

# **TRIBUNALS, COURTS AND ENFORCEMENT ACT 2007**

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## **EXPLANATORY NOTES**

### **PART 3: ENFORCEMENT BY TAKING CONTROL OF GOODS**

#### *Commentary on Sections: Part 3*

#### *Section 62: Enforcement by taking control of goods*

327. This section gives effect to Schedules 12 and 13 to the Act. Certain current powers to seize and sell goods can only be exercised according to the procedure for taking control of and selling goods detailed in Schedule 12.
328. The terminology in the various pieces of primary legislation relating to these powers has been amended, and some of the warrants and writs which give these powers, namely warrants of execution, warrants of distress and writs of fieri facias (except writs of fieri facias de bonis ecclesiasticis), are renamed warrants of control and writs of control.
329. A warrant of execution empowers a district judge to seize and sell a debtor's goods for the purpose of recovering money payable under a county court judgment or order. A warrant of distress may be issued by a magistrates' court for the purpose of recovering a sum adjudged to be paid by a conviction or order of the court. The warrant requires the sum to be recovered by seizure and sale of the debtor's goods. A writ of fieri facias requires a sheriff or enforcement officer to seize and sell a debtor's goods for the purpose of recovering a sum due under a High Court judgment or order. A writ of fieri facias de bonis ecclesiasticis requires the bishop to seize a debtor's ecclesiastical property in order to satisfy a High Court judgment. As writs of fieri facias de bonis ecclesiasticis are unique and because of the special role of the bishop, they are not renamed (nor are they subject to the new unified procedure detailed in Schedule 12).
330. A writ or warrant of delivery is a writ/warrant to enforce an order for the delivery of particular goods that are identified in the writ/warrant. A writ or warrant of possession is a writ/warrant issued to enforce an order for possession of land.
331. [Schedule 13](#) makes amendments to existing primary legislation, which are necessary to give effect to these changes or as a result of them.