



# Magistrates' Courts Act 1980

## 1980 CHAPTER 43

### PART III

#### SATISFACTION AND ENFORCEMENT

##### *General provisions*

#### **78 Defect in distress warrant and irregularity in its execution.**

- (1) A warrant of distress issued for the purpose of levying a sum adjudged to be paid by the conviction or order of a magistrates' court shall not, if it states that the sum has been so adjudged to be paid, be held void by reason of any defect in the warrant.
- (2) A person acting under a warrant of distress shall not be deemed to be a trespasser from the beginning by reason only of any irregularity in the execution of the warrant.
- (3) Nothing in this section shall prejudice the claim of any person for special damages in respect of any loss caused by a defect in the warrant or irregularity in its execution.
- (4) If any person removes any goods marked in accordance with [<sup>F1</sup>rules of court] as articles impounded in the execution of a warrant of distress, or defaces or removes any such mark, he shall be liable on summary conviction to a fine not exceeding [<sup>F2</sup>level 1 on the standard scale].
- (5) If any person charged with the execution of a warrant of distress wilfully retains from the proceeds of a sale of the goods on which distress is levied, or otherwise exacts, any greater costs and charges than those properly payable, or makes any improper charge, he shall be liable on summary conviction to a fine not exceeding [<sup>F2</sup>level 1 on the standard scale].

#### **Textual Amendments**

- F1** Words in s. 78(4) substituted (1.9.2004) by [Courts Act 2003 \(c. 39\)](#), ss. 109(1), 110, [Sch. 8 para. 219\(a\)](#); [S.I. 2004/2066](#), [art. 2\(c\)\(xi\)](#) (subject to [art. 3](#))
- F2** Words substituted by virtue of [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), [s. 46](#)

*Status: Point in time view as at 25/03/2020.*

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### Modifications etc. (not altering text)

- C1** S. 78 extended by [S.I. 1985/215, art. 4\(3\)](#), 1985/313, art. 4(3), 1985/487, art. 5(3), 1986/110, art. 4(3), 1986/250, art. 5(3), 1986/779, art. 3(3), 1986/2090, art. 5(3), 1987/213, art. 4(3), 1987/292, art. 3(3)
- C2** S. 78 applied: by [S.I. 1990/137, art. 5\(3\)](#); by [S.I. 1991/138, art. 5\(3\)](#); by [S.I. 1991/139, reg. 7\(3\)](#); by [S.I. 1991/522, art. 3\(3\)](#); (31.1.1992) by [S.I. 1992/130, reg. 8\(3\)](#); (8.2.1992) by [S.I. 1992/190, art. 5\(3\)](#); (27.2.1993) by [S.I. 1993/387, art. 5\(3\)](#); (5.5.1993) by [S.I. 1993/1197, art. 3\(3\)](#); (1.9.1993) by [S.I. 1993/2015, art. 6\(3\)](#) and [S.I. 1993/2016, art. 5\(3\)](#); (22.3.1994) by [S.I. 1994/451, art. 5\(3\)](#); (15.7.1994) by [S.I. 1994/1679, art. 5\(3\)](#) and [S.I. 1994/1681, art. 4\(3\)](#); (18.4.1995) by [S.I. 1995/907, art. 4\(3\)](#) and [S.I. 1995/908, art. 5\(3\)](#); (29.2.1996) by [S.I. 1996/247, art. 5\(3\)](#); (24.4.1996) by [S.I. 1996/1036, art. 5\(3\)](#); (9.4.1997) by [S.I. 1997/883, art. 5\(3\)](#); (12.8.1997) by [S.I. 1997/1949, art. 5\(3\)](#); (14.3.1998) by [S.I. 1998/268, art. 5\(3\)](#); (W.) (18.3.1999) by [S.I. 1999/424, art. 5\(3\)](#); (8.2.2000) by [S.I. 2000/51, art. 5\(2\)](#); (21.2.2000) by [S.I. 2000/181, art. 5\(2\)](#); (25.2.2000) by [S.I. 2000/435, art. 5\(2\)](#); (W.) (18.3.2000) by [S.I. 2000/976, art. 5\(2\)](#); (W.) (1.4.2000) by [S.I. 2000/1075, art. 5\(2\)](#); (W.) (7.4.2000) by [S.I. 2000/1078, art. 6\(2\)](#); (11.4.2000) by [S.I. 2000/827, art. 5\(2\)](#); (W.) (11.4.2000) by [S.I. 2000/1096, art. 5\(2\)](#); (15.4.2000) by [S.I. 2000/1081, art. 5\(2\)](#); (24.7.2000) by [S.I. 2000/1843, art. 6\(2\)](#); (W.) (24.7.2000) by [S.I. 2000/2230, art. 5\(2\)](#); S. 78 applied (29.5.2001) by [S.I. 2001/1631, art. 5\(2\)](#) (which was revoked (8.3.2002) by [S.I. 2002/272, art. 13](#)); s. 78 applied (8.2.2002) by [S.I. 2002/272, art. 5\(2\)](#)
- C3** S. 78 applied (8.2.2003) by [The Sea Fishing \(Restriction on Days at Sea\) Order 2003 \(S.I. 2003/229\), art. 13\(2\)](#)
- S. 78 applied (7.7.2003) by [The Sea Fishing \(Restriction on Days at Sea\)\(No. 2\) Order 2003 \(S.I. 2003/1535\)](#), {art. 13(2)}
- S. 78 applied (with modifications) (temp.) (23.2.2004 and 29.3.2004 for certain purposes, otherwise 5.4.2004 until 31.3.2006) by [The Fines Collection Regulations 2004 \(S.I. 2004/176\)](#), regs. 1(3), **10** (with [reg. 3](#)) (as amended (30.3.2005) by [S.I. 2005/484](#), regs. 1(1)(a)(2), 2)
- S. 78 applied (E.) (26.5.2004) by [The Sea Fishing \(Enforcement of Community Quota and Third Country Fishing Measures\)\(England\) Order 2004 \(S.I. 2004/1237\)](#), {art. 6(2)}
- S. 78 applied (E.) (1.1.2005) by [The Sea Fishing \(Enforcement of Community Satellite Monitoring Measures\) Order 2004 \(S.I. 2004/3226\)](#), {art. 16(2)}
- S. 78 applied (E.) (2.2.2005) by [The Incidental Catches of Cetaceans in Fisheries \(England\) Order 2005 \(S.I. 2005/17\)](#), **art. 6(2)** (subject to [art. 1\(3\)](#))
- S. 78 applied (E.) (28.2.2005) by [The Sea Fishing \(Restriction on Days at Sea\) Order 2005 \(S.I. 2005/393\)](#), **art. 24(2)**
- S. 78 applied (1.6.2006) by [The Sea Fishing \(Restriction on Days at Sea\)\(Monitoring, Inspection and Surveillance\) Order 2006 \(S.I. 2006/1327\)](#), {art. 23(2)}
- S. 78 applied (W.) (7.7.2006) by [The Sea Fishing \(Northern Hake Stock\)\(Wales\) Order 2006 \(S.I. 2006/1796\)](#), {art. 10(2)}
- S. 78 applied (10.7.2006) by [The Sea Fishing \(Marking and Identification of Passive Fishing Gear and Beam Trawls\)\(England\) Order 2006 \(S.I. 2006/1549\)](#), {art. 6(2)}
- S. 78 applied (15.8.2006) by [The Sea Fishing \(Enforcement of Annual Community and Third Country Fishing Measures\)\(England\) Order 2006 \(S.I. 2006/1970\)](#), {art. 11(2)}
- S. 78 applied (20.4.2007) by [The Sea Fishing \(Restriction on Days at Sea\) Order 2007 \(S.I. 2007/927\)](#), **art. 18(2)**
- S. 78 applied (1.10.2007) by [The Sea Fishing \(Prohibition on the Removal of Shark Fins\) Order 2007 \(S.I. 2007/2554\)](#), **art. 6(2)**
- C4** S. 78 applied (30.9.2008) by [The Sea Fishing \(Recovery Measures\) Order 2008 \(S.I. 2008/2347\)](#), **art. 12(2)**
- C5** S. 78 applied (12.8.2009) by [The Sea Fishing \(Landing and Weighing of Herring, Mackerel and Horse Mackerel\) Order 2009 \(S.I. 2009/1850\)](#), **art. 10(2)**
- C6** S. 78 applied (25.1.2010) by [Sea Fishing \(Illegal, Unreported and Unregulated Fishing\) Order 2009 \(S.I. 2009/3391\)](#), arts. 1, **11(2)** (with [art. 2\(1\)](#))

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**C7** S. 78 applied (6.3.2015) by The Sea Fishing (Enforcement and Miscellaneous Provisions) Order 2015 (S.I. 2015/191), arts. 1(1), **3(3)**

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