a) the name and address of the debtor;

(b) the enforcement agent's name, the reference number or numbers and the date of the notice;

(c) the name and address of the co-owner, if any;

(d) that the controlled goods may be sold as the debtor has failed to pay the sum outstanding;

(e) a list of the controlled goods that may be sold with a description to enable the debtor or the co-owner to identify the goods correctly, including, where applicable—

(i) the manufacturer, model and serial number of the goods;

(ii) in the case of a vehicle, the manufacturer, model, colour and registration mark of the vehicle; and

(iii) the material, colour and usage and (where appropriate) any other identifying characteristic, of the goods;

(f) that the sale of the controlled goods is conditional on—

(i) an offer to purchase the goods being made; and

(ii) the reserve price, if any, on the controlled goods being met;

(g) that if the conditions in paragraph (f) are not met the date, time and place of sale will be set out in a further notice;

(h) the amount of the sum outstanding as at the date of the notice;

(i) the date and time by which the sum outstanding must be paid to prevent the controlled goods being sold;

(j) how and between which hours and on which days payment of the sum outstanding may be made; and

(k) the procedure for collection by or on behalf of the debtor or co-owner of goods of which control has been taken on payment of the sum outstanding or on part payment of the sum outstanding where an agreement is made between the enforcement agent and the debtor.

(2) Where the conditions in paragraph (1)(f) are not met and a further notice is given to the debtor and any co-owner by virtue of paragraph (1)(g), the notice must—

(a) comply with the requirements of regulation 38;

(b) provide the information required by paragraph (1); and

(c) state that it is a further notice.

(3) The enforcement agent may replace the notice with a new notice, in accordance with paragraph 40(3) of Schedule 12, only if—

(a) the date, time or location of the sale has had to be re-arranged;

(b) the minimum period of notice of the date, time and place of sale in the new notice is of the same period as in the notice which is to be replaced; and

(c) the new notice sets out—

(i) the information required by paragraph (1);

(ii) that it is a new notice;

(iii) that it replaces the last notice given to the debtor or co-owner; and

(iv) the date of the notice which it replaces.

Method of giving notice of sale

40.—(1) The method of giving the notice of the date, time and place of sale required by paragraph 40 of Schedule 12 is the method required under regulation 8(1) (method of giving notice).

(2) For the purposes of this regulation, references in regulation 8(1) to a debtor include a co-owner.

Sale

Methods of sale

41.—(1) Where an enforcement agent applies to the court under paragraph 41(2) of Schedule 12 for an order that the sale be by a method other than public auction, the types of sale the court may order include sale by—

(a) private contract;

(b) sealed bids;

(c) advertisement; and

(d) such other method as the court considers appropriate.

(2) Where the enforcement agent has stated to the court (as required by paragraph 41(4) of Schedule 12) that the enforcement agent has reason to believe that an enforcement power has become exercisable by another creditor against the debtor or a co-owner, the notice of application required by paragraph 41(5) of that Schedule must—

(a) be in writing, signed by the enforcement agent and set out—

(i) the name and address of the debtor; and

(ii) the enforcement agent's name, the reference number or numbers and the date of the notice;

(b) attach a copy of the enforcement agent's application to the court; and

(c) be given to that other creditor—

(i) by the enforcement agent; and

(ii) by a method required under regulation 8(1) (method of giving notice).

(3) For the purposes of paragraph (2)(c)(ii), references in regulation 8(1) to a debtor are to be read as a reference to the other creditor.

Place of sale

42.—(1) Subject to paragraph (2), a sale of controlled goods by public auction may only be held in a public auction house or on an online or internet auction site.

(2) The sale may be held on premises where goods were found by the enforcement agent where those premises are occupied solely for the purposes of a trade or business.

Conduct of sale

43. Where controlled goods are sold by public auction, the auction must be conducted by—

(a) a qualified auctioneer; or

(b) where the auction takes place online or on an internet auction site, an auction provider independent of the enforcement agent.

PART 4

SECURITIES OF THE DEBTOR

Part 4 only to apply to securities

44. This Part only applies to controlled goods which are securities.

Holding of securities

45.—(1) The enforcement agent may hold securities until they mature.

(2) While holding securities, the enforcement agent must ensure each security has the benefit of the same protection in every respect (for example, from damage, destruction, theft or unauthorised or fraudulent interference) as that security had immediately before the enforcement agent took control of it.

Disposal of securities

46.—(1) The minimum period of notice required by paragraph 49(1) of Schedule 12 (which requires the enforcement agent to give notice to the debtor, etc. of the disposal of securities) is 7 clear days.

(2) Subject to paragraph (3), the notice must be in writing, be signed by the enforcement agent and contain the following information—

(a) the name and address of the debtor;

(b) the enforcement agent's name, the reference number or numbers and the date of the notice;

(c) the name and address of the co-owner, if any;

(d) for each security, sufficient details of the security to enable the debtor or any co-owner to identify the security correctly;

(e) that the securities may be disposed of by—

(i) realising the sums secured or made payable by them;

(ii) the creditor issuing proceedings in the name of the debtor (or in the name of any person in whose name the debtor might have sued) for the recovery of any sum secured or made payable by securities, when the time of payment arrives; or

(iii) the creditor assigning the right to sue for the recovery of such sums to another person;

(f) the date and time when the sums will be realised, where sub-paragraph (e)(i) applies;

(g) the amount of the sum outstanding as at the date of the notice;

(h) the date and time by which the sum outstanding must be paid to prevent the securities being disposed of;

(i) how and between which hours and on which days payment of the sum outstanding may be made; and

(j) the procedure for release to the debtor or co-owner of the securities of which control has been taken on payment of the sum outstanding or on part payment of the sum outstanding where an agreement is made between the enforcement agent and the debtor.

(3) Where paragraph (2)(e)(ii) or (iii) applies, the notice must also provide the following information—

(a) the name and address of the applicant to the proceedings;

(b) the names and addresses of the defendants to the proceedings; and

(c) the amount of the claim—

(i) in respect of each security; and

(ii) in total.

(4) The enforcement agent may replace the notice with a new notice, in accordance with paragraph 49(4) of Schedule 12, only if—

(a) the method of disposal under paragraph (2)(e) has changed; or

(b) the date or time of the disposal under paragraph (2)(f) has had to be re-arranged,

and the new notice complies with the requirements of paragraph (5).

(5) Where the notice is replaced with a new notice under paragraph (4)—

(a) the minimum period of notice given in the new notice must be the same period as in the notice which is to be replaced; and

(b) the new notice must provide the following information—

(i) the information required by paragraph (2);

(ii) the information required by paragraph (3), where paragraph (2)(e)(ii) or (iii) applies;

(iii) that it is a new notice;

(iv) that it replaces the last notice given to the debtor or co-owner; and

(v) the date of the notice which it replaces.

(6) The method of giving the notice is the method required under regulation 8(1) (method of giving notice) and for the purposes of this regulation, references in that regulation to a debtor include a co-owner.

PART 5

ABANDONMENT OF GOODS

Abandonment of goods other than securities

47.—(1) This regulation applies where, pursuant to paragraph 54(1)(b) of Schedule 12, the enforcement agent makes controlled goods, which are abandoned, available for collection by the debtor.

(2) Where the goods are immobilised, the enforcement agent must on (but not before) collection by the debtor, remove all immobilisation devices from the goods.

(3) Where the enforcement agent removed the goods from where they were found the enforcement agent must as soon as reasonably practicable give the debtor a written notice, signed by the enforcement agent, which must contain the following information—

(a) the name and address of the debtor;

(b) the enforcement agent's name, the reference number or numbers and the date of the notice;

(c) that the controlled goods are abandoned and the reason why they are abandoned;

(d) a list of the abandoned goods with a description to enable the debtor to identify the goods correctly, including, where applicable—

(i) the manufacturer, model and serial number of the goods;

(ii) in the case of a vehicle, the manufacturer, model, colour and registration mark of the vehicle; and

(iii) the material, colour and usage, and (where appropriate) any other identifying characteristic of the goods;

(e) that the goods are available for collection by the debtor;

(f) the procedure for collection of the goods by the debtor; and

(g) that if the debtor fails to collect the goods within 28 days from when the goods were made available for collection, the enforcement agent will make an application to the court for determination of how the uncollected goods are to be disposed of.

(4) The method of giving the notice is the method required under regulation 8(1) (method of giving notice).

(5) Where the debtor fails to collect the controlled goods within 28 days from when the goods were made available for collection, the enforcement agent must apply to the court to determine how the uncollected goods are to be disposed of.

(6) On application by the enforcement agent under paragraph (5), the court may make one of the following orders—

(a) that the goods are to be made available for collection by the debtor during a further period of time (to be determined by the court);

(b) that the goods are to be—

(i) given to a charitable organisation nominated by the court; or

(ii) destroyed; or

(c) that the goods are to be made available for collection by the debtor during a further period of time (to be determined by the court) and, if not collected during that period, are to be—

(i) given to a charitable organisation nominated by the court; or

(ii) destroyed.

PART 6

THIRD PARTY CLAIMING CONTROLLED GOODS

Application of Part 6

48. This Part applies where a person ("the applicant") makes an application to the court claiming that goods of which control has been taken are that person's and not the debtor's.

Payments into court by third party: underpayments

49.—(1) Any underpayment to be determined by reference to an independent valuation under paragraph 60(5) of Schedule 12 must be undertaken by a qualified independent valuer.

(2) Any underpayment determined by the qualified independent valuer must be paid within 14 clear days after provision of a copy of the valuation to the applicant.

PART 7

COMMERCIAL RENT ARREARS RECOVERY (CRAR)

General

Part 7 to apply only to CRAR

50. This Part only applies to debts enforceable under section 72 of the Act.

Authorisation by landlord to another to exercise CRAR on landlord's behalf

51. Where a landlord gives authorisation under section 73(8) of the Act to a person to exercise CRAR on the landlord's behalf, the authorisation must—

(a) only authorise an enforcement agent; and

(b) be in writing, be signed by the landlord and provide the following information—

(i) the date of authorisation;

(ii) the landlord's name and contact details;

(iii) the name and contact details of the person authorised to act on behalf of the landlord;

(iv) sufficient detail to enable the authorised person to identify the commercial premises in respect of which CRAR may now be exercised on the landlord's behalf;

(v) the amount of rent owed; and

(vi) the period in relation to which the rent is owed.

Minimum amount of net unpaid rent for CRAR to become exercisable

52. The minimum amount of net unpaid rent for the purposes of section 77(3) of the Act is an amount equal to 7 days' rent.

Right to rent from sub-tenant

Notice to sub-tenant: when notice takes effect and service

53.—(1) A notice served on any sub-tenant under section 81(2) of the Act takes effect 14 clear days after the notice is served on that sub-tenant.

(2) The notice must be served on the sub-tenant by a method required under regulation 8(1) (method of giving notice).

Notice to sub-tenant: form and contents

54. The notice must be in writing, be signed by the landlord and contain the following information—

(a) the landlord's name, reference and contact details and the date of the notice;

(b) the amount of rent the landlord has the right to recover from the immediate tenant by CRAR (the notified amount);

(c) that while the notified amount remains unpaid, the sub-tenant must pay the sub-tenant's rent directly to the landlord instead of to the immediate tenant, as a discharge for any rent payable by the sub-tenant under the sub-lease, until—

(i) the notified amount has been paid (by payments under the notice or otherwise); or

(ii) the notice is replaced or withdrawn; and

(d) that the landlord may withdraw the notice in accordance with regulation 55.

Notice to sub-tenant: withdrawal of notice

55. A notice served on any sub-tenant under section 81(2) of the Act is withdrawn if the landlord provides written notice to the sub-tenant who received that notice that it is withdrawn.

Signed by the authority of the Lord Chancellor

Helen Grant
Parliamentary Under Secretary of State
Ministry of Justice

26th July 2013

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision relating to the procedure for taking control of goods under Schedule 12 to the Tribunals, Courts and Enforcement Act 2007 (c. 15) ("the Act"). The Act provides a new statutory code in relation to taking control of goods in order to sell them to enforce the payment of debts (formerly known as "distress"). By section 62 of the Act, the Schedule 12 procedure is available where an enactment, writ or warrant confers the power to use the procedure.

The Regulations also make provision in relation to the procedure for commercial rent arrears recovery under section 72 of the Act.

Part 1 of the Regulations provides for general interpretation (regulation 2), application of the Regulations (regulation 3) and for those categories of goods which are exempt from enforcement under Schedule 12 (regulations 4 and 5). These broadly reflect the necessities of life. Since goods can include items such as a houseboat, which may be a person's home, regulation 5 specifically excludes such items.

Part 2 of the Regulations relates to the procedure for taking control of goods. Regulations 6, 7 and 8 make provision as to the notice that must be given to a debtor prior to the taking of control. Regulations 9 to 15 deal with the actual taking of control, both regarding goods on premises and goods on a highway. Particular protection is given to children and vulnerable persons (see regulation 10) so that an enforcement agent may not take control of goods where either the debtor is a child, or a child or vulnerable person (or more than one such person) is or are alone on the premises. Regulations 9 to 13 deal with the time limit for taking control, the circumstances in which control should not be taken, and the days and hours when control of goods may be taken. Regulations 14 and 15 deal with controlled goods agreements, under which the debtor is permitted to retain custody of the goods but must not remove, dispose of or permit another person to deal with them pending payment of the debt. Regulations 16 to 19 deal with securing the goods of the debtor, for example by fitting an immobilisation device.

Regulations 20 to 27 relate to entry to premises as permitted by paragraphs 14 to 16 of Schedule 12 to the Act, including the method of entry, when entry or re-entry may occur, restrictions on entry, re-entry and remaining on premises, and the necessary notice of entry where required by paragraph 19A of Schedule 12 (a specific provision relating to the use of reasonable force to re-enter premises after a controlled goods agreement has been breached – regulations 25 to 27).

Regulations 28 and 29 deal with the circumstances in which a court may issue a warrant permitting the use of reasonable force by the enforcement agent to enter premises or to take control of goods on the highway.

Regulations 30 to 35 concern the procedure following entry and taking control of goods. These regulations provide for notice requirements, the provision of an inventory to the debtor and any co-owner of the goods, and care and valuation of the controlled goods.

Part 3 (regulations 36 to 43) provides for the sale of the controlled goods (save for those which are securities). Provision is made for notice to the debtor and any co-owner of the sale (regulations 37 to 40), and for the conduct of the sale (regulations 41 to 43).

Part 4 (regulations 44 to 46) deals with goods which are securities of the debtor. Regulations 45 and 46 make provision about the holding, protection, and disposal of such securities by the enforcement agent, and also the notice procedure where the creditor exercises the right to take proceedings under paragraph 49 of Schedule 12 to the Act (by which a creditor may sue in the name of the debtor, or

of any other person in whose name the debtor might have sued, for recovery of any sum secured or made payable by securities).

Part 5 (regulation 47) relates to abandonment of the goods, providing a procedure to be followed where the enforcement agent makes the controlled goods which are now abandoned available for collection by the debtor. Regulation 47 provides that, where the debtor fails to collect the goods within 28 days, the court may make orders concerning the disposal of the goods.

Part 6 (regulations 48 and 49) deals with underpayments where a person who claims that the goods of which control has been taken belong to him or her, and not the debtor, makes an application to the court under paragraph 60 of Schedule 12 to the Act.

Part 7 (regulations 50 to 55) addresses commercial rent arrears recovery procedure (known as "CRAR"). General provision is made in regulations 50 to 52 relating to authorisation by a landlord to another person to exercise CRAR on his or her behalf, and defining the minimum amount of net unpaid rent under section 77 of the Act in order for CRAR to be exercisable. Regulations 53 to 55 deal with the notice requirements for the landlord's right to recover rent from the sub-tenant under section 81(2) of the Act, including withdrawal of such a notice.