

## SCHEDULES

### SCHEDULE 12

#### TAKING CONTROL OF GOODS

##### PART 2

##### THE PROCEDURE

###### *Remedies available to the debtor*

- 66 (1) This paragraph applies where an enforcement agent—
- (a) breaches a provision of this Schedule, or
  - (b) acts under an enforcement power under a writ, warrant, liability order or other instrument that is defective.
- (2) The breach or defect does not make the enforcement agent, or a person he is acting for, a trespasser.
- (3) But the debtor may bring proceedings under this paragraph.
- (4) Subject to rules of court, the proceedings may be brought—
- (a) in the High Court, in relation to an enforcement power under a writ of the High Court;
  - (b) in a county court, in relation to an enforcement power under a warrant issued by a county court;
  - (c) in any other case, in the High Court or a county court.
- (5) In the proceedings the court may—
- (a) order goods to be returned to the debtor;
  - (b) order the enforcement agent or a related party to pay damages in respect of loss suffered by the debtor as a result of the breach or of anything done under the defective instrument.
- (6) A related party is either of the following (if different from the enforcement agent)—
- (a) the person on whom the enforcement power is conferred,
  - (b) the creditor.
- (7) Sub-paragraph (5) is without prejudice to any other powers of the court.
- (8) Sub-paragraph (5)(b) does not apply where the enforcement agent acted in the reasonable belief—
- (a) that he was not breaching a provision of this Schedule, or
  - (b) (as the case may be) that the instrument was not defective.
- (9) This paragraph is subject to paragraph 59 in the case of a breach of paragraph 58(3).