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STATUTORY INSTRUMENTS

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**1998 No. 3132**

**The Civil Procedure Rules 1998**

**[<sup>F1</sup>PART 83**

**Writs and Warrants – General Provisions**

**[<sup>F1</sup>SECTION III**

*Writs*

**Textual Amendments**

**F1** Pt. 83 inserted (6.4.2014) by [The Civil Procedure \(Amendment\) Rules 2014 \(S.I. 2014/407\)](#), rule 2(3), Sch. (with rule 41)

**Issue of writs of execution and writs of control**

**83.9.**—(1) In this rule “the appropriate office” means—

- (a) where the proceedings in which execution is to issue are in a District Registry, that Registry;
- (b) where the proceedings are in the Principal Registry of the Family Division, that Registry;
- (c) where the proceedings are Admiralty proceedings or commercial proceedings which are not in a District Registry, the Admiralty and Commercial Registry;
- [ where the proceedings are in the Chancery Division, Chancery Chambers;]

<sup>F2</sup>(ca)

- (d) in any other case, the Central Office of the Senior Courts.

(2) Issue of a writ of execution or control takes place on its being sealed by a court officer of the appropriate office.

(3) Before a writ is issued a request for its issue must be filed.

(4) The request must be signed—

- (a) by the person entitled to execution, if acting in person; or
- (b) by or on behalf of the solicitor of the person entitled to execution.

(5) [<sup>F3</sup>Subject to paragraph (5A), the] writ will not be sealed unless at the time it is presented for sealing—

- (a) the person presenting the writ produces—
  - (i) the judgment or order on which the writ is to issue, or an office copy of it;
  - (ii) where permission was required for the writ to be issued, the order granting such permission or evidence of the granting of it;

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- (iii) where judgment on failure to acknowledge service has been entered against a State, as defined in section 14 of the State Immunity Act 1978, evidence that the State has been served in accordance with rule 40.10 and that the judgment has taken effect; and
- (b) the court officer authorised to seal it is satisfied that the period, if any, specified in the judgment or order for the payment of any money or the doing of any other act under the judgment or order has expired.

[<sup>F4</sup>(5A) Where a request is made for a writ of possession to enforce a notice under section 33D of the Immigration Act 2014 (termination of agreement where all occupiers disqualified), a copy of that notice must be filed with the request instead of the judgment or order required by paragraph (5)(a)(i).]

- (6) Every writ of execution or control will bear the date of the day on which it is issued.

#### Textual Amendments

- F2** Rule 83.9(1)(ca) inserted (1.10.2014) by [The Civil Procedure \(Amendment No. 6\) Rules 2014 \(S.I. 2014/2044\)](#), rules 2, **13(b)**
- F3** Words in rule 83.9(5) substituted (1.10.2017) by [The Civil Procedure \(Amendment No. 2\) Rules 2017 \(S.I. 2017/889\)](#), rules 1(1), **11(1)(a)**
- F4** Rule 83.9(5A) inserted (1.10.2017) by [The Civil Procedure \(Amendment No. 2\) Rules 2017 \(S.I. 2017/889\)](#), rules 1(1), **11(1)(b)**

#### Writs of control and writs of delivery – description of parties

**83.10.**—(1) This rule applies where the name or address of the creditor or debtor as given in the request for the issue of the following differs from that person’s name or address in the judgment or order sought to be enforced—

- (a) a writ of control;
- (b) writ of delivery.

(2) If the creditor files a witness statement that satisfies the court officer that the name or address as given in the request is applicable to the person concerned, the creditor or the debtor will be described in the writ as “CD of [name and address as given in the request] suing [or sued] as AD of [name and address in the judgment or order]”.

#### Writs relating to ecclesiastical property

**83.11.**—(1) In this rule, “a writ relating to ecclesiastical property” means—

- (a) a writ of fieri facias de bonis ecclesiasticis; or
- (b) a writ of sequestrari de bonis ecclesiasticis.

(2) This rule applies where it appears upon the return of any writ of control that the person against whom the writ was issued—

- (a) has no goods or chattels in the district of the relevant enforcement officer; but
- (b) is the incumbent of a benefice named in the return.

(3) After the writ and return have been filed, the party by whom the writ of control was issued may issue a writ relating to ecclesiastical property.

(4) Any such writ must be directed and delivered to the bishop of the diocese within which that benefice is, to be executed by that bishop.

(5) The only fees allowed to the bishop or diocesan officer for the execution of the writ are those authorised by or under any enactment, including any measure of the General Synod.

### **Writs other than those conferring a power to use the TCG procedure – order for sale otherwise than by auction**

**83.12.**—(1) This rule applies in relation to writs that do not confer a power to use the TCG procedure.

(2) A court order under paragraph 10 of Schedule 7 to the Courts Act 2003 that a sale of goods seized under an execution may be made otherwise than by public auction may be made on the application of—

- (a) the person at whose instance the writ of execution under which the sale is to be made was issued;
- (b) the person against whom that writ was issued (in this rule referred to as “the judgment debtor”); or
- (c) if the writ was directed to one or more enforcement officers, the relevant enforcement officer.

(3) Such an application must be made in accordance with Part 23.

(4) Where the applicant for an order under this rule is not the enforcement officer, the enforcement officer must, on the demand of the applicant, send to the applicant a list, stating—

- (a) whether the enforcement officer has notice of the issue of another writ or writs of execution against the goods of the judgment debtor; and
- (b) so far as is known to the enforcement officer, the name and address of every creditor who has obtained the issue of another such writ of execution.

(5) Where the enforcement officer is the applicant, the enforcement officer must prepare such a list.

(6) Not less than 3 days before the hearing, the applicant must serve the application notice on each of the other persons by whom the application might have been made and on every person named in the list prepared under paragraph (4) or (5).

(7) Service of the application notice on a person named in the list prepared under paragraph (4) or (5) is notice to that person for the purpose of paragraph 10(3) of Schedule 7 to the Courts Act 2003.

(8) The applicant must produce the list prepared under paragraph (4) or (5) to the court on the hearing of the application.

(9) Every person on whom the application notice was served may attend and be heard on the hearing of the application.

### **Enforcement in the High Court of a judgment or order for possession of land**

**83.13.**—(1) A judgment or order for the giving of possession of land may be enforced in the High Court by one or more of the following means—

- (a) writ of possession;
- [<sup>F5</sup>(b) proceedings for contempt of court under Part 81;]
- [<sup>F6</sup>(c) where no such proceedings are brought, by a writ of sequestration.]

[<sup>F7</sup>(2) No writ of possession to enforce a notice under section 33D of the Immigration Act 2014 may be issued without the permission of the court.

(3) No writ of possession against a trespasser may be issued after the expiry of 3 months from the date of the order without the permission of the court.

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(4) Unless the court otherwise directs, an application for permission under paragraph (3) may be made without notice to any other party.

(5) An application for a writ of possession may be made without notice.

(6) The person applying for a writ of possession must file a certificate that the land which is the subject of the judgment or order has not been vacated.

(7) A writ of possession may include provision for enforcing the payment of any money adjudged or ordered to be paid by the judgment or order which is to be enforced by the writ.

(8) In a case to which paragraph (7) applies or where an order for possession has been suspended on terms as to payment of a sum of money by instalments, the person applying for a writ of possession must certify—

- (a) the amount of money remaining due under the judgment or order; and
- (b) that the whole or part of any instalment due remains unpaid.]

#### Textual Amendments

- F5** Rule 83.13(1)(b) substituted (20.9.2020) by [The Civil Procedure \(Amendment No. 3\) Rules 2020 \(S.I. 2020/747\)](#), rules 1(3), **16(2)(a)(i)** (as amended by [S.I. 2020/889](#), **rule 3(a)**)
- F6** Rule 83.13(1)(c) substituted (20.9.2020) by [The Civil Procedure \(Amendment No. 3\) Rules 2020 \(S.I. 2020/747\)](#), rules 1(3), **16(2)(a)(ii)** (as amended by [S.I. 2020/889](#), **rule 3(a)**)
- F7** Rule 83.13(2)-(8) substituted for rule 83.13(2)-(9) (20.9.2020) by [The Civil Procedure \(Amendment No. 3\) Rules 2020 \(S.I. 2020/747\)](#), rules 1(3), **16(2)(b)** (as amended by [S.I. 2020/889](#), **rule 3(a)**)

#### Enforcement in the High Court of a judgment or order for delivery of goods

**83.14.**—(1) A judgment or order for the delivery of any goods which does not give a person against whom the judgment is given or order made the alternative of paying the assessed value of the goods may be enforced in the High Court by one or more of the following means—

- (a) writ of delivery to recover the goods without alternative provision for recovery of the assessed value of those goods (“writ of specific delivery”);
- (b) in a case in which rule 81.4 applies, an order of committal;
- (c) in a case in which rule 81.20 applies, writ of sequestration.

(2) A judgment or order for the delivery of any goods or payment of their assessed value may be enforced by one or more of the following means—

- (a) writ of delivery to recover the goods or their assessed value;
- (b) by order of the court, writ of specific delivery;
- (c) in a case in which rule 81.20 applies, writ of sequestration.

(3) An application for an order under paragraph (2)(b) must be made in accordance with Part 23, and must be served on the defendant against whom the judgment or order sought to be enforced was given or made.

(4) A writ of specific delivery, and a writ of delivery to recover any goods or their assessed value, may include provision for enforcing the payment of any money adjudged or ordered to be paid by the judgment or order which is to be enforced by the writ.

(5) A judgment or order for the payment of the assessed value of any goods may be enforced by the same means as any other judgment or order for the payment of money.

(6) This rule applies to writs in aid of writs of delivery.]

**Status:**

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**Changes to legislation:**

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