
STATUTORY INSTRUMENTS

2004 No. 400

The High Court Enforcement Officers Regulations 2004

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.

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⁽¹⁾;
 - (iii) a deed of arrangement under the Deeds of Arrangement Act 1914⁽²⁾ or an individual voluntary arrangement under Part VIII of the Insolvency Act 1986⁽³⁾;
 - (iv) proceedings under the Company Directors Disqualification Act 1986⁽⁴⁾;
 - (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;

(1) 1984 c. 28.
(2) 1914 c. 47.
(3) 1986 c. 45.
(4) 1986 c. 46.

- (ii) any licence held by the applicant under the Consumer Credit Act 1974⁽⁵⁾;
- (iii) any notification given by the applicant to the Information Commissioner under section 18 of the Data Protection Act 1998⁽⁶⁾;
- (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.

⁽⁵⁾ 1974 c. 39.

⁽⁶⁾ 1998 c. 29.

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(7).

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

Dated 10th February 2004

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

(7) 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.