

2004 No. 401 (C. 18)

SUPREME COURT OF ENGLAND AND WALES
COUNTY COURTS, ENGLAND AND WALES
MAGISTRATES' COURTS, ENGLAND AND WALES
INSOLVENCY, ENGLAND AND WALES

**The Courts Act 2003 (Commencement No. 3 and
Transitional Provisions) Order 2004**

Made - - - - - 10th February 2004

The Lord Chancellor, in exercise of the powers conferred upon him by sections 108(6) and 110 of the Courts Act 2003(a), makes the following Order:

Citation and interpretation

1.—(1) This Order may be cited as the Courts Act 2003 (Commencement No. 3 and Transitional Provisions) Order 2004.

(2) In this Order a reference to a section or Schedule by number alone means the section or Schedule so numbered in the Courts Act 2003.

Commencement of provisions of the Courts Act 2003

2. The following provisions of the Courts Act 2003 come into force on 15th March 2004—
- (a) section 99 and Schedule 7 (High Court writs of execution);
 - (b) in Schedule 8 (minor and consequential amendments)—
 - (i) paragraph 5 (Sale of Farming Stock Act 1816)(b);
 - (ii) paragraph 9 (Judgments Act 1838)(c);
 - (iii) paragraph 61 except for sub-paragraph (3), paragraph 62 and the first amendment in paragraph 63 (Sheriffs Act 1887)(d);
 - (iv) paragraph 189 (Criminal Law Act 1977)(e);
 - (v) paragraph 264 (Supreme Court Act 1981)(f);
 - (vi) paragraphs 274 and 275 (County Courts Act 1984)(g); and
 - (vii) paragraphs 295 to 298 (Insolvency Act 1986)(h);
 - (c) in Schedule 10 (repeals)—

(a) 2003 c. 39.
(b) 1816 c. 50.
(c) 1838 c. 110.
(d) 1887 c. 55.
(e) 1977 c. 45.
(f) 1981 c. 54.
(g) 1984 c. 28.
(h) 1986 c. 45.

- (i) the repeal of sections 138, 138A and 138B of the Supreme Court Act 1981; and
- (ii) the repeal of section 99(4)(b) of the County Courts Act 1984; and
- (d) section 109(1) and (3) to the extent necessary for those amendments and repeals.

Transitional Provisions

- 3.—(1) In this article—
- (a) expressions used in Schedule 7 have the same meaning as in that Schedule;
 - (b) “outstanding writ” means a writ of execution directed to a sheriff of a county which—
 - (i) has been issued by the High Court before 1st April 2004; and
 - (ii) has not been executed by 1st April 2004.
- (2) On or after 1st April 2004, a sheriff to whom an outstanding writ is directed may transfer that writ—
- (a) if only one enforcement officer is assigned to the district in which the writ is to be executed, to that officer;
 - (b) if two or more enforcement officers are assigned to that district, to those officers collectively; or
 - (c) to an enforcement officer who, whether or not assigned to that district, has undertaken to execute the writ.
- (3) An outstanding writ shall be transferred under paragraph (2)—
- (a) to a single enforcement officer, by personally delivering the writ to that officer; or
 - (b) to two or more enforcement officers collectively, by personally delivering the writ to the individual who, in accordance with approved arrangements, is responsible for allocating the execution of writs directed to two or more enforcement officers.
- (4) Where an outstanding writ is transferred to one or more enforcement officers—
- (a) paragraph 4 and (in relation to a writ of execution against goods) paragraphs 7 to 11 of Schedule 7 shall apply as if the writ had been directed by the High Court to that officer or officers without any requirement for the writ to be re-addressed to them;
 - (b) the relevant officer shall give written notice to—
 - (i) the High Court; and
 - (ii) the person at whose instance the writ was issued, that the writ has been transferred to him for execution; and
 - (c) the sheriff to whom the writ was directed shall cease to have any duties, powers, rights, privileges or liabilities in relation to the writ, except for liabilities arising out of anything done before the transfer of the writ.

Signed by authority of the Lord Chancellor

Dated 10th February 2004

David Lammy
Parliamentary Under Secretary of State,
Department for Constitutional Affairs

EXPLANATORY NOTE

(This note is not part of the Order)

This Order brings into force on 15th March 2004 section 99 of and Schedule 7 to the Courts Act 2003, relating to High Court writs of execution, and the following minor and consequential amendments and repeals—

- in Schedule 8, the amendments in paragraphs 5, 9, 61 (except for sub-paragraph (3)), 62, 63 (the first amendment only), 189, 264, 274, 275 and 295 to 298;
- in Schedule 10, the repeals of sections 138, 138A and 138B of the Supreme Court Act 1981 and section 99(4)(b) of the County Courts Act 1984.

The Order also contains transitional provisions relating to the enforcement on or after 1st April 2004 (the date from which it is proposed to appoint enforcement officers under Schedule 7) of existing writs of execution which are directed to sheriffs. It is provided that any outstanding writ of execution directed to a sheriff but not executed by 1st April 2004 may be transferred to an enforcement officer for execution, without any requirement for the writ to be re-addressed to the enforcement officer by the court.

NOTE AS TO EARLIER COMMENCEMENT ORDERS

(This note is not part of the Order)

The following provisions of the Courts Act 2003 have been, or are to be, brought into force by commencement order made before the date of this Order:

<i>Provision</i>	<i>Date of commencement</i>	<i>S.I. No.</i>
section 62	26.1.04	2003/3345
section 63	26.1.04	2003/3345
section 64	26.1.04	2003/3345
section 66 (partially)	26.1.04	2003/3345
section 67	26.1.04	2003/3345
section 68	26.1.04	2003/3345
section 70	26.1.04	2003/3345
section 71	26.1.04	2003/3345
section 74	26.1.04	2003/3345
section 77	26.1.04	2003/3345
section 78	26.1.04	2003/3345
section 81	26.1.04	2003/3345
section 83	26.1.04	2003/3345
section 84	26.1.04	2003/3345
section 93	1.2.04	2004/174
section 95	5.4.04	2004/174
section 96	5.4.04	2004/174
section 97 (partially)	23.2.04	2004/174
(partially)	29.3.04	2004/174
(partially)	5.4.04	2004/174

<i>Provision</i>	<i>Date of commencement</i>	<i>S.I. No.</i>
section 98 (partially)	26.1.04	2003/3345
section 102	26.1.04	2003/3345
Schedule 5 (partially)	23.2.04	2004/174
(partially)	29.3.04	2004/174
(remainder)	5.4.04	2004/174
Schedule 8 (and section 109(1) insofar as it relates to the paragraphs specified below) paragraphs 288(1), 288(3), 288(4), 288(5) and 289	1.2.04	2004/174
Schedule 9 (and section 109(2) insofar as it relates to the paragraph specified below) paragraph 15 (partially)	23.2.04	2004/174
paragraph 15 (partially)	29.3.04	2004/174
paragraph 15 (remainder)	5.4.04	2004/174
Schedule 10 (and section 109(3)) (partially)	26.1.04	2003/3345

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