

TEC Update

Time Limits for Taking Control of Goods

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BPA South East Regional Group Meeting

Thursday 20 July 2017



Issues with TEC interpretations of legislation

- Number of Issues following the implementation of the TCOG Regulations from 6th April 2014;
- Unintended consequences?
- Letter from BPA to MOJ - 17th July 2015

Our formal response to the review is set out below in **Appendix B**. We have consulted with members of the BPA operating in the enforcement and debt recovery sector and I hope that our response will inform a much needed debate.

In summary the issues we would wish to communicate are as follows:

- 1) The life of the Warrant - work is needed largely in education, partly in clarification, on Warrant life. The Tribunal Courts & Enforcement (TCE) Act links the warrant life to the date of the Notice of Enforcement (NoE), it was previously linked to the issue date of the Warrant. As the date can be extended by either an application to the courts or start again following a breach of a payment arrangement, then it is not possible to quote a definitive date for all cases.

Relevant Legislation

- Taking Control of Goods Regulations 2013
- Regulation 9 – Time limit for Taking Control of Goods
- The Civil Procedure Rules 1998 (as amended)
- Part 75 Traffic Enforcement
- Part 84 Enforcement by taking control of goods
- The Civil Procedure (Amendment) Rules 2014
- Number of amendments including name change of Warrant of Execution to Local Authority Warrant of Control
- Deletion of 75.7 (5) & (6)

Regulation 9 Time limit for taking control of goods

Time limit for taking control of goods

9.—(1) Subject to paragraphs (2) and (3), the enforcement agent may not take control of goods of the debtor after the expiry of a period of 12 months beginning with the date of notice of enforcement.

(2) Where—

- (a) after giving notice of enforcement the enforcement agent enters into an arrangement with the debtor for the repayment, by the debtor, of the sum outstanding by instalments (a repayment arrangement); and
- (b) the debtor breaches the terms of the repayment arrangement,

the period in paragraph (1) begins with the date of the debtor's breach of the repayment arrangement.

The Civil Procedure Rules 1998



Aka: The Woolf Reforms

*In his report, Lord **Woolf** concluded that the then present system of civil justice was too slow, too expensive, too complex and too inaccessible.*

- Part 75 – Traffic Enforcement
- Part 83 – Writs and Warrants – General Provisions
- Part 84 – Enforcement by taking control of goods
- Part 85 – Claims on controlled goods and Executed Goods

The Civil Procedure (Amendment) Rules 2014

- Made the following Key Amendments to:
- Parts 75 Traffic Enforcement;
- 75.6 Enforcement of Orders;
- 75.7 Warrant of execution

75.6 Enforcement of Orders

Subject to the 1993 Order and this rule the following rules apply to the enforcement of specified debts –

- (a) Parts 70 to 73;
- ~~(b) CCR Order 25, rule 1;~~
- (c) rule 83.2;
- (ca) rule 83.4; and
- (d) Part 89.

75.7 Warrant of Execution

- (1) An authority seeking the issue of a local authority warrant of control must file a request –
 - (a) certifying the amount remaining due under the order;
 - (b) specifying the date of service of the order on the respondent; and
 - (c) certifying that the relevant period has elapsed.
- (2) The court will seal the request and return it to the authority.
- (3) Within 7 days of the sealing of the request the authority must prepare the warrant in the appropriate form.
- (4) No payment under a warrant will be made to the court.

75.7 Warrant of Execution

- Both (5) & (6) Deleted by The Civil Procedure Amendment Rules 2014 (SI 2014/407)
- (5) For the purposes of execution a warrant will be valid for 12 months beginning with the date of its issue.
- (6) An authority may not renew a warrant issued in accordance with this Part beyond the 12 month validity period but, subject to paragraph (7), an authority may request the reissue of a warrant during the 12 month validity period.

75.7 Warrant of Execution

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- ~~(5) For the purposes of execution a warrant will be valid for 12 months beginning with the date of its issue.~~
- ~~(6) An authority may not renew a warrant issued in accordance with this Part beyond the 12 month validity period but, subject to paragraph (7), an authority may request the reissue of a warrant during the 12 month validity period.~~

75.7 Warrant of Execution

- (7) Where the address of the respondent has changed since the issue of the warrant, the authority may request the reissue of the warrant by filing a request.....
- (8) Where the court is satisfied that the new address of the respondent given in the request for the reissue of the warrant relates to the respondent named in the order, it will seal the request and return it to the authority.
- (9) The authority must prepare the reissued warrant in the appropriate form within 7 days of the sealing of the request to reissue.
- (10) A reissued warrant will only be valid for the remainder of the 12 month period beginning with the date it was originally issued.

83.4 Writs & Warrants..

Writs and warrants conferring a power to use the TCG procedure – duration and priority

- (3) A relevant writ or warrant will be valid for the period in which an enforcement agent may take control of the goods in question, as specified in regulation 9(1) of the TCG Regulations.

TEC Email - 1st June 2017

**GOOD THINGS
COME TO THOSE
WHO WAIT.**

1,152 Days
3 Years; 1 Month; 26
Days

From: TECInsight [<mailto:TECInsight@hmcts.gsi.gov.uk>]
Sent: 01 June 2017 09:40
Subject: Breach of a warrant payment agreement and life of the warrant.

Good morning

We have sought advice from our policy team after a query from one authority with regards to the life of the warrant.

The warrant will be valid for 12 months from the breach of the payment agreement. For example, the authority to issue the warrant is given in April 17; payment is agreed over 6 monthly instalments, respondent defaults 05 June 17 so the 12 month life of warrant starts 05 June 17.

In order for TEC to process warrant reissue requests in line with the above, please can the payment default date be noted in the reissue Request?

If it is not, the request may be returned.

Regards

Rob J Webb

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NN1 2LH
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Mco| 0300 123 1057,
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New Change of Address Template

DATE SENT:

Warrant Reissue Request to Northampton County Court (TEC)

I certify that the following criteria have been met in accordance with Civil Procedure Rule 75.7:

- 1) The address of the respondent has changed since the issue of the warrant;
- 2) The evidence can be provided that the new address for the respondent does relate to the respondent named in the order and against whom enforcement is sought; and
- 3) The amount due under the order remains unpaid.

Signed:

	Prefix	PCN	Respondent's Name	Respondent's New Address	Payment Arrangement Default Date (if applicable)
1	AA	12345678	<Title & Full Name>	Warrant reissued to <Address With Comma Separators>	dd/mm/yyyy
2				Warrant reissued to	
3				Warrant reissued to	
4				Warrant reissued to	
5				Warrant reissued to	
6				Warrant reissued to	
7				Warrant reissued to	
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10				Warrant reissued to	
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13				Warrant reissued to	
14				Warrant reissued to	
15				Warrant reissued to	

Questions?

