

2004 No. 400

SUPREME COURT OF ENGLAND AND WALES

The High Court Enforcement Officers Regulations 2004

Made - - - - - 10th February 2004

Laid before Parliament 19th February 2004

Coming into force - - 15th March 2004

The Lord Chancellor, in exercise of the powers conferred upon him by paragraph 12 of Schedule 7 to the Courts Act 2003(a) and section 108(6) of that Act, after consulting in accordance with paragraph 12(4) of Schedule 7 to that Act, makes the following Regulations:

PART 1

INTRODUCTION

Citation and commencement

1. These Regulations may be cited as the High Court Enforcement Officers Regulations 2004 and shall come into force on 15th March 2004.

Interpretation

2.—(1) In these Regulations—

- (a) “application” means an application by an individual for authorisation to act as an enforcement officer;
- (b) “district” means a district set out in Schedule 1 to these Regulations;
- (c) “enforcement officer” means an individual authorised by the Lord Chancellor under Schedule 7 to act as such;
- (d) “Schedule 7” means Schedule 7 to the Courts Act 2003.

(2) References in these Regulations to—

- (a) the Lord Chancellor shall include a person acting on his behalf under Schedule 7;
- (b) a writ of execution shall not include—
 - (i) a writ of sequestration; or
 - (ii) a writ relating to ecclesiastical property.

Districts for enforcement of writs of execution by enforcement officers

3.—(1) For the purposes of Schedule 7 and these Regulations, England and Wales is to be divided into 104 districts.

(2) Such districts correspond with the postal areas for England and Wales and are listed in Schedule 1 to these Regulations.

(a) 2003 c. 39.

PART 2
AUTHORISATION OF ENFORCEMENT OFFICERS

Conditions to be satisfied

4.—(1) An individual will not be authorised to act as an enforcement officer unless the conditions in paragraph (2) are satisfied.

- (2) The individual must not—
- (a) have been convicted of any criminal offence—
 - (i) for which he received a custodial sentence; or
 - (ii) involving dishonesty or violence;
 - (b) be liable for any unpaid fines;
 - (c) be liable for any court judgment granted within the last 6 years which remains unsatisfied;
 - (d) be an undischarged bankrupt;
 - (e) have been disqualified from acting as a director of a company within the last 6 years;
 - (f) carry on or be involved in any business relating to or including the purchase or sale of debts.

Application procedure

5.—(1) An application for authorisation to act as an enforcement officer may only be made by an individual and must—

- (a) be made in writing; and
 - (b) contain a statement signed and dated by the individual certifying that the contents of the application are true.
- (2) The application must contain the following information about the individual—
- (a) his name, address and date of birth;
 - (b) whether he has been convicted of any criminal offence, whether or not punishable by imprisonment, and if so details of each offence and conviction;
 - (c) whether he is liable for any unpaid fines and if so appropriate details;
 - (d) whether he is or has been liable for any court judgment and if so appropriate details including whether any judgment remains unsatisfied;
 - (e) whether he is or has ever been subject to any of the following proceedings and if so with what result—
 - (i) bankruptcy proceedings;
 - (ii) an administration order under section 112 of the County Courts Act 1984(a);
 - (iii) a deed of arrangement under the Deeds of Arrangement Act 1914(b) or an individual voluntary arrangement under Part VIII of the Insolvency Act 1986(c);
 - (iv) proceedings under the Company Directors Disqualification Act 1986(d);
 - (v) insolvency proceedings in relation to any partnership in which he was a partner or any company of which he was a director; or
 - (vi) any other proceedings under the Insolvency Act 1986.
- (3) The application shall also—
- (a) specify to which district or districts the applicant is requesting assignment; and
 - (b) include details and documentation giving evidence of—
 - (i) any relevant insurance policies held by the applicant;
 - (ii) any licence held by the applicant under the Consumer Credit Act 1974(e);
 - (iii) any notification given by the applicant to the Information Commissioner under section 18 of the Data Protection Act 1998(f);

(a) 1984 c. 28.
(b) 1914 c. 47.
(c) 1986 c. 45.
(d) 1986 c. 46.
(e) 1974 c. 39.
(f) 1998 c. 29.

- (iv) any current membership held by the applicant of a professional body which is listed in Schedule 2 to these Regulations as a professional body recognised by the Lord Chancellor;
- (v) the bank account or accounts held by the applicant through which it is proposed that monies recovered on behalf of judgment debtors are to be collected and paid;
- (vi) the applicant's relevant experience;
- (vii) the applicant's knowledge of the laws and the practice and procedure of the High Court in relation to enforcement of debts;
- (viii) the applicant's business plan including any person whom the applicant is proposing to engage to act on his behalf to assist with his work as an enforcement officer;
- (ix) the applicant's policies in relation to the selection and employment of staff; and
- (x) any existing or previous businesses of the applicant.

(4) Where the applicant has an existing business, the application shall be accompanied by audited or certified accounts of the applicant and of any company associated with the applicant for the preceding 3 years, or for the period of trading if this is shorter.

(5) In the case of any application, the Lord Chancellor may require further details of information already given or any additional information or documentation which seems to him to be necessary.

(6) For the purposes of this regulation and regulation 8, "relevant insurance policies" means—

- (a) professional indemnity insurance;
- (b) public liability insurance;
- (c) employers liability insurance, where the individual is an employer; and
- (d) goods in transit insurance, where the individual will be conducting his own removals.

Authorisation and assignment

6.—(1) The Lord Chancellor may take account, in deciding whether to authorise an individual to act as an enforcement officer, of—

- (a) the information contained in or provided with the individual's application; and
- (b) any other relevant information available to him.

(2) Upon being authorised to act as an enforcement officer, an individual may be assigned to—

- (a) any or all of the districts to which he has requested assignment; and
- (b) any other district or districts, if the Lord Chancellor considers it necessary or expedient in order to ensure that sufficient enforcement officers are assigned to each district.

PART 3

POST AUTHORISATION

Duty to execute writs

7. Once assigned to a district or a number of districts, the enforcement officer must undertake enforcement action for all writs of execution received which are to be executed at addresses which fall within his assigned district.

Conditions to be satisfied following authorisation

8. Every enforcement officer is under a continuing duty to—
- (a) successfully complete any required training;
 - (b) comply with any requirements set by the Lord Chancellor for his continuous professional development;
 - (c) hold current relevant insurance policies;
 - (d) hold a bank account through which monies recovered on behalf of judgment debtors are to be collected and paid;

- (e) produce to the Lord Chancellor—
 - (i) annual audited or certified accounts;
 - (ii) performance statistics when requested; and
 - (iii) such other information or documentation relevant to his work as an enforcement officer as may be required.

Change of details

9. An enforcement officer must immediately give the Lord Chancellor written notification of any change in—
- (a) his name;
 - (b) his address;
 - (c) the bank account or accounts held by him through which monies recovered on behalf of judgment debtors are collected and paid; or
 - (d) the information or documentation contained in his application for authorisation to act as an enforcement officer.

Changes to assignment

10.—(1) An enforcement officer may at any time apply to the Lord Chancellor to change the districts to which he is assigned.

(2) An application under paragraph (1) must be made in writing and must include a declaration of any changes in the information and documentation contained in the individual's application for authorisation to act as an enforcement officer.

(3) An enforcement officer may at any time be assigned to an additional district or districts without having applied for such assignment, if the Lord Chancellor considers it necessary or expedient in order to ensure that sufficient enforcement officers are assigned to each district.

Resignation

11. If an enforcement officer wishes to resign from his appointment he must provide the Lord Chancellor with at least 28 days' written notice of his intended resignation.

Termination of authorisation or assignment

12.—(1) The Lord Chancellor may at any time terminate—

- (a) the authorisation of an individual to act as an enforcement officer; or
- (b) the assignment of an enforcement officer to any one or more of the districts to which he is assigned,
on any of the grounds in paragraph (2).

(2) The grounds are that—

- (a) it would be in the public interest to do so;
- (b) any of the—
 - (i) information provided in the application for authorisation; or
 - (ii) documentation supplied,
under regulation 5 is found to be incomplete or untrue;
- (c) the enforcement officer or any person acting on his behalf who assists with his work as an enforcement officer has behaved in a manner which the Lord Chancellor reasonably considers to be unprofessional or unacceptable; or
- (d) the enforcement officer has failed to satisfy one or more of the conditions of regulation 8.

(3) Where practicable, the Lord Chancellor when considering whether to terminate the authorisation or assignment of an enforcement officer shall firstly notify the enforcement officer of the reasons and provide the enforcement officer with a reasonable opportunity to—

- (a) make representations about the Lord Chancellor's reasons for proposing to terminate his authorisation or assignment; and
- (b) remedy the circumstances giving rise to the Lord Chancellor's proposal to terminate his authorisation or assignment.

PART 4
MISCELLANEOUS

Fees

13.—(1) Schedule 3 to these Regulations sets out the fees that may be charged by enforcement officers.

(2) Where the execution of a writ of fieri facias is completed by sale, fees 1, 2, 3, 4, 5, 6 (1) and 7 under Schedule 3 may be levied by deducting them from the proceeds of sale.

(3) Where a writ is withdrawn or satisfied or its execution is stopped, the fees set out under Schedule 3 must be paid by—

- (a) the person upon whose application the writ was issued; or
- (b) the person at whose instance the execution is stopped, as the case may be.

(4) An enforcement officer or a party liable to pay any fees under Schedule 3 may apply to a costs judge or a district judge of the High Court for an assessment of the amount payable, by the detailed assessment procedure in accordance with the Civil Procedure Rules 1998(a).

Directories

14. Directories containing details of all current enforcement officers, the districts to which they have been assigned and the addresses to which writs of execution issued from the High Court to enforcement officers are to be sent shall be published and available for inspection at—

- (a) the Royal Courts of Justice;
- (b) district registries of the High Court; and
- (c) county courts, during the hours when the offices of such courts are open.

Walking possession agreement

15. Schedule 4 to these Regulations sets out the form of an agreement under which an enforcement officer may take walking possession of goods.

Signed by authority of the Lord Chancellor

David Lammy
Parliamentary Under Secretary of State,
Department for Constitutional Affairs

Dated 10th February 2004

(a) S.I. 1998/3132. There are relevant amendments in S.I. 1999/1008, S.I. 2000/940, S.I. 2000/1317, S.I. 2000/2092 and S.I. 2002/2058.

EXPLANATORY NOTE

(This note is not part of the Regulations)

Section 99 of the Courts Act 2003 and Schedule 7 to that Act provide for the enforcement of writs of execution issued from the High Court by enforcement officers who are to execute writs in the district or districts to which they are assigned. These Regulations set out in particular—

- the districts to which enforcement officers may be assigned
- the conditions to be satisfied by individuals seeking to be authorised to act as enforcement officers
- the procedures to be followed in relation to the assignment of enforcement officers and changes in their assignment
- the circumstances in which authorisations may be terminated
- the fees that may be charged by enforcement officers.

SCHEDULE 1

Regulation 3

DISTRICTS FOR WRITS OF EXECUTION ENFORCED BY ENFORCEMENT OFFICERS

District	Postal Area
Bath	BA
Birmingham	B
Blackburn	BB
Bolton	BL
Bournemouth	BH
Bradford	BD
Brighton	BN
Bristol	BS
Bromley	BR
Cambridge	CB
Canterbury	CT
Cardiff	CF
Carlisle	CA
Chelmsford	CM
Chester	CH
Cleveland (Teesside)	TS
Colchester	CO
Coventry	CV
Crewe	CW
Croydon	CR
Darlington	DL
Dartford	DA
Derby	DE
Doncaster	DN
Dorchester	DT
Dudley	DY
Durham	DH
Enfield	EN
Exeter	EX
Fylde (Blackpool)	FY
Gloucester	GL
Guildford	GU
Halifax	HX
Harrogate	HG
Harrow	HA
Hemel Hempstead	HP
Hereford	HR
Huddersfield	HD
Hull	HU
Ilford	IG
Ipswich	IP
Kingston upon Thames	KT
Lancaster	LA
Leeds	LS
Leicester	LE
Lincoln	LN
Liverpool	L
Llandridnod Wells	LD
Llandudno	LL
London East	E
London East Central	EC
London North	N

London North West	NW
London South East	SE
London South West	SW
London West	W
London West Central	WC
Luton	LU
Manchester	M
Medway	ME
Milton Keynes	MK
Newcastle	NE
Newport	NP
Northampton	NN
Norwich	NR
Nottingham	NG
Oldham	OL
Oxford	OX
Peterborough	PE
Plymouth	PL
Portsmouth	PO
Preston	PR
Reading	RG
Redhill	RH
Romford	RM
Salisbury	SP
Sheffield	S
Shrewsbury	SY
Slough	SL
Southall (Uxbridge)	UB
Southampton	SO
Southend on Sea	SS
St. Albans	AL
Stevenage	SG
Stockport	SK
Stoke on Trent	ST
Sunderland	SR
Sutton	SM
Swansea	SA
Swindon	SN
Taunton	TA
Telford	TF
Tonbridge	TN
Torquay	TQ
Truro	TR
Twickenham	TW
Wakefield	WF
Walsall	WS
Warrington	WA
Watford	WD
Wigan	WN
Wolverhampton	WV
Worcester	WR
York	YO

PROFESSIONAL BODIES RECOGNISED BY THE LORD CHANCELLOR

The Lord Chancellor recognises the following as professional bodies:

- High Court Enforcement Officers Association

FEES CHARGEABLE BY ENFORCEMENT OFFICERS

The fees chargeable by enforcement officers on execution of writs are as follows. Value Added Tax, if payable, may be added to the fees specified.

A. Fees chargeable on execution of writs of fieri facias*1. Percentage of amount recovered*

For executing a writ of fieri facias, the following percentages of the amount recovered:

- | | |
|-----------------------|--------------|
| (a) on the first £100 | 5 per cent |
| (b) above £100 | 2.5 per cent |

2. Mileage

Mileage from the enforcement officer's business address to the place of execution and return, in respect of one journey to seize goods and, if appropriate, one journey to remove the goods

29.2 pence per mile, up to a maximum of £50.00 in total

3. Seizure of goods

For each building or place at which goods are seized £2.00

4. Making enquiries or dealing with claims for rent or to the goods

- (1) For making enquiries as to claims for rent or to goods, including giving notice to parties of any such claims a sum not exceeding £2.00
- (2) For all expenses actually and reasonably incurred in relation to such work including any postage, telephone, fax and e-mail charges a further sum not exceeding £2.00

5. Taking possession, removal and storage of goods

- (1) Where a person is left in physical possession of goods seized £3.00 per person per day
- (2) Where an enforcement officer takes walking possession under a walking possession agreement in the form set out in Schedule 4 to these Regulations £0.25 per day
(Fees 5(1) and 5(2) are payable in respect of the day on which execution is levied, but fee 5(1) may not be charged where a walking possession agreement is signed at the time of levy. Fees 5(1) and 5(2) may not be charged after the goods have been removed.)
- (3) For—
 - (a) the removal of goods;
 - (b) the storage of goods which have been removed; and
 - (c) where animals have been seized, their upkeep while in the custody of the enforcement officer, whether before or after removal

the sums actually and reasonably paid

6. Sale of goods by auction

- (1) To cover the auctioneer's commission and expenses, where goods are sold by auction or work has been done with a view to sale by auction:
 - (a) when goods are sold by auction on the auctioneer's premises, the following percentages of the sum realised—

(i) on the first £100	15 per cent
(ii) on the next £900	12.5 per cent
(iii) above £1,000	10 per cent
 - (b) when goods are sold by auction on the debtor's premises, 7.5 per cent of the sum realised plus expenses actually and reasonably incurred.
- (2) When no sale takes place either by auction or private contract, but work has been done by the auctioneer or enforcement officer in preparing for a sale by auction, including the preparation of a detailed inventory of the goods seized—
 - (a) if the goods have been removed to the auctioneer's premises, 10 per cent of the value of the goods;
 - (b) if the goods have not been removed from the debtor's premises, 5 per cent of the value of the goods plus expenses actually and reasonably incurred.

7. *Sale of goods by private contract*

Where an enforcement officer sells goods by private contract—

- (a) the following percentages of the proceeds of sale—
 - (i) on the first £100 7.5 per cent
 - (ii) on the next £900 6.25 per cent
 - (iii) above £1,000 5 per cent; and
- (b) when work has been done in preparing for a sale by auction, including the preparation of a detailed inventory of the goods seized, an additional sum not exceeding 2.5 per cent of the value of the goods plus expenses actually and reasonably incurred.

B. Fees chargeable on executing writs of possession or delivery

8. *Mileage*

Mileage from the enforcement officer's business address to the place of execution and return, in respect of one journey 29.2 pence per mile, up to a maximum of £25.00 in total

9. *Writs of possession*

- (1) Where an enforcement officer executes a writ of possession of domestic property within the meaning of section 66 of the Local Government Finance Act 1988(a), 3 per cent of the net annual value for rating shown in the valuation list in force immediately before 1st April 1990 in respect of the property seized, subject to paragraph (3).
- (2) Where an enforcement officer executes a writ of possession to which paragraph (1) does not apply, 0.4 per cent of the net annual value for rating of the property seized, subject to paragraph (4).
- (3) For the purposes of paragraph (1), where the property does not consist of one or more hereditaments which, immediately before 1st April 1990—
 - (a) had a separate net annual value for rating shown on the valuation list then in force; and
 - (b) was domestic property within the meaning of section 66 of the Local Government Finance Act 1988,the property or such part of it as does not so consist shall be taken to have had such a value for rating equal to two-fifteenths of its value by the year when seized.
- (4) For the purposes of paragraph (2), where the property does not consist of one or more hereditaments having a separate net annual value for rating, the property or such part of it as does not so consist shall be taken to have such a value equal to its value by the year when seized.

10. *Writs of delivery*

For executing a writ of delivery, 4 per cent of the value of the goods as stated in the writ or judgment.

C. General fees

11. *Copies of returns*

For a copy of any return indorsed by the enforcement officer on a writ of execution £5.00

12. *Miscellaneous*

For any matter not otherwise provided for, such sum as a Master, district judge or costs judge may allow upon application.

(a) 1988 c. 41.

WALKING POSSESSION AGREEMENT

In the High Court of Justice

..... Division

..... District Registry

High Court Claim number

[County Court Claim number

[Sent from the..... County Court by Certificate dated

Claimant

Defendant

To an enforcement officer authorised to execute writs of execution issued from the High Court

I request that you will not leave a possession man on my premises in close possession of the goods which you have seized under the writ of execution issued in this claim.

If this request is allowed to me, I undertake, pending withdrawal or satisfaction of the writ—

- (a) not to remove the goods or any part of them nor to permit their removal by any person not authorised by you;
- (b) to inform any person who may visit my premises for the purpose of levying any other execution or distress that you are already in possession of my goods under the writ;
- (c) to notify you immediately of any such visit.

AND I authorise you or a person acting on your behalf, pending the withdrawal or satisfaction of the writ, to re-enter my premises at any time and as often as you may consider necessary for the purpose of inspecting the goods or completing the execution of the writ.

Dated this..... day of 20...

Signed Judgment Debtor

£3.00

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