

Changes to Bailiff Law from 6 April 2014

The law governing bailiffs changed on 6 April 2014. The Tribunals Courts and Enforcement Act 2007, the Taking Control of Goods Regulations 2013 and the Taking Control of Goods (Fees) Regulations 2014, mean that over 400 years of bailiff law has now changed.

The main changes:

- Bailiffs will be known as Enforcement Agents
- Enforcement Agents must follow a three stage process:
 - i) Compliance stage** - Upon receipt of an instruction the Enforcement Agent must give the defaulter a minimum of seven clear days' notice that he intends to visit their premises to take control of goods.
 - ii) Enforcement stage** - The Enforcement Agent attends premises to take control of goods and all associated activities prior to the removal of goods for sale.
 - iii) Sale stage** - The Enforcement Agent attends premises to either remove the goods for the purposes of sale, or commences preparation for sale if the sale is to be held on the premises. This stage concludes when the property is sold or disposed of.
- Levy, distress and walking possession agreements are replaced by "the process of taking control of goods" and a "controlled goods agreement"
- There is a time limit of 12 months for taking control of goods but if a payment arrangement is entered the 12 month period stops. A full 12 month period re-starts if the pay arrangement defaults
- Enforcement Agents may visit premises on any day of the week including Sunday but only between the hours of 6am and 9pm
- Enforcement Agents may take control of 'tools of the trade' with a value in excess of £1,350.00.
- Enforcement Agents must provide written notice to both the defaulter and any co-owner in respect of any objects which they have taken control
- It will become an offence to interfere with controlled goods or to obstruct an Enforcement Agent in the legal course of their duties.

A new fee structure

A new fee structure is introduced with a fee payable as soon as each of the three stage process begins:

i) Compliance stage - £75.00 charged as soon as the case is passed from the local Authority to the Enforcement Agent. The charge is payable on each Liability Order.

ii) Enforcement stage - £235.00 plus 7.5% of the value of the debt that exceeds £1,500. The fee of £235.00 is payable upon first attendance at the premises. Only one enforcement fee may be charged even if there are multiple Liability Orders.

iii) Sale stage - £110.00 plus 7.5% of the value of the debt that exceeds £1,500. The fee is payable upon first attendance at the premises to remove the goods or prepare for sale.

iv) Enforcement agents may also recover disbursement fees that are reasonably and actually incurred such as the cost of storage of goods removed and locksmith's fees.

v) The level of the fees is set by the government and will be reviewed annually.

vi) The £75.00 compliance fee is payable before the balance on the liability order.

The Enforcement and Sale fees are payable on a pro rata basis. All fees belong to the Enforcement Agent and should be paid to the Enforcement Agent.

Transitional arrangements

Transitional arrangements will apply in respect of accounts for which bailiffs have initiated action prior to 6 April 2014. In almost all cases the account reverts to the Compliance stage, the £75.00 is not payable but existing fees already incurred are payable.