

STATUTORY INSTRUMENTS

**1998 No. 3132**

**The Civil Procedure Rules 1998**

**[<sup>F1</sup>PART 84**

**ENFORCEMENT BY TAKING CONTROL OF GOODS**

**Textual Amendments**

- F1** Pt. 84 inserted (6.4.2014) by [The Civil Procedure \(Amendment\) Rules 2014 \(S.I. 2014/407\)](#), rule 2(3), [Sch.](#) (with rule 41)

**Modifications etc. (not altering text)**

- C1** Pt. 84 applied (with modifications) (1.12.2017) by [The Court of Protection Rules 2017 \(S.I. 2017/1035\)](#), [rules 24.2\(f\)](#), 24.6(1)

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*Changes to legislation: There are currently no known outstanding effects for the  
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## *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;
- (b) “Schedule 12” means Schedule 12 to the Act;
- (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;
- (h) “TCG Regulations” means the Taking Control of Goods Regulations 2013;
- (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.

### 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.

#### **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 or otherwise 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 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.

- (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**

<b>Applicant</b>	<b>Those to be served with a copy of the application notice</b>
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.

(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.

## *[<sup>F2</sup>SECTION IV*

### *Proceedings in relation to certificates under section 64 of the 2007 Act*

#### **Textual Amendments**

**F2** Pt. 84 Section 4 inserted (6.4.2014) by [The Civil Procedure \(Amendment No.2\) Rules 2014 \(S.I. 2014/482\)](#), rules 2, 4, [Sch.](#) (with rule 5)

#### **Interpretation**

**84.17.** In this Section—

- (a) “Certification Regulations” means the Certification of Enforcement Agents Regulations 2014;
- (b) “applicant”, “certificate”, “certificated person” and “complainant” have the meanings given in regulation 2 of the Certification Regulations.

#### **Application for issue of a certificate under section 64 of the 2007 Act**

**84.18.**—(1) This rule applies to an application for the issue of a certificate under section 64 of the 2007 Act.

(2) The application must be made to the [<sup>F3</sup>Civil National Business Centre], using the [<sup>F4</sup>approved form].

(3) The application must specify one of the County Court hearing centres listed in Practice Direction 84 as the centre at which the application is to be heard.

(4) The application must, in addition to the matters specified in rule 23.6, provide evidence that the applicant fulfils the requirements of regulation 3(b) of the Certification Regulations, and in particular—

- (a) the application must be accompanied by the documents specified in Practice Direction 84; and
- (b) the additional documents specified in Practice Direction 84 must be produced to the court on the day of the hearing.

(5) If any reasons have been submitted to the court in response to the notice of the application required by regulation 4(5) of the Certification Regulations, a copy of those reasons must be sent to the applicant at least 7 days before the hearing, and the applicant may respond both in writing and at the hearing.

(6) The applicant must also file such further evidence as the court may direct.

(7) The applicant must attend for examination on the day of the hearing.

(8) Rules 23.2, 23.4, 23.7, 23.8, 23.9 and 23.10 do not apply to an application to which this rule applies.

#### Textual Amendments

- F3** Words in rule 84.18(2) substituted (14.8.2023) by [The Civil Procedure \(Amendment No. 3\) Rules 2023 \(S.I. 2023/788\)](#), rules 1(2), **33**
- F4** Words in rule 84.18(2) substituted (1.10.2022) by [The Civil Procedure \(Amendment No. 2\) Rules 2022 \(S.I. 2022/783\)](#), rules 1(1), **32(a)**

#### Issue of replacement certificates and surrender of certificates

**84.19.**—(1) Where changes are required to be notified and the certificate produced under regulation 8 of the Certification Regulations, the changes must be notified to, and the certificate produced at, the County Court hearing centre at which the certificate was issued.

(2) Where a certificate is required to be surrendered under regulation 12 of the Certification Regulations, the certificate must be surrendered to the County Court hearing centre at which the certificate was issued.

#### Complaints as to fitness to hold a certificate

**84.20.**—(1) This rule applies to a complaint under regulation 9(1) of the Certification Regulations.

(2) The complaint must be submitted to the County Court hearing centre at which the certificate was issued, using the [F<sup>5</sup> approved form].

(3) A copy of the complaint must be sent to the applicant at least 14 days before the hearing, and the applicant may respond both in writing and at the hearing.

(4) The complainant is not liable for any costs incurred by the certificated person in responding to the complaint, unless paragraph (5) applies.

(5) The court may order the complainant to pay such costs as it considers reasonable if it is satisfied that the complaint—

- (a) discloses no reasonable grounds for considering that the certificated person is not a fit person to hold a certificate; and
- (b) amounts to an abuse of the court's process.]]

#### Textual Amendments

- F5** Words in rule 84.20(2) substituted (1.10.2022) by [The Civil Procedure \(Amendment No. 2\) Rules 2022 \(S.I. 2022/783\)](#), rules 1(1), **32(b)**



**Changes to legislation:**

There are currently no known outstanding effects for the The Civil Procedure Rules 1998, PART 84.