
EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes consequential amendments in other subordinate legislation, together with transitional and saving provisions, in consequence of the implementation of Part 3 of the Tribunals, Courts and Enforcement Act 2007 (“the 2007 Act”), which provides for the replacement of various powers of enforcement by way of execution and distraint by a procedure in Schedule 12 of the 2007 Act (“the Schedule 12 procedure”) known as taking control of goods, and for the replacement of distress for rent by a power (to be known as commercial rent arrears recovery, or CRAR) to use the taking control of goods procedure.

The Schedule to these Regulations amends or revokes subordinate legislation which contains provision about the exercise of powers which are replaced by the power to use the Schedule 12 procedure.

In addition, transitional and saving provision is made as follows. Provision is made for references to powers replaced by the power to use the Schedule 12 procedure, references to certain warrants or writs which have been renamed by the 2007 Act as warrants or writs of control, and references to bailiffs, to operate as references to the Schedule 12 procedure or power to use that procedure, to the warrants as renamed, and to enforcement agents. Provision is also made for the amendments to subordinate legislation not to apply to continuing enforcement action where Part 3 of the Act has no effect by virtue of section 66 of the 2007 Act. Provision is additionally made for certain types of enforcement action, undertaken before commencement of Part 3 of the 2007 Act but which do not bring the case within the saving provisions of section 66 of that Act (Pre-commencement enforcement not affected), to have effect as constituting the compliance stage under the Taking Control of Goods (Fees) Regulations 2014 and to attract the pre-commencement rates of fees. Provision is further made to ensure that regulations treated as if made under section 83 of the Traffic Management Act 2004 continue to have effect notwithstanding the repeal by the 2007 Act of the section under which they have effect.

A full impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen. An impact assessment was, however, carried out to consider the impact of the implementation of Part 3 of the 2007 Act of which this instrument forms a part, and is available at <https://consult.justice.gov.uk/digital-communications/transforming-bailiff-action>.