

SCHEDULE

Rule 36

“PART 83

Writs and Warrants – General Provisions

Contents of this Part

	SECTION I SCOPE AND INTERPRETATION
83.1	Scope and interpretation
	SECTION II WRITS AND WARRANTS
83.2	Writs and warrants of control, writs of execution, warrants of delivery and warrants of possession – permission to issue certain writs or warrants
83.3	Writs and warrants other than those conferring a power to use the TCG procedure – duration and priority
83.4	Writs and warrants conferring a power to use the TCG procedure – duration and priority
83.5	Writs and warrants – separate enforcement of costs
83.6	Writs and warrants other than those conferring a power to use the TCG procedure – levying execution on certain days
83.7	Writs of control and warrants – power to stay execution or grant other relief
83.8	Writs and warrants – information about execution of the writ or warrant
	SECTION III WRITS
83.9	Issue of writs of execution and writs of control
83.10	Writs of control and writs of delivery – description of parties
83.11	Writs relating to ecclesiastical property
83.12	Writs other than those conferring a power to use the TCG procedure – order for sale otherwise than by auction
83.13	Enforcement in the High Court of a judgment or order for possession of land
83.14	Enforcement in the High Court of a judgment or order for delivery of goods
	SECTION IV WARRANTS
83.15	Application for warrant of control or warrant of delivery
83.16	Warrant of control or warrant of delivery – opposition by debtor and debtor’s request for transfer
83.17	Warrant of control or warrant of delivery – execution of High Court judgment

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

83.18	Warrants of control and warrants of delivery – description of parties
83.19	Creditor’s request for transfer to the High Court for enforcement
83.20	Warrants of control – bankruptcy or winding up of debtor
83.21	Warrants where the debtor is a farmer
83.22	Warrants – withdrawal and suspension of warrant at creditor’s request
83.23	Warrants of delivery
83.24	Warrants of delivery other than those conferring a power to use the TCG procedure – notice and inventory requirements
83.25	Warrants of delivery conferring a power to use the TCG procedure – notice of enforcement and inventory requirements
83.26	Warrants of possession
83.27	Saving for enforcement by committal
83.28	Suspension of part warrant
83.29	Concurrent warrants

SECTION I

Scope and Interpretation

Scope and interpretation

- 83.1.**—(1) This Part contains general rules about writs and warrants as follows—
- (a) Section II relates to writs and warrants;
 - (b) Section III relates to writs only; and
 - (c) Section IV relates to warrants only.
- (2) In this Part—
- (a) “the Act” means the Tribunals, Courts and Enforcement Act 2007⁽¹⁾;
 - (b) “the creditor” means a person who has obtained or who is entitled to enforce a judgment or order;
 - (c) “the debtor” means a person against whom a judgment or order was given or made;
 - (d) “enforcement agent” has the meaning given in paragraph 2(1) of Schedule 12;
 - (e) “enforcement officer” means an individual who is authorised to act as an enforcement officer under Schedule 7 to the Courts Act 2003⁽²⁾;
 - (f) “relevant enforcement officer” means—
 - (i) in relation to a writ of execution or a writ of control which is directed to a single enforcement officer, that officer; and
 - (ii) in relation to a writ of execution or writ of control which is directed to two or more enforcement officers, the officer to whom the writ is allocated;

⁽¹⁾ 2001 c.15.

⁽²⁾ 2003 c.39. Schedule 7 was amended by the Constitutional Reform Act 2005 (c.4), section 15(1) and Schedule 4, Part 1, paragraphs 308 and 351; the Tribunals, Courts and Enforcement Act 2007, section 62(3), 140, and 146 and Schedule 13, paragraphs 148 and 151 and Schedule 23, Part 3; and is further amended by the Crime and Courts Act 2013 (c.22), section 17(5) and Schedule 9, Part 2, paragraph 40.

- (g) “Schedule 12” means Schedule 12 to the Act⁽³⁾;
- (h) “TCG procedure” means the procedure in Schedule 12 to take control of goods and sell them to recover a sum in accordance with that Schedule and regulations made under it;
- (i) “TCG Regulations” means the Taking Control of Goods Regulations 2013⁽⁴⁾;
- (j) “warrant of control” is to be construed in accordance with section 62(4) of the Act;
- (k) “writ of control” is to be construed in accordance with section 62(4) of the Act;
- (l) “writ of execution” includes—
 - (i) a writ of possession;
 - (ii) a writ of delivery;
 - (iii) a writ of sequestration;
 - (iv) a writ of fieri facias de bonis ecclesiasticis,and any further writ in aid of any such writs, but does not include a writ of control.

SECTION II

Writs and Warrants

Writs and warrants of control, writs of execution, warrants of delivery and warrants of possession – permission to issue certain writs or warrants

83.2.—(1) This rule applies to—

- (a) writs and warrants of control;
- (b) writs of execution;
- (c) warrants of delivery;
- (d) warrants of possession.

(2) A writ or warrant to which this rule applies is referred to in this rule as a “relevant writ or warrant”.

(3) A relevant writ or warrant must not be issued without the permission of the court where—

- (a) six years or more have elapsed since the date of the judgment or order;
- (b) any change has taken place, whether by death or otherwise, in the parties—
 - (i) entitled to enforce the judgment or order; or
 - (ii) liable to have it enforced against them;
- (c) the judgment or order is against the assets of a deceased person coming into the hands of that person’s executors or administrators after the date of the judgment or order, and it is sought to issue execution against such assets;
- (d) any goods to be seized under a relevant writ or warrant are in the hands of a receiver appointed by a court or sequestrator;
- (e) under the judgment or order, any person is entitled to a remedy subject to the fulfilment of any condition, and it is alleged that the condition has been fulfilled; or

⁽³⁾ Schedule 12 is amended by the Crime and Courts Act 2013 (c.22), section 17(5) and Schedule 9, paragraph 52(1)(b) and (2).
⁽⁴⁾ S.I. 2013/1894.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

- (f) the permission sought is for a writ of control or writ of execution, and that writ is to be in aid of another writ of control or execution.
- (4) An application for permission may be made in accordance with Part 23 and must—
 - (a) identify the judgment or order to which the application relates;
 - (b) if the judgment or order is for the payment of money, state the amount originally due and, if different, the amount due at the date the application notice is filed;
 - (c) where the case falls within paragraph (3)(a), state the reasons for the delay in enforcing the judgment or order;
 - (d) where the case falls within paragraph (3)(b), state the change which has taken place in the parties entitled or liable to execution since the date of the judgment or order;
 - (e) where the case falls within paragraph (3)(c) or (d), state that a demand to satisfy the judgment or order was made on the person liable to satisfy it and that that person has refused or failed to do so;
 - (f) give such other information as is necessary to satisfy the court that the applicant is entitled to proceed to execution on the judgment or order, and that the person against whom it is sought to issue execution is liable to execution on it.
- (5) An application for permission may be made without notice being served on any other party unless the court directs otherwise.
- (6) If because of one event, an applicant seeks permission under paragraph (3)(b) to enforce more than one judgment or order, the applicant need only make one application for permission.
- (7) Where paragraph (6) applies—
 - (a) a schedule must be attached to the application for permission, specifying all the judgments or orders in respect of which the application for permission is made; and
 - (b) if the application notice is directed to be served on any person, it need set out only such part of the application as affects that person.
- (8) Paragraph (3) is without prejudice to section 2 of the Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951⁽⁵⁾ and any enactment, rule or direction by virtue of which a person is required to obtain the permission of the court for the issue of a warrant or to proceed to execution or otherwise to the enforcement of a judgment or order.

Writs and warrants other than those conferring a power to use the TCG procedure – duration and priority

83.3.—(1) This rule applies to—

- (a) writs of execution;
- (b) warrants of possession; and
- (c) warrants of delivery,

other than writs of execution or warrants that confer a power to use the TCG procedure.

(2) A writ or warrant to which this rule applies is referred to in this rule as a “relevant writ or warrant”, “relevant writ” or “relevant warrant” as appropriate.

(3) Subject to paragraph (4), for the purposes of execution, a writ or warrant will be valid for the period of 12 months beginning with the date of its issue.

(5) 1951 c.65. Section 2 has been amended by the Statute Law (Repeals) Act 1993 (c.50), Schedule 1, Part V; the Children Act 1989 (c.41), section 108(5) and (6) and Schedule 13, paragraph 12 and Schedule 14, paragraph 1; the Tribunals, Courts and Enforcement Act 2007 (c.15), section 62(3) and Schedule 13, paragraph 24; and is further amended by the Crime and Courts Act 2013 (c.22), section 17(5) and Schedule 9, Part 3, paragraph 52(1)(b) and (2).

- (4) The court may extend the relevant writ or warrant from time to time for a period of 12 months at any one time.
- (5) If the application is made before the expiry of the period of 12 months, the period of extension will begin on the day after the expiry.
- (6) If the application is made after the expiry of the period of 12 months, any period of extension will begin on any day after the expiry that the court may allow.
- (7) Before a relevant writ that has been extended is executed—
 - (a) the court will seal the writ; or
 - (b) the applicant for the extension order must serve a notice sealed as described in subparagraph (a) on the relevant enforcement officer informing that officer of the making of the extension order and the date of that order.
- (8) In relation to a relevant warrant, the court will endorse the warrant with a note of the renewal or extension.
- (9) Irrespective of whether it has been extended under paragraph (4)—
 - (a) the priority of a relevant writ will be determined by reference to the time it is originally received by the person who is under a duty to endorse it; and
 - (b) the priority of a relevant warrant will be determined by reference to the date on which it was originally issued.
- (10) The production of the following will be evidence that the relevant writ or warrant has been extended—
 - (a) the writ sealed in accordance with paragraph (7)(a);
 - (b) the notice sealed in accordance with paragraph (7)(b);
 - (c) the warrant endorsed in accordance with paragraph (8).
- (11) If, during the validity of a relevant writ, a person makes an application under Part 85 in relation to an execution under that writ, the validity of the writ will be extended until the expiry of 12 months from the conclusion of the proceedings under Part 85.

Writs and warrants conferring a power to use the TCG procedure – duration and priority

- 83.4.**—(1) This rule applies to—
- (a) a writ of control;
 - (b) a warrant of control; and
 - (c) any other writ or warrant that confers power to use the TCG procedure.
- (2) A writ or warrant to which this rule applies is referred to in this rule as a “relevant writ or warrant”, “relevant writ” or “relevant warrant” as appropriate.
- (3) A relevant writ or warrant will be valid for the period in which an enforcement agent may take control of the goods in question, as specified in regulation 9(1) of the TCG Regulations.
- (4) If a period in which to take control of goods is extended by the court under regulation 9(3) of the TCG Regulations, the validity of the relevant writ or warrant will be extended for the same period.
- (Rule 84.5 contains provisions about applications to the court requesting a time extension.)
- (5) Irrespective of whether it has been extended under regulation 9(3) of the TCG Regulations—

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

- (a) the priority of a relevant writ will be determined by reference to the time it is originally received by the person who is under a duty to endorse it; and
 - (b) the priority of a relevant warrant will be determined by reference to the date on which it was originally issued.
- (6) The production of—
- (a) the extension order granted under regulation 9(3) of the TCG Regulations, or a copy of it; or
 - (b) the relevant writ or warrant endorsed in accordance with rule 84.5(3)(b), or a copy of it,

will be evidence that the writ or warrant has been extended.

(7) If, during the validity of a relevant writ or warrant, a person makes an application under Part 85 in relation to goods taken into control under that writ or warrant, the validity of the writ or warrant will be extended until the expiry of 12 months from the conclusion of the proceedings under Part 85.

Writs and warrants – separate enforcement of costs

83.5.—(1) Where—

- (a) judgment is given or an order made for—
 - (i) payment of a sum otherwise than by instalments (“the sum”); and
 - (ii) costs to be assessed; and
- (b) default is made in payment of the sum before the costs have been assessed,

a writ of control or warrant of control (as appropriate) may be issued for the recovery of the sum.

(2) If—

- (a) paragraph (1) applies;
- (b) a writ or warrant is issued for the recovery of the sum;
- (c) the costs are assessed; and
- (d) default is made in payment of the costs,

a separate writ of control or warrant of control may be issued for the recovery of the costs.

(3) A party entitled to enforce a judgment or order of the High Court for—

- (a) the delivery of any property, other than money; or
- (b) possession of any property,

may issue a separate writ of control to enforce payment of any damages or costs awarded to that party by that judgment or order.

(4) A party entitled to enforce a judgment or order of the County Court by warrant of delivery may issue a separate warrant of control to enforce payment of any damages or costs awarded to that party by that judgment or order.

Writs and warrants other than those conferring a power to use the TCG procedure – levying execution on certain days

83.6.—(1) This rule applies to writs and warrants other than—

- (a) writs of control;
- (b) warrants of control;

- (c) any other writs or warrants that confer a power to use the TCG procedure; and
- (d) writs or warrants in relation to an Admiralty claim in rem.

(2) Unless the court orders otherwise, a writ or warrant to enforce a judgment or order must not be executed on a Sunday, Good Friday or Christmas Day.

Writs of control and warrants – power to stay execution or grant other relief

83.7.—(1) At the time that a judgment or order for payment of money is made or granted, or at any time thereafter, the debtor or other party liable to execution of a writ of control or a warrant may apply to the court for a stay of execution.

(2) The power of the court to stay execution of a warrant of control may be exercised by a District Judge, or a court officer where paragraph (10) applies, and the power of the court to stay execution of any other warrant or of a writ of control may be exercised by a Master or District Judge.

(3) Where the application for a stay of execution is made on the grounds of the applicant's inability to pay, the witness statement required by paragraph (6)(b) must disclose the debtor's means.

(4) If the court is satisfied that—

- (a) there are special circumstances which render it inexpedient to enforce the judgment or order; or
- (b) the applicant is unable from any reason to pay the money,

then, notwithstanding anything in paragraph (5) or (6), the court may by order stay the execution of the judgment or order, either absolutely or for such period and subject to such conditions as the court thinks fit.

(5) An application under this rule, if not made at the time the judgment is given or order made—

- (a) must be made in accordance with Part 23, as modified by paragraphs (6) to (14); and
- (b) may be made even if the party liable to execution did not acknowledge service of the claim form or serve a defence or take any previous part in the proceedings.

(6) The grounds on which an application under this rule is made must—

- (a) be set out in the application notice; and
- (b) be supported by a witness statement made by or on behalf of the applicant substantiating the grounds.

(7) Paragraphs (8) to (15) apply to applications in the County Court.

(8) Where the debtor makes an application in the County Court, the court will—

- (a) send the creditor a copy of the debtor's application (and statement of means); and
- (b) require the creditor to notify the court in writing whether or not the creditor objects to the application, within 14 days of service of the notification, giving reasons for any objection the creditor may have to the granting of the application.

(9) If the creditor does not notify the court of any objection within the time stated, the court officer may make an order suspending the warrant on terms of payment.

(10) Upon receipt of a notice by the creditor under paragraph (8)(b), the court officer may, if the creditor agrees, or objects only to the terms offered, determine the date and rate of payment and make an order suspending the warrant on terms of payment.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

(11) Any party affected by an order made under paragraph (10) may, within 14 days of service of the order on that party and giving reasons, apply on notice for the order to be reconsidered.

(12) If a party applies for the order to be reconsidered, the court will—

- (a) fix a day for the hearing of the application before the District Judge; and
- (b) give to the creditor and the debtor not less than 8 days' notice of the day so fixed.

(13) On hearing an application under paragraph (11), the District Judge may confirm the order or set it aside and make such new order as the court thinks fit.

(14) Where the creditor states in the notice under paragraph (8)(b) that the creditor wishes the enforcement agent to proceed to execute the warrant, the court will—

- (a) fix a day for a hearing before the District Judge of the debtor's application; and
- (b) give to the creditor and to the debtor not less than 2 days' notice of the day so fixed.

(15) Where an order is made by the District Judge suspending a warrant of execution, the debtor may be ordered to pay the costs of the warrant and any fees or expenses incurred before its suspension and the order may authorise the sale of a sufficient portion of any goods seized to cover such costs, fees and expenses and the expenses of sale.

Writs and warrants – information about execution of the writ or warrant

83.8.—(1) If the creditor or debtor serves notice on the enforcement agent or enforcement officer requiring reasonable information about the execution of a writ or warrant, the enforcement agent or enforcement officer must send such information to the creditor or debtor within 7 days of service of the notice.

(2) If the enforcement agent or enforcement officer fails to comply with the notice, the party who served the notice may apply to the court for an order directing the enforcement agent or enforcement officer to comply with the notice.

SECTION III

Writs

Issue of writs of execution and writs of control

83.9.—(1) In this rule “the appropriate office” means—

- (a) where the proceedings in which execution is to issue are in a District Registry, that Registry;
- (b) where the proceedings are in the Principal Registry of the Family Division, that Registry;
- (c) where the proceedings are Admiralty proceedings or commercial proceedings which are not in a District Registry, the Admiralty and Commercial Registry;
- (d) in any other case, the Central Office of the Senior Courts.

(2) Issue of a writ of execution or control takes place on its being sealed by a court officer of the appropriate office.

(3) Before a writ is issued a request for its issue must be filed.

(4) The request must be signed—

- (a) by the person entitled to execution, if acting in person; or
- (b) by or on behalf of the solicitor of the person entitled to execution.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

- (5) The writ will not be sealed unless at the time it is presented for sealing—
- (a) the person presenting the writ produces—
 - (i) the judgment or order on which the writ is to issue, or an office copy of it;
 - (ii) where permission was required for the writ to be issued, the order granting such permission or evidence of the granting of it;
 - (iii) where judgment on failure to acknowledge service has been entered against a State, as defined in section 14 of the State Immunity Act 1978(6), evidence that the State has been served in accordance with rule 40.10 and that the judgment has taken effect; and
 - (b) the court officer authorised to seal it is satisfied that the period, if any, specified in the judgment or order for the payment of any money or the doing of any other act under the judgment or order has expired.
- (6) Every writ of execution or control will bear the date of the day on which it is issued.

Writs of control and writs of delivery – description of parties

83.10.—(1) This rule applies where the name or address of the creditor or debtor as given in the request for the issue of the following differs from that person’s name or address in the judgment or order sought to be enforced—

- (a) a writ of control;
- (b) writ of delivery.

(2) If the creditor files a witness statement that satisfies the court officer that the name or address as given in the request is applicable to the person concerned, the creditor or the debtor will be described in the writ as “CD of [name and address as given in the request] suing [or sued] as AD of [name and address in the judgment or order]”.

Writs relating to ecclesiastical property

83.11.—(1) In this rule, “a writ relating to ecclesiastical property” means—

- (a) a writ of fieri facias de bonis ecclesiasticis; or
- (b) a writ of sequestrari de bonis ecclesiasticis.

(2) This rule applies where it appears upon the return of any writ of control that the person against whom the writ was issued—

- (a) has no goods or chattels in the district of the relevant enforcement officer; but
- (b) is the incumbent of a benefice named in the return.

(3) After the writ and return have been filed, the party by whom the writ of control was issued may issue a writ relating to ecclesiastical property.

(4) Any such writ must be directed and delivered to the bishop of the diocese within which that benefice is, to be executed by that bishop.

(5) The only fees allowed to the bishop or diocesan officer for the execution of the writ are those authorised by or under any enactment, including any measure of the General Synod.

(6) 1978 c.33.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Writs other than those conferring a power to use the TCG procedure – order for sale otherwise than by auction

83.12.—(1) This rule applies in relation to writs that do not confer a power to use the TCG procedure.

(2) A court order under paragraph 10 of Schedule 7 to the Courts Act 2003⁽⁷⁾ that a sale of goods seized under an execution may be made otherwise than by public auction may be made on the application of—

- (a) the person at whose instance the writ of execution under which the sale is to be made was issued;
- (b) the person against whom that writ was issued (in this rule referred to as “the judgment debtor”); or
- (c) if the writ was directed to one or more enforcement officers, the relevant enforcement officer.

(3) Such an application must be made in accordance with Part 23.

(4) Where the applicant for an order under this rule is not the enforcement officer, the enforcement officer must, on the demand of the applicant, send to the applicant a list, stating—

- (a) whether the enforcement officer has notice of the issue of another writ or writs of execution against the goods of the judgment debtor; and
- (b) so far as is known to the enforcement officer, the name and address of every creditor who has obtained the issue of another such writ of execution.

(5) Where the enforcement officer is the applicant, the enforcement officer must prepare such a list.

(6) Not less than 3 days before the hearing, the applicant must serve the application notice on each of the other persons by whom the application might have been made and on every person named in the list prepared under paragraph (4) or (5).

(7) Service of the application notice on a person named in the list prepared under paragraph (4) or (5) is notice to that person for the purpose of paragraph 10(3) of Schedule 7 to the Courts Act 2003.

(8) The applicant must produce the list prepared under paragraph (4) or (5) to the court on the hearing of the application.

(9) Every person on whom the application notice was served may attend and be heard on the hearing of the application.

Enforcement in the High Court of a judgment or order for possession of land

83.13.—(1) A judgment or order for the giving of possession of land may be enforced in the High Court by one or more of the following means—

- (a) writ of possession;
- (b) in a case in which rule 81.4 applies, an order of committal;
- (c) in a case in which rule 81.20 applies, writ of sequestration.

(2) Subject to paragraphs (3), (5) and (6), a writ of possession to enforce a judgment or order for the giving of possession of any land will not be issued without the permission of the court.

(3) The court’s permission is not required for the issue of a writ of possession in a possession claim against trespassers under Part 55 unless the writ is to be issued after the expiry of three months from the date of the order.

(7) 2003 c.39.

(4) An application for permission under paragraph (3) may be made without notice being served on any other party unless the court orders otherwise.

(5) The courts' permission to issue a writ of restitution in aid of a writ of possession is required whether or not permission was required for the writ of possession.

(6) The court's permission is not required for the issue of a writ of possession to enforce a judgment or order for the giving of possession of any land where the judgment or order was given or made in proceedings in which there is a claim for—

- (a) payment of moneys secured by the mortgage;
- (b) sale of the mortgaged property;
- (c) foreclosure;
- (d) delivery of possession (whether before or after foreclosure or without foreclosure) to the mortgagee by the mortgagor or by any other person who is alleged to be in possession of the property;
- (e) redemption;
- (f) reconveyance of the land or its release from the security; or
- (g) delivery of possession by the mortgagee.

(7) In paragraph (6) "mortgage" includes a legal or equitable mortgage and a legal or equitable charge, and reference to a mortgagor, a mortgagee and mortgaged land is to be interpreted accordingly.

(8) Permission referred to in paragraph (2) will not be granted unless it is shown—

- (a) that every person in actual possession of the whole or any part of the land ("the occupant") has received such notice of the proceedings as appears to the court sufficient to enable the occupant to apply to the court for any relief to which the occupant may be entitled; and
- (b) if the operation of the judgment or order is suspended by section 16(2) of the Landlord and Tenant Act 1954⁽⁸⁾, that the applicant has not received notice in writing from the tenant that the tenant desires that the provisions of section 16(2)(a) and (b) of that subsection shall have effect.

(9) A writ of possession may include provision for enforcing the payment of any money adjudged or ordered to be paid by the judgment or order which is to be enforced by the writ.

Enforcement in the High Court of a judgment or order for delivery of goods

83.14.—(1) A judgment or order for the delivery of any goods which does not give a person against whom the judgment is given or order made the alternative of paying the assessed value of the goods may be enforced in the High Court by one or more of the following means—

- (a) writ of delivery to recover the goods without alternative provision for recovery of the assessed value of those goods ("writ of specific delivery");
- (b) in a case in which rule 81.4 applies, an order of committal;
- (c) in a case in which rule 81.20 applies, writ of sequestration.

(2) A judgment or order for the delivery of any goods or payment of their assessed value may be enforced by one or more of the following means—

- (a) writ of delivery to recover the goods or their assessed value;
- (b) by order of the court, writ of specific delivery;

(8) 1954 c.56.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

(c) in a case in which rule 81.20 applies, writ of sequestration.

(3) An application for an order under paragraph (2)(b) must be made in accordance with Part 23, and must be served on the defendant against whom the judgment or order sought to be enforced was given or made.

(4) A writ of specific delivery, and a writ of delivery to recover any goods or their assessed value, may include provision for enforcing the payment of any money adjudged or ordered to be paid by the judgment or order which is to be enforced by the writ.

(5) A judgment or order for the payment of the assessed value of any goods may be enforced by the same means as any other judgment or order for the payment of money.

(6) This rule applies to writs in aid of writs of delivery.

SECTION IV

Warrants

Application for warrant of control or warrant of delivery

83.15.—(1) In this rule, “instalment order” means an order for payment of a sum of money by instalments.

(2) This rule applies in relation to—

- (a) warrants of control; and
- (b) warrants of delivery.

(3) A creditor may apply for a warrant to be issued by filing a request.

(4) A request for a warrant of control or delivery—

- (a) may be made without notice; and
- (b) must be made to—
 - (i) the County Court hearing centre where the judgment or order which it is sought to enforce was made; or
 - (ii) the County Court hearing centre to which the proceedings have since been transferred.

(5) Subject to paragraph (4)(b)(ii), a request for a warrant of control to enforce a judgment or order made at the County Court Money Claims Centre must be made to that office.

(6) In the request, the creditor must certify—

- (a) the amount remaining due under the judgment or order; and
- (b) where the order made is an instalment order—
 - (i) that the whole or part of any instalment due remains unpaid; and
 - (ii) the amount for which the warrant is to be issued.

(7) The court officer may discharge the functions of the District Judge under section 85(2) of the County Courts Act 1984⁽⁹⁾ of issuing a warrant.

(8) Unless an instalment order has been made and paragraphs (9) and (10) apply, any warrant issued must be issued for the whole of the sum of money and costs remaining unpaid, and may not be issued for part of the sum.

⁽⁹⁾ 1984 c.28. Section 85(2) was amended by the Tribunals, Courts and Enforcement Act 2007 (c.15), section 62(3) and Schedule 13, paragraphs 68 and 69 and is further amended by the Crime and Courts Act 2013 (c.22), section 17(5) and Schedule 9, Part 1, paragraph 10(1)(b).

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

(9) Where the court has made an instalment order and default has been made in payment of an instalment, then subject to paragraph (10), a warrant of control may be issued for—

- (a) the whole of the sum of money and costs then remaining unpaid; or
- (b) for such part of the sum as the creditor may request, which must not be less than the greater of—
 - (i) £50; or
 - (ii) the amount of one monthly instalment or, as the case may be, four weekly instalments.

(10) Where an instalment order has been made, no warrant will be issued unless at the time when it is issued—

- (a) the whole or part of an instalment which has already become due remains unpaid; and
- (b) any warrant previously issued for part of the sum of money and costs has expired, been satisfied or abandoned.

Warrant of control or warrant of delivery – opposition by debtor and debtor’s request for transfer

83.16. The court may, on an application by a debtor who wishes to oppose a request for a warrant of control or warrant of delivery, transfer it to the County Court hearing centre serving the address where the debtor resides or carries on business, or to another court.

Warrant of control or warrant of delivery – execution of High Court judgment

83.17.—(1) Where it is desired to enforce by warrant of control or warrant of delivery—

- (a) a judgment or order of the High Court; or
- (b) a judgment, order, decree or award which is or has become enforceable as if it were a judgment of the High Court,

the request referred to in rule 83.15(3) may be filed in the County Court hearing centre which serves the address where execution is to be levied.

(2) Subject to paragraph (3), any restriction imposed by these rules on the issue of execution will apply as if the judgment, order, decree or award were a judgment or order of the County Court.

(3) Permission to issue execution will not be required if permission has already been given by the High Court.

(4) Notice of the issue of the warrant will be sent by the County Court to the High Court.

Warrants of control and warrants of delivery – description of parties

83.18.—(1) This rule applies where the name or address of the creditor or debtor as given in the request for the issue of the following differs from that person’s name or address in the judgment or order sought to be enforced—

- (a) a warrant of control;
- (b) a warrant of delivery.

(2) If the creditor files a witness statement that satisfies the court officer that the name or address as given in the request is applicable to the person concerned, the creditor or the debtor will be described in the warrant as “CD of [name and address as given in the request] suing [or sued] as AD of [name and address in the judgment or order]”.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Creditor's request for transfer to the High Court for enforcement

83.19.—(1) This rule applies where the creditor makes a request for a certificate of judgment under rule 40.14A(1) for the purpose of enforcing the judgment or order in the High Court—

- (a) by execution against goods; or
- (b) where the judgment or order to be enforced is an order for possession of land made in a possession claim against trespassers.

(2) The grant of a certificate by the court will take effect as an order to transfer the proceedings to the High Court and the transfer will have effect on the grant of that certificate.

(3) On the transfer of proceedings in accordance with paragraph (2), the County Court will—

- (a) give notice to the debtor or the person against whom the possession order was made that the proceedings have been transferred; and
- (b) make an entry of the fact of transfer in the court records.

(4) In a case where a request for a certificate of judgment is made under rule 40.14A(1) for the purpose of enforcing a judgment or order in the High Court and any of the following proceedings are pending, the request for the certificate will not be dealt with until those proceedings are determined—

- (a) an application for a variation in the date or rate of payment of money due under a judgment or order;
- (b) an application under either rule 39.3(3) or rule 13.4;
- (c) a request for an administration order; or
- (d) an application for a stay of execution under section 88 of the County Courts Act 1984⁽¹⁰⁾.

Warrants of control – bankruptcy or winding up of debtor

83.20.—(1) This rule applies where the enforcement agent responsible for the execution of a warrant of control is required by any provision of the Insolvency Act 1986⁽¹¹⁾ or any other enactment relating to insolvency to retain the proceeds of sale of goods sold under the warrant or money paid in order to avoid a sale.

(2) The enforcement agent will, as soon as practicable after the sale or the receipt of the money, send notice to the creditor and the court.

(3) Where the enforcement agent responsible for the execution of a warrant—

- (a) receives notice that—
 - (i) a bankruptcy order has been made against the debtor; or
 - (ii) if the debtor is a company—
 - (aa) a provisional liquidator has been appointed; or
 - (bb) an order has been made or a resolution passed for the winding up of the company;
- (b) withdraws from possession of goods seized; or
- (c) pays over to—
 - (i) the official receiver or trustee in bankruptcy; or

⁽¹⁰⁾ 1984 c.28.

⁽¹¹⁾ 1986 c.45.

(ii) if the debtor is a company, the liquidator,
the proceeds of sale of goods sold under the warrant or money paid in order to avoid
a sale or seized or received in part satisfaction of the warrant,
the enforcement agent must send notice to the creditor and the court.

Warrants where the debtor is a farmer

83.21.—(1) This rule applies if—

- (a) any of the following warrants has been issued—
 - (i) a warrant of control;
 - (ii) any other warrant conferring the power to use the TCG procedure; or
 - (iii) a warrant of delivery; and
- (b) the enforcement agent has reason to believe that the debtor is a farmer.

(2) If requested to do so by the court or enforcement agent, the creditor must provide the court or enforcement agent with an official certificate, dated not more than three days beforehand, of the result of a search at the Land Registry as to the existence of any charge registered against the debtor under the Agricultural Credits Act 1928(12).

(3) If the creditor fails to provide the official certificate referred to in paragraph (2) within 7 days of receipt of the request, the court, of its own motion or on the application of the enforcement agent, may order the creditor to provide the certificate.

Warrants – withdrawal and suspension of warrant at creditor’s request

83.22.—(1) This rule applies if any of the following warrants has been issued—

- (a) a warrant of control;
- (b) any other warrant conferring the power to use the TCG procedure; or
- (c) a warrant of delivery.

(2) Where a creditor requests the court to withdraw the warrant, subject to the following paragraphs of this rule—

- (a) the creditor will be treated as having abandoned the goods; and
- (b) the court will mark the warrant as withdrawn by request of the creditor.

(3) Where the request is made in consequence of an application having been made under Part 85, the enforcement power ceases to be exercisable in respect of the goods claimed.

(4) If the court is requested by the creditor to suspend the warrant because of an arrangement with the debtor, the court will mark the warrant as suspended by request of the creditor and the creditor may subsequently apply to the court for it to be re-issued.

(5) Nothing in this rule will prejudice any right of the creditor to apply for the issue of a fresh warrant or will authorise the re-issue of a warrant which has been withdrawn or has expired or has been superseded by the issue of a fresh warrant.

Warrants of delivery

83.23.—(1) In this rule “warrant of specific delivery” means a warrant to recover goods without alternative provision for recovery of their value.

(12) 1928 c.43.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

(2) Except where an act or rule provides otherwise, a judgment or order for the delivery of any goods will be enforceable by warrant of delivery in accordance with this rule.

(3) If the judgment or order does not give the person against whom it was given or made the alternative of paying the value of the goods, it may be enforced by a warrant of specific delivery.

(4) If the judgment or order is for the delivery of the goods or payment of their value, it may be enforced by a warrant of delivery to recover the goods or their value.

(5) Where a warrant of delivery is issued, the creditor will be entitled, by the same or a separate warrant, to execution against the debtor's goods for any money payable under the judgment or order which is to be enforced by the warrant of delivery.

(6) Where—

(a) a judgment or order is given or made for the delivery of goods or payment of their value; and

(b) a warrant is issued to recover the goods or their value,

money paid into court under the warrant will be appropriated first to any sum of money and costs awarded.

Warrants of delivery other than those conferring a power to use the TCG procedure – notice and inventory requirements

83.24.—(1) This rule applies where—

(a) a warrant of delivery has been issued for the whole or part of a sum of money and costs; and

(b) the warrant does not confer power to use the TCG procedure.

(2) Unless the court orders otherwise, the enforcement agent—

(a) must serve the debtor with a notice warning of the warrant; and

(b) must not levy the warrant until at least 7 days after service of the notice.

(3) Upon levying execution of the warrant, the enforcement agent must leave notice of the warrant at the place where it has been executed.

(4) If the enforcement agent removes the goods, the enforcement agent must deliver or send to the debtor an inventory of the goods removed sufficient for the debtor to identify the goods.

(5) The inventory must be delivered or sent to the debtor within 7 days of the goods being seized by—

(a) delivery to the debtor personally;

(b) sending the inventory by post to the debtor's place of residence; or

(c) where the debtor's place of residence is not known, by leaving the inventory for, or sending it to, the debtor at the place from which the goods were removed.

(6) If the enforcement agent fails to supply an inventory in accordance with this rule, the debtor may make an application to the court using the procedure in Part 23, for an order requiring the enforcement agent to do so.

Warrants of delivery conferring a power to use the TCG procedure – notice of enforcement and inventory requirements

83.25.—(1) Where a warrant of delivery confers the power to use the TCG procedure, this rule applies in relation to the parts of the warrant that do not confer that power.

(2) Subject to paragraph (4), the enforcement agent must send a warning notice to the person against whom the warrant is issued not less than 7 clear days before the enforcement agent executes the warrant.

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

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

(5) The enforcement agent may apply for the order by way of application under Part 23 and may make the application as part of an application under rule 84.4.

(6) Upon executing the warrant, the enforcement agent must give to the debtor or leave for the debtor at the place where the warrant is being executed, notice about the execution.

(7) As soon as reasonably practicable, and in any event within 7 days of execution of the warrant, the enforcement agent must provide the debtor with a written inventory of goods taken with a description of the goods to enable the debtor to identify the goods correctly.

(8) If the enforcement agent fails to provide—

(a) notice of execution under paragraph (6); or

(b) an inventory under paragraph (7) within 7 days of execution,

the debtor may make an application to the court under Part 23 for an order requiring the enforcement agent to supply the notice or inventory as appropriate.

(Regulations 6 and 30 to 33 of the TCG Regulations contain notice and inventory requirements that apply in relation to the use of the TCG procedure.)

Warrants of possession

83.26.—(1) A judgment or order for the recovery of land will be enforceable by warrant of possession.

(2) An application for a warrant of possession—

(a) may be made without notice; and

(b) must be made to—

(i) the County Court hearing centre where the judgment or order which it is sought to enforce was made; or

(ii) the County Court hearing centre to which the proceedings have since been transferred.

(3) The court may, on an application by a debtor who wishes to oppose an application for a warrant of possession, transfer it to the County Court hearing centre serving the address where the debtor resides or carries on business, or to another court.

(4) Without prejudice to paragraph (7), the person applying for a warrant of possession must file a certificate that the land which is subject of the judgment or order has not been vacated.

(5) When applying for a warrant of possession of a dwelling-house subject to a mortgage, the claimant must certify that notice has been given in accordance with the Dwelling Houses (Execution of Possession Orders by Mortgagees) Regulations 2010(13).

(6) Where a warrant of possession is issued, the creditor will be entitled, by the same or a separate warrant, to execution against the debtor's goods for any money payable under the judgment or order which is to be enforced by the warrant of possession.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

(7) In a case to which paragraph (6) applies or where an order for possession has been suspended on terms as to payment of a sum of money by instalments, the creditor must in the request certify—

- (a) the amount of money remaining due under the judgment or order; and
- (b) that the whole or part of any instalment due remains unpaid.

(8) A warrant of restitution may be issued, with the permission of the court, in aid of any warrant of possession.

(9) An application for permission under paragraph (8) may be made without notice being served on any other party and must be supported by evidence of—

- (a) wrongful re-entry into possession following the execution of the warrant of possession; and
- (b) such further facts as would, in the High Court, enable the creditor to have a writ of restitution issued.

(10) A warrant of possession to enforce an order for possession in a possession claim against a trespasser under Part 55 (“a warrant of possession against a trespasser”) may be issued at any time after the date on which possession is ordered to be given.

(11) No warrant of possession against a trespasser may be issued after the expiry of 3 months from the date of the order without the permission of the court.

(12) Unless the court otherwise directs, an application for permission under paragraph (11) may be made without notice to any other party.

Saving for enforcement by committal

83.27. Nothing in rules 83.23 and 83.26 prejudices any power to enforce a judgment or order for the delivery of goods or the recovery of land by any order of committal.

Suspension of part warrant

83.28.—(1) This rule applies where a warrant issued for part of a sum of money and costs payable under a judgment or order is suspended on payment of instalments.

(2) Unless the court otherwise directs, the judgment or order will be treated as suspended on those terms as respects the whole of the sum of money and costs then remaining unpaid.

Concurrent warrants

83.29. Two or more warrants of control may be issued concurrently for execution by two or more different enforcement agents, but—

- (a) no more may be levied under all the warrants together than is authorised to be levied under one of them; and
- (b) unless the court orders otherwise, the costs of more than one warrant will not be allowed against the debtor.

PART 84

ENFORCEMENT BY TAKING CONTROL OF GOODS

Contents of this Part

	SECTION I SCOPE AND INTERPRETATION
84.1	Scope
84.2	Interpretation
	SECTION II WHERE AND HOW TO MAKE APPLICATIONS
84.3	Where and how to make applications
	SECTION III TAKING CONTROL OF GOODS
84.4	Notice of enforcement prior to taking control of goods – application for notice period of less than the minimum period
84.5	Application to extend the period in which to take control of goods
84.6	Application to take control of goods during prohibited hours
84.7	Application to enter, re-enter or remain on premises otherwise than during permitted hours
84.8	Notice of intention to re-enter premises – application for notice period of less than the minimum period
84.9	Application for a warrant allowing reasonable force to enter premises – conditions to be satisfied before a warrant may be issued
84.10	Application for a warrant allowing reasonable force in relation to goods on the highway – conditions to be satisfied before a warrant may be issued
84.11	Application for sale otherwise than by public auction
84.12	Application in relation to disposal of abandoned goods
84.13	Application by the debtor for a remedy in relation to goods taken into control
84.14	Application by the enforcement agent for exceptional disbursements
84.15	Application where there is a dispute regarding a co-owner’s share of proceeds
84.16	Disputes about the amount of fees or disbursements recoverable under the Fees Regulations

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

SECTION I

Scope and Interpretation

Scope

84.1. This Part contains rules in relation to enforcement by taking control of goods using the procedure in Schedule 12 to the Tribunals, Courts and Enforcement Act 2007.

Interpretation

84.2. In this Part—

- (a) “the Act” means the Tribunals Courts and Enforcement Act 2007⁽¹⁴⁾;
- (b) “Schedule 12” means Schedule 12 to the Act⁽¹⁵⁾;
- (c) “creditor” has the meaning given in paragraph 1(6) of Schedule 12;
- (d) “co-owner” has the meaning given in paragraph 3(1) of Schedule 12;
- (e) “debtor” has the meaning given in paragraph 1(5) of Schedule 12;
- (f) “enforcement agent” has the meaning given in paragraph 2(1) of Schedule 12;
- (g) “Fees Regulations” means the Taking Control of Goods (Fees) Regulations 2014⁽¹⁶⁾;
- (h) “TCG Regulations” means the Taking Control of Goods Regulations 2013⁽¹⁷⁾;
- (i) “writ of control” and “warrant of control” are to be construed in accordance with section 62(4) of the Act.

SECTION II

Where and How to make Applications

Where and how to make applications

84.3.—(1) This rule sets out where and how applications referred to in this Part must be made.

(2) Applications referred to in this Part must be made in accordance with the procedure in Part 23 as modified by this Part.

(3) Where there are no pre-existing proceedings, an application referred to in this Part must be made to the County Court.

(4) Where there are pre-existing proceedings, the application must be made to the High Court or the County Court in accordance with rule 23.2.

⁽¹⁴⁾ 2007 c.15.

⁽¹⁵⁾ Schedule 12 is amended by the Crime and Courts Act 2013 (c.22), section 17(5) and Schedule 9, Part 3, paragraph 52(1) (b) and (2).

⁽¹⁶⁾ S.I. 2014/1.

⁽¹⁷⁾ S.I. 2013/1894.

SECTION III

Taking Control of Goods

Notice of enforcement prior to taking control of goods – application for notice period of less than the minimum period

84.4.—(1) This rule applies where a person seeks an order under regulation 6(3) of the TCG Regulations that a shorter notice period than the minimum period for taking control of goods set out in regulation 6(1) of those Regulations be given to the debtor.

- (2) The person may make an application for the order.
- (3) The application—
 - (a) may be made without notice; and
 - (b) must be accompanied by evidence demonstrating that if the order is not made, it is likely that goods of the debtor will be moved or otherwise disposed of, in order to avoid the enforcement agent taking control of the goods.

Application to extend the period in which to take control of goods

84.5.—(1) An application under regulation 9(4) of the TCG Regulations (application to extend the period in which to take control of goods) must be accompanied by—

- (a) a witness statement made by the person making the application that no previous application under regulation 9(4) has been made to extend that period; and
 - (b) the applicant’s grounds for not taking control of goods of the debtor during the period specified in regulation 9(1).
- (2) If—
- (a) the application is made before the expiry of the period specified in regulation 9(1); and
 - (b) the court orders the period of extension,

the period of extension will start on the day after the expiry of the period specified in regulation 9(1), or on such later day as the court may order.

- (3) If the court orders the period of extension—
- (a) the applicant must serve a copy of the extension order on the debtor, and on the creditor, enforcement agent or enforcement officer as appropriate; and
 - (b) if the goods are to be taken into control by virtue of a warrant or writ of control, or of any other writ or warrant conferring the power to use the procedure in Schedule 12, the court will endorse on the warrant or writ a note of the extension.

Application to take control of goods during prohibited hours

84.6. An application by the enforcement agent under regulation 13(2)(a) of the TCG Regulations for an order allowing goods to be taken into control during hours prohibited by regulation 13(1) of those Regulations—

- (a) may be made without notice; and
- (b) must be accompanied by evidence demonstrating that if the order is not made, it is likely that goods of the debtor will be moved or otherwise disposed of, in order to avoid the enforcement agent taking control of the goods.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Application to enter, re-enter or remain on premises otherwise than during permitted hours

84.7. An application by the enforcement agent under regulation 22(5) of the TCG Regulations for an order allowing the enforcement agent to enter, re-enter or remain on premises at times other than those permitted by regulation 22(2), (3) or (4) of those Regulations—

- (a) may be made without notice; and
- (b) must be accompanied by evidence demonstrating that if the order is not made, it is likely that goods of the debtor will be moved or otherwise disposed of, in order to avoid the enforcement agent taking control of the goods.

Notice of intention to re-enter premises – application for notice period of less than the minimum period

84.8.—(1) This rule applies where a person seeks an order under regulation 25(3) of the TCG Regulations that a shorter notice period than the minimum period for re-entering premises set out in regulation 25(1) of those Regulations be given to the debtor.

- (2) The person may make an application for the order.
- (3) The application—
 - (a) may be made without notice; and
 - (b) must be accompanied by evidence demonstrating that if the order is not made, it is likely that goods of the debtor will be moved to be disposed of, in order to avoid the enforcement agent inspecting or removing the goods.

Application for a warrant to enter premises – conditions to be satisfied before a warrant may be issued

84.9.—(1) This rule applies to an application by an enforcement agent for—

- (a) the issue of a warrant under paragraph 15(1) of Schedule 12;
- (b) the issue of a warrant under paragraph 20(2) of Schedule 12 allowing the use of reasonable force to enter premises; or
- (c) the inclusion in a warrant power under paragraph 21(2) of Schedule 12 to use reasonable force to enter premises.

(2) Where the application is for the issue of a warrant under paragraph 15(1) of Schedule 12, the enforcement agent must provide the court with sufficient evidence and information to satisfy the court that the conditions in paragraph 15(2) of Schedule 12 are met.

(3) Where the application is for the issue of a warrant under paragraph 20(2) or 21(2) of Schedule 12, the enforcement agent must provide the court with sufficient evidence and information to satisfy the court that the conditions set out in regulation 28(2) of the TCG Regulations have been met.

Application for a warrant allowing reasonable force in relation to goods on the highway – conditions to be satisfied before a warrant may be issued

84.10.—(1) This rule applies to an application by an enforcement agent for the issue of a warrant under paragraph 31(1) of Schedule 12 allowing the use of reasonable force in relation to goods on the highway.

(2) The enforcement agent must provide the court with sufficient evidence and information to satisfy the court that the conditions set out in regulation 29(2) of the TCG Regulations have been met.

Application for sale otherwise than by public auction

84.11.—(1) This rule applies to an application by an enforcement agent for an order for sale otherwise than by public auction under paragraph 41(2) of Schedule 12 (“alternative sale application”).

(2) Where the enforcement agent has made a statement to the court under paragraph 41(4) of Schedule 12 (reason to believe that an enforcement power has become exercisable by another creditor against the debtor or co-owner), the alternative sale application must be accompanied by—

- (a) a list of the name and address of every other creditor that the enforcement agent has reason to believe has an exercisable enforcement power against the debtor or co-owner and a explanation of why the enforcement agent has such a belief; and
- (b) a copy of the notice of application required by paragraph 41(5) of Schedule 12 and proof that the notice has been served on such other creditors not less than 4 days before the day fixed for the hearing of the application.

(3) Every person to whom notice of the application was given may attend and be heard on the hearing of the application.

Application in relation to disposal of abandoned goods

84.12.—(1) This rule applies to an application by the enforcement agent under regulation 47(5) of the TCG Regulations for an order for the disposal of goods abandoned by the debtor.

(2) If the enforcement agent applies for an order for disposal by way of donation to a charitable organisation or destruction of goods, the enforcement agent must explain in the application why the enforcement agent does not wish the goods to be made available for a further period of collection.

Application by the debtor for a remedy in relation to goods taken into control

84.13.—(1) This rule applies where the debtor wishes to bring proceedings under paragraph 66 of Schedule 12(18) for—

- (a) breach of a provision of Schedule 12; or
 - (b) enforcement action taken under a defective instrument.
- (2) The debtor may bring proceedings by way of an application.
- (3) The application must be accompanied by evidence of how—
- (a) the provisions of Schedule 12 are alleged to have been breached; or
 - (b) the instrument is alleged to be defective.

Application by the enforcement agent for exceptional disbursements

84.14.—(1) This rule applies to an application by an enforcement agent for exceptional disbursements under regulation 10 of the Fees Regulations.

(18) Paragraph 66 of Schedule 12 is amended by the Crime and Courts Act 2013 (c.22), section 17(5) and Schedule 19, paragraph 52(1)(b) and (2).

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

- (2) The application must be accompanied by—
 - (a) evidence of the creditor’s consent to the application; and
 - (b) evidence that the disbursements to which the application relate are necessary for effective enforcement of the sum to be recovered, having regard to all the circumstances including—
 - (i) the amount of the sum to be recovered; and
 - (ii) the nature and value of the goods which have been taken into control, or which it is sought to take into control.
- (3) Where the application is made before the goods are taken into control, it may be made without notice.

Application where there is a dispute regarding a co-owner’s share of proceeds

84.15.—(1) This rule applies to an application under regulation 15 of the Fees Regulations to determine the amount of the proceeds payable to a co-owner.

- (2) The applicant must file with the application—
 - (a) evidence of the enforcement power;
 - (b) a copy of the itemised list of goods sold or otherwise disposed of required by regulation 14(1)(a) of the Fees Regulations;
 - (c) a copy of the statement of the sum received in relation to each item required by regulation 14(1)(b)(i) of the Fees Regulations;
 - (d) a copy of the statement of the proceeds required by regulation 14(1)(b)(ii) of the Fees Regulations;
 - (e) a copy of the statement of the application of the proceeds required by regulation 14(1)(b)(iii) of the Fees Regulations;
 - (f) evidence that the share of proceeds paid to the co-owner was not proportionate to the co-owner’s interest in the goods sold.
- (3) The applicant must serve a copy of the application notice in accordance with table 1.

Table 1

Applicant	Those to be served with a copy of the application notice
Co-owner	Any other co-owners; creditor; debtor; enforcement agent
Creditor	Co-owners; debtor; enforcement agent
Debtor	Co-owners; creditor; enforcement agent
Enforcement agent	Co-owners; creditor; debtor

Disputes about the amount of fees or disbursements recoverable under the Fees Regulations

- 84.16.**—(1) This rule applies where—
 - (a) there is a dispute about the amount of fees or disbursements, other than exceptional disbursements, recoverable under the Fees Regulations; and
 - (b) a party wishes the court to assess the amounts recoverable under regulation 16 of the Fees Regulations.
- (2) A party may make an application to the court to assess the amounts.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

- (3) The application must be accompanied by—
- (a) evidence of the amount of fees or disbursements in dispute;
 - (b) evidence that the fees or disbursements in dispute were not applicable, as the debt had been settled before the stage where it would have been necessary to incur those fees or expenses;
 - (c) evidence that, because the enforcement agent was instructed to use the TCG procedure in relation to the same debtor but in respect of more than one enforcement power where the enforcement powers could reasonably be exercised at the same time, regulation 11 of the Fees Regulations should have been applied;
 - (d) evidence that the fee due and any disbursements for the enforcement stage, first enforcement stage, or first and second enforcement stage, as appropriate, are not recoverable under regulation 12 of the Fees Regulations; or
 - (e) where the dispute concerns the amount of the percentage fee, calculated in accordance with regulation 7 of the Fees Regulations, evidence of the amount of the sum to be recovered.

PART 85

Claims on Controlled Goods and Executed Goods

Contents of this Part

	SECTION I SCOPE AND INTERPRETATION
85.1	Scope
85.2	Interpretation
	SECTION II MODE OF APPLICATIONS FOR CLAIMS UNDER THIS PART
85.3	Mode of application for claims under this Part
	SECTION III PROCEDURE FOR MAKING A CLAIM TO CONTROLLED GOODS
85.4	Procedure for making a claim to controlled goods
85.5	Procedure for making a claim to controlled goods where the claim is disputed
	SECTION IV PROCEDURE FOR MAKING A CLAIM AGAINST EXECUTED GOODS
85.6	Procedure for making a claim against executed goods
85.7	Procedure for making a claim to executed goods where the claim is disputed

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

	SECTION V PROCEDURE FOR A DEBTOR MAKING A CLAIM TO EXEMPT GOODS
85.8	Procedure for a debtor making a claim to exempt goods
85.9	Procedure for making a claim to exempt goods where the claim is disputed
	SECTION VI POWERS OF THE COURT HEARING AN APPLICATION UNDER THIS PART
85.10	Directions and determinations of claims
85.11	Trial of issue
85.12	Costs

SECTION I

Scope and Interpretation

Scope

85.1.—(1) This Part contains rules about claims on controlled goods and executed goods as follows—

- (a) Section II sets out the mode of application for claims under this Part;
 - (b) Section III relates to the procedure for making claims to controlled goods;
 - (c) Section IV relates to the procedure for making claims against executed goods;
 - (d) Section V relates to the procedure for a debtor making a claim to exempt goods;
 - (e) Section VI relates to the powers of the court hearing any application under this Part.
- (2) The rules in this Part apply where—
- (a) a person makes an application to the court claiming that goods of which control has been taken belong to that person and not to the debtor;
 - (b) a person makes an application to the court claiming that goods, money or chattels taken or intended to be taken under a writ of execution or the proceeds or value of such goods or chattels belong to that person and not to the debtor; and
 - (c) a debtor, whose goods have been made subject to an enforcement power under an enactment, writ or warrant of control or have been taken or are intended to be taken under a writ of execution, claims that such goods or any of them are exempt goods.

Interpretation

85.2.—(1) In this Part—

- (a) “the Act” means the Tribunals, Courts and Enforcement Act 2007⁽¹⁹⁾;
- (b) “claim to controlled goods” is a claim made under paragraph 60(1) of Schedule 12;
- (c) “a claim to exempt goods” means a claim by a debtor whose goods have been subject to an enforcement power under an enactment, writ or warrant of control or the right to execute conferred by a writ of execution, that such goods are exempt goods;

⁽¹⁹⁾ 2007 c.15.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

- (d) “claimant to controlled goods” means any person making a claim to controlled goods;
- (e) “claimant to executed goods” means any person making a claim to executed goods;
- (f) “the court” has the meaning given in paragraph 60(8) of Schedule 12(20), in respect of a claim to controlled goods;
- (g) “debtor’s home court” means the Central Office or District Registry of the High Court or the County Court hearing centre serving the address where the debtor resides or carries on business;
- (h) “enforcement agent” has the meaning given in paragraph 2(1) of Schedule 12;
- (i) “enforcement officer” means an individual who is authorised to act as an enforcement officer under the Courts Act 2003(21);
- (j) “executed goods” means goods subject to a writ of execution;
- (k) “exempt goods” —
 - (i) in respect of controlled goods has the meaning given in paragraph 3(1) of Schedule 12 and defined in regulations 4 and 5 of the TCG Regulations(22); and
 - (ii) in respect of executed goods has the meaning given in paragraph 9(3) of Schedule 7 to the Courts Act 2003;
- (l) “goods subject to enforcement” refers to either controlled goods or executed goods;
- (m) “relevant enforcement officer” means—
 - (i) in relation to a writ of execution which is directed to a single enforcement officer, that officer; and
 - (ii) in relation to a writ of execution which is directed to two or more enforcement officers, the officer to whom the writ is allocated;
- (n) “required payments” has the meaning given in paragraph 60(4) of Schedule 12(23);
- (o) “Schedule 12” means Schedule 12 to the Act(24);
- (p) “TCG Regulations” means the Taking Control of Goods Regulations 2013;
- (q) “warrant of control” is to be construed in accordance with section 62(4) of the Act;
- (r) “writ of control” is to be construed in accordance with section 62(4) of the Act;
- (s) “writ of execution” includes—
 - (i) a writ of possession;
 - (ii) a writ of delivery;
 - (iii) a writ of sequestration;
 - (iv) writs relating to ecclesiastical property, namely—
 - (aa) a writ of fieri facias de bonis ecclesiasticis;
 - (bb) a writ of sequestrari de bonis ecclesiasticis,and any further writ in aid of any such writs, but does not include a writ of control;

(20) Paragraph 60(8) of Schedule 12 is amended by the Crime and courts Act 2013 (c.22), section 17(5) and Schedule 19, paragraph 52(1)(b) and (2).

(21) 2003 c.39.

(22) S.I. 2013/1894.

(23) Paragraph 60 is amended by the Crime and Courts Act 2013 (c.22), section 17(5) and Schedule 9, Part 3, paragraph 52.

(24) 2007 c.15. Schedule 12 was amended by the Finance Act 2008 (c.9), section 129, Schedule 129, section 43, Part 1 paragraph 10 and is further amended by the Crime and Courts Act 2013, sections 17(5), and 25 and Schedule 9, Part 3, paragraph 52.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

- (t) the following words or phrases have the meaning given in paragraph 1 of Schedule 12, in respect of a claim to controlled goods—
 - (i) “creditor”;
 - (ii) “debt”;
 - (iii) “debtor”;
 - (iv) “enforcement power”;
- (u) the following words or phrases have the meaning given in paragraph 3(1) of Schedule 12(25)—
 - (i) “control”;
 - (ii) “controlled goods”;
 - (iii) “co-owner”;
 - (iv) “disposal”;
 - (v) “interest”;
 - (vi) “money”;
 - (vi) “premises”;
 - (vii) “securities”.

SECTION II

Mode of Application for Claims under this Part

Mode of application for claims under this Part

85.3. Any claim under this Part must be made by an application in accordance with Part 23.

SECTION III

Procedure for making a claim to controlled goods

Procedure for making a claim to controlled goods

85.4.—(1) Any person making a claim under paragraph 60(1) of Schedule 12 must, as soon as practicable but in any event within 7 days of the goods being removed under the exercise of an enforcement power, give notice in writing of their claim to the enforcement agent who has taken control of the goods (“the notice of claim to controlled goods”) and must include in such notice—

- (a) their full name and address, and confirmation that such address is their address for service;
- (b) a list of all those goods in respect of which they make such a claim; and
- (c) the grounds of their claim in respect of each item.

(2) On receipt of a notice of claim to controlled goods which complies with paragraph (1) the enforcement agent must within 3 days give notice of such claim to—

- (a) the creditor; and
- (b) any other person making a claim to the controlled goods under paragraph (1) (“any other claimant to the controlled goods”);

(25) Paragraph 3 is amended by the Crime and Courts Act 2013 (c.22) section 17(5) and Schedule 9, Part 3, paragraph 52.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

(3) The creditor, and any other claimant to the controlled goods, must, within 7 days after receiving the notice of claim to controlled goods, give notice in writing to the enforcement agent informing them whether the claim to controlled goods is admitted or disputed in whole or in part.

(4) The enforcement agent must notify the claimant to the controlled goods in writing within 3 days of receiving the notice in paragraph (3) whether the claim to controlled goods is admitted or disputed in whole or in part.

(5) A creditor who gives notice in accordance with paragraph (3) admitting a claim to controlled goods is not liable to the enforcement agent for any fees and expenses incurred by the enforcement agent after receipt of that notice by the enforcement agent.

(6) If an enforcement agent receives a notice from a creditor under paragraph (3) admitting a claim to controlled goods the following applies—

- (a) the enforcement power ceases to be exercisable in respect of such controlled goods; and
- (b) as soon as reasonably practicable the enforcement agent must make the goods available for collection by the claimant to controlled goods if they have been removed from where they were found.

(7) Where the creditor, or any other claimant to controlled goods to whom a notice of claim to controlled goods was given, fails, within the period mentioned in paragraph (3), to give the required notice, the enforcement agent may seek—

- (a) the directions of the court by way of an application; and
- (b) an order preventing the bringing of any claim against them for, or in respect of, their having taken control of any of the goods or having failed so to do.

Procedure for making a claim to controlled goods where the claim is disputed

85.5.—(1) Where a creditor, or any other claimant to controlled goods to whom a notice of claim to controlled goods was given, gives notice under rule 85.4(3) that the claim to controlled goods, or any part of it, is disputed, and wishes to maintain their claim to the controlled goods, the following procedure will apply.

(2) The claimant to controlled goods must make an application which must be supported by—

- (a) a witness statement—
 - (i) specifying any money;
 - (ii) describing any goods claimed; and
 - (iii) setting out the grounds upon which their claim to the controlled goods is based; and
- (b) copies of any supporting documents that will assist the court to determine the claim.

(3) In the High Court the claimant to controlled goods must serve the application notice and supporting witness statements and exhibits on—

- (a) the creditor;
- (b) any other claimant to controlled goods of whom the claimant to controlled goods is aware; and
- (c) the enforcement agent.

(4) In the County Court when the application is made the claimant to controlled goods must provide to the court the addresses for service of—

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

- (a) the creditor;
 - (b) any other claimant to controlled goods of whom the claimant to controlled goods is aware; and
 - (c) the enforcement agent,
- (“the respondents”), and the court will serve the application notice and any supporting witness statement and exhibits on the respondents.

(5) An application under paragraph (2) must be made to the court which issued the writ or warrant conferring power to take control of the controlled goods, or, if the power was conferred under an enactment, to the debtor’s home court.

(6) The claimant to controlled goods must make the required payments on issue of the application in accordance with paragraph 60(4)(a) of Schedule 12(26), unless such claimant seeks a direction from the court that the required payment be a proportion of the value of the goods, in which case they must seek such a direction immediately after issue of the application, on notice to the creditor and to the enforcement agent.

(7) The application notice will be referred to a Master or District Judge.

(8) On receipt of an application for a claim to controlled goods, the Master or District Judge may—

- (a) give directions for further evidence from any party;
- (b) list a hearing to give directions;
- (c) list a hearing of the application;
- (d) determine the amount of the required payments, make directions or list a hearing to determine any issue relating to the amount of the required payments or the value of the controlled goods;
- (e) stay, or dismiss, the application if the required payments have not been made;
- (f) make directions for the retention, sale or disposal of the controlled goods;
- (g) give directions for determination of any issue raised by a claim to controlled goods.

SECTION IV

Procedure for making a Claim against Executed Goods

Procedure for making a claim against executed goods

85.6.—(1) A claimant to executed goods must, as soon as practicable but in any event within 7 days of the goods being removed by the enforcement officer, give notice in writing of their claim to the relevant enforcement officer (“the notice of claim to executed goods”) and must include in such notice—

- (a) their full name and address, and confirmation that such address is their address for service;
- (b) a list of all those goods in respect of which they make such a claim; and
- (c) the grounds of their claim in respect of each item.

(2) On receipt of a notice of claim to executed goods which complies with paragraph (1) the enforcement officer must within 3 days give notice of such claim to—

- (a) the creditor; and

(26) 2007 c.15. Paragraph 60 is amended by the Crime and Courts Act 2013 (c.22), section 17(5) and Schedule 9, Part 3, paragraph 52.

- (b) any other person making a claim to the executed goods under paragraph (1) (“any other claimant to the executed goods”).
- (3) The creditor, and any other claimant to executed goods, must, within 7 days after receiving the notice of claim to the executed goods, give notice in writing to the enforcement officer informing them whether the claim to the executed goods is admitted or disputed in whole or in part.
- (4) The enforcement officer must notify the claimant to executed goods in writing within 3 days of receiving the notice in paragraph (3) whether the claim to executed goods is admitted or disputed in whole or in part.
- (5) A creditor who gives notice in accordance with paragraph (3) admitting a claim to executed goods is not liable to the enforcement officer for any fees and expenses incurred by the enforcement officer after receipt of that notice by the enforcement officer.
- (6) If an enforcement officer receives a notice from a creditor under paragraph (3) admitting a claim to executed goods the following applies—
 - (a) the writ of execution ceases to be exercisable in respect of such executed goods; and
 - (b) as soon as reasonably practicable the enforcement officer must make the goods available for collection by the claimant to executed goods if the enforcement officer has removed the goods from where they were found.
- (7) Where the creditor, or any other claimant to executed goods to whom a notice of claim to executed goods was given, fails, within the period mentioned in paragraph (3), to give the required notice, the enforcement officer may seek—
 - (a) the directions of the court by way of an application; and
 - (b) an order preventing the bringing of any claim against them for, or in respect of, the seizure of the executed goods or their having failed so to do.
- (8) An application under paragraph (7) must be made to the court which issued the writ of execution.

Procedure for making a claim to executed goods where the claim is disputed

85.7.—(1) Where a creditor, or any other claimant to executed goods to whom a notice of claim to executed goods was given, gives notice under rule 85.6(3) that the claim to executed goods, or any part of it, is disputed, and wishes to maintain their claim, the following procedure will apply.

- (2) The claimant to executed goods must make an application by application notice which must be supported by—
 - (a) a witness statement—
 - (i) specifying any money;
 - (ii) describing any goods claimed; and
 - (iii) setting out the grounds upon which the claim to the executed goods is based; and
 - (b) copies of any supporting documents that will assist the court to determine the claim.
- (3) The claimant to executed goods must serve the application notice and supporting witness statements and exhibits on—
 - (a) the creditor;
 - (b) any other claimant to the executed goods of whom they are aware; and
 - (c) the relevant enforcement officer.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

(4) An application under paragraph (2) must be made to the court which issued the writ of execution.

(5) The application notice will be referred to a Master or District Judge of a District Registry.

(6) On receipt of an application for a claim to executed goods, the Master or District Judge may—

- (a) give directions for further evidence from any party;
- (b) list a hearing to give directions;
- (c) list a hearing of the application;
- (d) make directions for the retention, sale or disposal of the executed goods; and
- (e) give directions for determination of any issue raised by a claim to executed goods.

(Rule 83.3(11) provides that the validity of a writ of execution is automatically extended following an application under paragraph (2) until 12 months from the conclusion of the application proceedings.)

SECTION V

Procedure for a Debtor making a Claim to Exempt Goods

Procedure for a debtor making a claim to exempt goods

85.8.—(1) A debtor making a claim to exempt goods must, as soon as practicable and in any event within 7 days of the removal of the goods, give notice in writing of the claim to exempt goods (“notice of claim to exempt goods”) to the enforcement agent who has taken control of the goods or relevant enforcement officer and must include in such notice—

- (a) their full name and address and that address is their address for service;
- (b) a list of all those goods in respect of which they make such a claim; and
- (c) the grounds of the claim in respect of each item.

(2) On receipt of a notice of claim to exempt goods, the enforcement agent or relevant enforcement officer must within 3 days give notice of such claim to—

- (a) the creditor; and
- (b) any other person making a claim under rule 85.4 or 85.6 to the goods subject to enforcement (“any other claimant to the goods subject to enforcement”).

(3) The creditor, and any other claimant to the goods subject to enforcement, must, within 7 days after receiving the notice of claim to exempt goods, give notice in writing to the enforcement agent or relevant enforcement officer informing them whether the claim to exempt goods is admitted or disputed in whole or in part.

(4) The enforcement agent or relevant enforcement officer must notify the debtor in writing within 3 days of receiving the notice in paragraph (3) whether the claim to exempt goods is admitted or disputed in whole or in part.

(5) A creditor who gives notice in accordance with paragraph (3) admitting a claim to controlled goods or to executed goods is not liable to the enforcement agent or officer for any fees and expenses incurred by the enforcement agent or officer after receipt of that notice by the enforcement agent or officer.

(6) If an enforcement agent or relevant enforcement officer receives a notice from a creditor and from any other claimant to the goods subject to enforcement under paragraph (3) admitting a claim to exempt goods the following applies—

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

- (a) the enforcement power ceases to be exercisable, and the right to execute conferred by any writ of execution ceases to have effect, in respect of such exempt goods;
- (b) as soon as reasonably practicable the enforcement agent or relevant enforcement officer must make the goods available for collection by the debtor if the enforcement agent or officer has removed them from where they were found.

(7) Where the creditor, or any other claimant to the goods subject to enforcement to whom notice of claim to exempt goods was given, fails, within the period mentioned in paragraph (3), to give the required notice, the enforcement agent or relevant enforcement officer may seek—

- (a) the directions of the court by way of an application; and
- (b) an order preventing the bringing of any claim against them for, or in respect of, their having taken control of or seized by execution any of the goods or their having failed to do so.

(8) An application under paragraph (7) must be made to the court which issued the writ or warrant conferring power to take control of controlled goods, or the writ of execution or, if the power to take control of controlled goods was conferred under an enactment, to the County Court hearing centre which is the debtor's home court.

Procedure for making a claim to exempt goods where the claim is disputed

85.9.—(1) Where a creditor, or any other claimant to goods subject to enforcement to whom notice of a claim to exempt goods was given, gives notice under rule 85.8 that the claim to exempt goods, or any part of it, is disputed, and wishes to maintain their claim on the goods subject to enforcement, the following procedure will apply.

(2) The debtor must make an application within 7 days of receiving the notice under rule 85.8(3) which must be supported by—

- (a) a witness statement—
 - (i) describing any goods to which a claim to exempt goods is made; and
 - (ii) setting out the grounds upon which such claim is based; and
- (b) copies of any supporting documents that will assist the court to determine such claim.

(3) In the High Court the debtor must serve the application notice and supporting witness statements and exhibits on—

- (a) the creditor;
- (b) any other claimant to the goods subject to enforcement of whom they are aware; and
- (c) the enforcement agent or relevant enforcement officer.

(4) In the County Court the debtor must provide to the court when the application is made the addresses for service of—

- (a) the creditor;
- (b) any other claimant to controlled goods of whom the debtor is aware; and
- (c) the enforcement agent,

("the respondents"), and the court will serve the application notice and supporting witness statements and exhibits on the respondents.

(5) An application under paragraph (2) must be made to the court which issued the writ or warrant conferring power to take control of controlled goods or the writ of execution or if the power to take control of controlled goods was conferred under an enactment, to the debtor's home court.

(6) The application notice will be referred to a Master or District Judge.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

(7) On receipt of an application for a claim to exempt goods, the Master or District Judge may—

- (a) give directions for further evidence;
- (b) list a hearing to give directions;
- (c) list a hearing of the application;
- (d) make directions for the retention, sale or disposal of the goods subject to the claim to exempt goods;
- (e) give directions for determination of any issue raised by the exempt goods claim.

SECTION VI

Powers of the Court hearing any application under this Part

Directions and determination of claims

85.10.—(1) At any hearing of any application under this Part the court may—

- (a) determine an application summarily; or
- (b) give directions for the determination of any issue raised by such application;
- (c) order that any issue between any parties to a claim to goods subject to enforcement be stated and tried, and give all necessary directions for trial;
- (d) give directions for the purpose of determining the amount of the required payments or any underpayment of the required payments pursuant to paragraph 60(5) of Schedule 12 and regulation 49 of the TCG Regulations;
- (e) summarily determine the amount of the required payments or any underpayment of the required payments pursuant to paragraph 60(5) of Schedule 12(27) and regulation 49 of the TCG Regulations(28);
- (f) make directions for the retention, sale or disposal of goods subject to enforcement and for the payment of any proceeds of sale; or
- (g) make any order that the court considers appropriate.

(2) Where a claimant to goods subject to enforcement or a debtor making a claim to exempt goods does not appear at any hearing listed on the application or, having appeared, fails or refuses to comply with an order made in the proceedings, the court may make an order declaring such claimant, or the debtor, and all persons claiming under them, for ever barred from prosecuting their claim against the creditor or any other claimant to the goods subject to enforcement, but such an order will not affect the rights of any other claimants to the goods subject to enforcement as between themselves.

(3) Where a claimant to goods subject to enforcement alleges that they are entitled, under a bill of sale or otherwise, to the controlled goods or to the executed goods by way of security for debt, the court may order those goods or any part thereof to be sold and may direct that the proceeds of sale be applied in such manner and on such terms as may be just and as may be specified in the order.

(4) Nothing in this rule limits the court's case management powers to make any other directions permissible under these Rules.

(27) 2007 c.15. Paragraph 60 is amended by the Crime and Courts Act 2013 (c.22) section 17(5) and Schedule 9, Part 3, paragraph 52.

(28) S.I. 2013/1894.

Trial of issue

85.11.—(1) Part 39 will, with the necessary modifications, apply to the trial of an issue in an application under this Part as it applies to the trial of a claim.

(2) The court by which an issue is tried may give such judgment or make such order as finally to dispose of all questions arising in the application.

(3) Practice Direction 2B applies to the trial of an issue in an application under this Part.

Costs

85.12.—(1) The court may in or for the purposes of any application under this Part make such order as to costs as it thinks just.

(2) Where a claimant to goods subject to enforcement or a debtor in a claim to exempt goods fails to appear at a hearing, the court may direct that the enforcement agent's or officer's costs and creditor's costs will be assessed by a Master, District Judge, Costs judge or Costs officer.

(3) In a claim to controlled goods a debtor may request the court to assess the costs incurred by an enforcement agent, in which case the court will apply the Taking Control of Goods (Fees) Regulations 2014⁽²⁹⁾ to such assessment.

(4) In a claim to executed goods a debtor may request the court to assess the costs incurred by an enforcement officer, in which case the court will apply Schedule 3 of the High Court Enforcement Officers Regulations 2004⁽³⁰⁾ to such assessment, save in relation to the costs of execution of writs of sequestration and writs relating to ecclesiastical property.

PART 86

Stakeholder Claims and Applications

Contents of this Part

86.1	Scope of this Part and interpretation
86.2	Stakeholder application
86.3	Powers of the court hearing a stakeholder application
86.4	Trial of issue
86.5	Costs

Scope of this Part and interpretation

86.1.—(1) This Part contains rules which apply where—

- (a) a person is under a liability in respect of a debt or in respect of any money, goods or chattels; and
- (b) competing claims are made or expected to be made against that person in respect of that debt or money or for those goods or chattels by two or more persons.

(2) In this Part—

- (a) “stakeholder” means any person to whom paragraph (1) applies;

⁽²⁹⁾ S.I. 2014/1.

⁽³⁰⁾ S.I. 2004/400.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

- (b) “stakeholder application” means an application made under rule 86.2(1).

Stakeholder application

86.2.—(1) A stakeholder may make an application to the court for a direction as to whom the stakeholder should—

- (a) pay a debt or money; or
- (b) give any goods or chattels.

(2) Such application must be made to the court in which an existing claim is pending against the stakeholder, or, if no claim is pending, to the court in which the stakeholder might be sued.

(3) A stakeholder application must be made by Part 8 claim form unless made in an existing claim, in which case it must be made by application notice in accordance with Part 23.

(4) A claim form or application notice under this rule must be supported by a witness statement stating that the stakeholder—

- (a) claims no interest in the subject-matter in dispute other than for charges or costs;
- (b) does not collude with any of the claimants to that subject-matter; and
- (c) is willing to pay or transfer that subject-matter into court or to dispose of it as the court may direct.

(5) The stakeholder must serve the claim form or application notice on all other persons who, so far as they are aware, asserts a claim to the subject matter of the stakeholder application.

(6) A respondent who is served with a claim form or application notice under this rule must within 14 days file at court and serve on the stakeholder a witness statement specifying any money and describing any goods and chattels claimed and setting out the grounds upon which such claim is based.

(7) The claim form or application notice will be referred to a Master or a District Judge.

Powers of court hearing a stakeholder application

86.3.—(1) At any hearing in a stakeholder application, the court may—

- (a) order that any stakeholder or any claimant to the subject matter of the application be made a defendant in any claim pending with respect to the subject-matter in dispute;
- (b) order that an issue between all parties be stated and tried and may direct which of the parties is to be claimant and which defendant, and give all necessary directions for trial;
- (c) determine the stakeholder application summarily;
- (d) give directions for the determination of the application summarily or of any issue on the application; or
- (e) give directions for the retention, sale or disposal of the subject matter of the application, and for the payment of any proceeds of sale.

(2) Nothing in this rule limits the court’s case management powers to make any other directions permissible under these Rules.

Trial of issue

86.4.—(1) Part 39 will, with the necessary modifications, apply to the trial of a preliminary issue directed to be tried in a stakeholder application as it applies to the trial of a claim.

(2) The court by which an issue is tried may give such judgment or make such order as finally to dispose of all questions arising in the stakeholder application.

Costs

86.5.—(1) The court may in or for the purposes of any stakeholder application make such order as to costs or any other matter as it thinks just.

(2) Where a respondent fails to appear at the hearing, the court may direct that the stakeholder’s costs shall be summarily assessed.”