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STATUTORY INSTRUMENTS

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**2013 No. 1894**

**The Taking Control of Goods Regulations 2013**

**PART 2**

**PROCEDURE FOR TAKING CONTROL OF 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(1); 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;
  - (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(2) except such a warrant which is issued to recover a traffic contravention debt as defined by section 82 of the Traffic Management Act 2004(3);
  - (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;

(2) 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.

(3) 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.

- (g) a magistrates' court warrant of control pursuant to section 76 of the Magistrates' Courts Act 1980(4).

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(4) 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.