



# Tribunals, Courts and Enforcement Act 2007

## 2007 CHAPTER 15

### PART 7

#### MISCELLANEOUS

#### *Compulsory purchase*

#### **139 Enforcement by enforcement officers**

(1) In section 3 of the Lands Clauses Consolidation Act 1845 (c. 18) (interpretations in this and the special Act), at the end insert— “ Where any matter in relation to any lands is required to be done by an enforcement officer, the expression “the enforcement officer” means the officer or officers identified for that purpose in paragraph 3A of Schedule 7 to the Courts Act 2003. ”

(2) In section 91 of that Act (proceedings in case of refusal to deliver possession of lands)

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- (a) after “the sheriff” in the first place insert “ or the enforcement officer ”;
  - (b) for “the sheriff” in the second place substitute “ the person to whom it is issued ”;
  - (c) for “the sheriff” in the third place substitute “ the person executing the warrant ”;
  - (d) after the existing words, which (as amended) become subsection (1), insert—

“(2) If, by virtue of paragraph 3A of Schedule 7 to the Courts Act 2003, the warrant is issued to two or more persons collectively, the duty in subsection (1) to deliver possession of lands shall apply to the person to whom the warrant is allocated in accordance with the approved arrangements mentioned in that Schedule.”

(3) Subsections (1) and (2) extend only to England and Wales.

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- (4) Section 13 of the Compulsory Purchase Act 1965 (c. 56) (refusal to give possession to acquiring authority) is amended as follows.
- (5) In subsection (1), for the words from “the sheriff” to the end substitute “—
- (a) the sheriff, or
  - (b) the enforcement officer,
- to deliver possession of it to the person appointed in the warrant to receive it.”
- (6) In subsection (2), for “the sheriff” substitute “ the person to whom it is issued ”.
- (7) After subsection (2) insert—
- “(2A) If, by virtue of paragraph 3A of Schedule 7 to the Courts Act 2003, the warrant is issued to two or more persons collectively, the duty in subsection (2) of this section shall apply to the person to whom the warrant is allocated in accordance with the approved arrangements mentioned in that Schedule.”
- (8) In subsection (3), for “the sheriff” substitute “ the person executing the warrant ”.
- (9) In subsection (6), after “In this section” insert “—
- “the enforcement officer”, in relation to a warrant to deliver possession of land under this section, means the officer or officers identified for that purpose in paragraph 3A of Schedule 7 to the Courts Act 2003, and”.
- (10) Schedule 22 makes consequential amendments.

## 140 Supplementary

- (1) Schedule 7 to the Courts Act 2003 (c. 39) (High Court writs of execution) is amended as follows.
- (2) After paragraph 3 insert—
- 3A “Issue of certain warrants to enforcement officers**
- (1) Sub-paragraph (2) applies for the purpose of identifying the enforcement officer to whom a warrant may be issued under—
- (a) section 91(1) of the Lands Clauses Consolidation Act 1845 (proceedings in case of refusal to deliver possession of lands), or
  - (b) section 13(1) of the Compulsory Purchase Act 1965 (refusal to give possession to acquiring authority).
- (2) The enforcement officer, in relation to such a warrant, is—
- (a) the enforcement officer assigned to a relevant district or, if two or more enforcement officers are assigned to that district, those officers collectively, or
  - (b) a named enforcement officer who, whether or not assigned to a relevant district, has undertaken to execute the warrant.
- (3) In sub-paragraph (2), “a relevant district”, in relation to a warrant, means—
- (a) the district where the land in respect of which the warrant was issued is situated, or

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- (b) if that land (being land in one ownership) is not situated wholly in one district, a district where any part of that land is situated.”
- (3) Paragraph 4 is amended as set out in subsections (4) to (7).
- (4) In sub-paragraph (1), at the end insert “ and warrants issued to one or more enforcement officers under an enactment mentioned in paragraph 3A(1)(a) or (b) ”.
- (5) After sub-paragraph (2) insert—
  - “(2A) The relevant officer has, in relation to the warrant, the duties, powers, rights, privileges and liabilities that a sheriff of a county would have had at common law if—
    - (a) the warrant had been issued to him, and
    - (b) the district in which it is to be executed had been within his county.”
- (6) For sub-paragraph (3) substitute—
  - “(3) “The relevant officer” means—
    - (a) in relation to a writ—
      - (i) if the writ is directed to a single enforcement officer under paragraph 3(1)(a) or (c), that officer;
      - (ii) if the writ is directed to two or more enforcement officers collectively under paragraph 3(1)(b), the officer to whom, in accordance with approved arrangements, the execution of the writ is allocated,
    - (b) in relation to a warrant—
      - (i) if the warrant is issued to a single enforcement officer in accordance with paragraph 3A(2)(a) or (b), that officer;
      - (ii) if the warrant is issued to two or more enforcement officers collectively in accordance with paragraph 3A(2)(a), the officer to whom, in accordance with approved arrangements, the execution of the warrant is allocated.”
- (7) For sub-paragraph (4) substitute—
  - “(4) Sub-paragraphs (2) and (2A) apply to a person acting under the authority of the relevant officer as they apply to the relevant officer.”
- (8) In paragraph 5, after “writ” insert “ or warrant ”.
- (9) In paragraph 12(2)(d)(ii), after “officers” insert “ , or warrants issued to enforcement officers under an enactment mentioned in paragraph 3A(1)(a) or (b), ”.
- (10) Accordingly—
  - (a) in section 99 of that Act (High Court writs of execution), in subsection (1) at the end insert “ and about warrants issued in connection with the compulsory acquisition of land ”;
  - (b) in Schedule 7 to that Act—
    - (i) for the heading “High Court Writs of Execution” substitute “ Enforcement of Certain Writs and Warrants ”;
    - (ii) in the heading immediately preceding paragraph 1, for “of execution” substitute “ and warrants ”.

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VALID FROM 06/04/2008

*Judicial review*

**141 Judicial review: power to substitute decision**

In section 31 of the Supreme Court Act 1981 (c. 54) (application for judicial review), for subsection (5) substitute—

“(5) If, on an application for judicial review, the High Court quashes the decision to which the application relates, it may in addition—

- (a) remit the matter to the court, tribunal or authority which made the decision, with a direction to reconsider the matter and reach a decision in accordance with the findings of the High Court, or
- (b) substitute its own decision for the decision in question.

(5A) But the power conferred by subsection (5)(b) is exercisable only if—

- (a) the decision in question was made by a court or tribunal,
- (b) the decision is quashed on the ground that there has been an error of law, and
- (c) without the error, there would have been only one decision which the court or tribunal could have reached.

(5B) Unless the High Court otherwise directs, a decision substituted by it under subsection (5)(b) has effect as if it were a decision of the relevant court or tribunal.”

VALID FROM 01/04/2009

*Employment tribunals: ACAS*

**142 Recovery of sums payable under compromises involving ACAS**

In the Employment Tribunals Act 1996 (c. 17), after section 19 insert—

**“19A Conciliation: recovery of sums payable under compromises**

(1) Subsections (3) to (6) apply if—

- (a) a conciliation officer—
  - (i) has taken action under section 18 in a case, and
  - (ii) issues a certificate in writing stating that a compromise has been reached in the case, and
- (b) all of the terms of the compromise are set out—
  - (i) in a single relevant document, or
  - (ii) in a combination of two or more relevant documents.

(2) A document is a “relevant document” for the purposes of subsection (1) if—

- (a) it is the certificate, or

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- (b) it is a document that is referred to in the certificate or that is referred to in a document that is within this paragraph.
- (3) Any sum payable by a person under the terms of the compromise (a “compromise sum”) shall, subject to subsections (4) to (7), be recoverable—
  - (a) in England and Wales, by execution issued from a county court or otherwise as if the sum were payable under an order of that court;
  - (b) in Scotland, by diligence as if the certificate were an extract registered decree arbitral bearing a warrant for execution issued by the sheriff court of any sheriffdom in Scotland.
- (4) A compromise sum is not recoverable under subsection (3) if—
  - (a) the person by whom it is payable applies for a declaration that the sum would not be recoverable from him under the general law of contract, and
  - (b) that declaration is made.
- (5) If rules of court so provide, a compromise sum is not recoverable under subsection (3) during the period—
  - (a) beginning with the issue of the certificate, and
  - (b) ending at such time as may be specified in, or determined under, rules of court.
- (6) If the terms of the compromise provide for the person to whom a compromise sum is payable to do anything in addition to discontinuing or not starting proceedings, that sum is recoverable by him under subsection (3)—
  - (a) in England and Wales, only if a county court so orders;
  - (b) in Scotland, only if the sheriff so orders.
- (7) Once an application has been made for a declaration under subsection (4) in relation to a sum, no further reliance may be placed on subsection (3) for the recovery of the sum while the application is pending.
- (8) An application for a declaration under subsection (4) may be made to an employment tribunal, a county court or the sheriff.
- (9) Employment tribunal procedure regulations may (in particular) make provision as to the time within which an application to an employment tribunal for a declaration under subsection (4) is to be made.
- (10) Rules of court may make provision as to—
  - (a) the time within which an application to a county court for a declaration under subsection (4) is to be made;
  - (b) the time within which an application to the sheriff for a declaration under subsection (4) is to be made;
  - (c) when an application (whether made to a county court, the sheriff or an employment tribunal) for a declaration under subsection (4) is pending for the purposes of subsection (7).
- (11) Nothing in this section shall be taken to prejudice any rights or remedies that a person has apart from this section.

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(12) In this section “compromise” (except in the phrase “compromise sum”) means a settlement, or compromise, to avoid proceedings or bring proceedings to an end.”

PROSPECTIVE

*Design rights: appeals*

**F1 143 Appeals in relation to design rights**

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**Textual Amendments**

**F1** S. 143 repealed (6.4.2015) by Intellectual Property Act 2014 (c. 18), ss. 10(11), 24(1); S.I. 2015/165, art. 3

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