

Status: Point in time view as at 06/04/2014.

Changes to legislation: Tribunals, Courts and Enforcement Act 2007, Cross Heading: Remedies available to the debtor is up to date with all changes known to be in force on or before 10 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

SCHEDULES

SCHEDULE 12

TAKING CONTROL OF GOODS

Modifications etc. (not altering text)

- C1** Sch. 12 applied (prosp.) by [Finance Act 2008 \(c. 9\)](#), ss. **127(2)**, 129(4)
C1 Sch. 12 applied (6.4.2014) by [Finance Act 2008 \(c. 9\)](#), ss. **127(2)**, 129(4); S.I. 2014/906, arts. 2, 3

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.

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- (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).

Commencement Information

II Sch. 12 para. 66 in force at 6.4.2014 by S.I. 2014/768, art. 2(1)(b)

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