

# High Court Enforcement Officers Regulations 2004

White Book 2023

Volume 2

Section 9 - Jurisdictional and Procedural Legislation

Section 9B - Other Statutes and Regulations

High Court Enforcement Officers Regulations 2004

[Arrangement of SI](#)

**(SI 2004/400)**

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# Regulation 1. - Citation and commencement

White Book 2023

Volume 2

Section 9 - Jurisdictional and Procedural Legislation

Section 9B - Other Statutes and Regulations

High Court Enforcement Officers Regulations 2004

Regulation 1

## Part 1 Introduction

### 1. Citation and commencement

9B-1225+ These Regulations may be cited as the High Court Enforcement Officers Regulations 2004 and shall come into force on 15 March 2004.



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# Regulation 2. - Interpretation

White Book 2023

Volume 2

Section 9 - Jurisdictional and Procedural Legislation

Section 9B - Other Statutes and Regulations

High Court Enforcement Officers Regulations 2004

## Part 1 Introduction

### 2.— Interpretation

9B-1226+



- (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.

# Regulation 3. - Districts for enforcement of writs of execution by enforcement officers

White Book 2023 | Commentary last updated February 16, 2015

Volume 2

Section 9 - Jurisdictional and Procedural Legislation


Section 9B - Other Statutes and Regulations

High Court Enforcement Officers Regulations 2004

Regulation 3

## Part 1 Introduction

### 3.— Districts for enforcement of writs of execution by enforcement officers

- 9B-1227+
- 

(1) For the purposes of Schedule 7 and these Regulations, England and Wales is to be divided into 105 districts.

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

## Note

9B-1228+Amended by [SI 2004/673](#).



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# Regulation 4. - Conditions to be satisfied

White Book 2023

Volume 2

Section 9 - Jurisdictional and Procedural Legislation

Section 9B - Other Statutes and Regulations

High Court Enforcement Officers Regulations 2004

## Regulation 4

### Part 2 Authorisation of Enforcement Officers

#### 4.— Conditions to be satisfied

9B-1229+



(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.

# Regulation 5. - Application procedure

White Book 2023 | Commentary last updated August 14, 2018

Volume 2

Section 9 - Jurisdictional and Procedural Legislation


Section 9B - Other Statutes and Regulations

High Court Enforcement Officers Regulations 2004

## Regulation 5

### Part 2 Authorisation of Enforcement Officers

#### 5.— Application procedure

- 9B-1230+ 
- (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;
      - (iii) [...] an individual voluntary arrangement under Part VIII of the Insolvency Act 1986;
      - (iv) proceedings under the Company Directors Disqualification Act 1986;
      - (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 permission that the applicant has under the Financial Services and Markets Act 2000 which relates to or is connected with a contract of the kind mentioned in para.23 or para.23B of Schedule 2 to that Act (credit agreements and contracts for hire of goods);
  - (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.

(7) Paragraph (ii) of paragraph (3)(b) must be read with—

- (a) section 22 of the Financial Services and Markets Act 2000;
- (b) any relevant order under that section, and
- (b) Schedule 2 to that Act.

## Note

9B-1230.

1+



Amended, subject to transitional provisions, by [SI 2013/1881, Sch.1, para.25](#), with effect from 26 July 2013 (for transitional provisions see [Part 8](#) thereof); by the [Deregulation Act 2015 \(Insolvency\) \(Consequential Amendments and Transitional and Savings Provisions\) Order 2015 \(SI 2015/1641\) Sch.3 para.3\(5\)](#), with effect from 1 October 2015 subject to savings as specified in [SI 2015/1641 art.10](#); and by the [Digital Economy Act 2017 s.111\(8\)](#), with effect from 25 May 2018.

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# Regulation 6. - Authorisation and assignment

White Book 2023

Volume 2

Section 9 - Jurisdictional and Procedural Legislation

Section 9B - Other Statutes and Regulations

High Court Enforcement Officers Regulations 2004

## Regulation 6

### Part 2 Authorisation of Enforcement Officers

#### 6.— Authorisation and assignment

9B-1231+



(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.

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# Regulation 7. - Duty to execute writs

White Book 2023

Volume 2


Section 9 - Jurisdictional and Procedural Legislation

Section 9B - Other Statutes and Regulations

High Court Enforcement Officers Regulations 2004

## Part 3 Post Authorisation

### 7. Duty to execute writs

9B-1232+  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.

# Regulation 8. - Conditions to be satisfied following authorisation

White Book 2023

Volume 2


Section 9 - Jurisdictional and Procedural Legislation

Section 9B - Other Statutes and Regulations

High Court Enforcement Officers Regulations 2004

## Part 3 Post Authorisation

### 8. Conditions to be satisfied following authorisation

- 9B-1233+  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.

# Regulation 9. - Change of details

White Book 2023

Volume 2


Section 9 - Jurisdictional and Procedural Legislation

Section 9B - Other Statutes and Regulations

High Court Enforcement Officers Regulations 2004

## Part 3 Post Authorisation

### 9. Change of details

- 9B-1234+  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.

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# Regulation 10. - Changes to assignment

White Book 2023

Volume 2

Section 9 - Jurisdictional and Procedural Legislation

Section 9B - Other Statutes and Regulations

High Court Enforcement Officers Regulations 2004

## Part 3 Post Authorisation

### 10.— Changes to assignment

9B-1235+



(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.

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# Regulation 11. - Resignation

White Book 2023

Volume 2


Section 9 - Jurisdictional and Procedural Legislation

Section 9B - Other Statutes and Regulations

High Court Enforcement Officers Regulations 2004

## Part 3 Post Authorisation

### 11. Resignation

9B-1236+  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.

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# Regulation 12. - Termination of authorisation or assignment

White Book 2023

Volume 2

Section 9 - Jurisdictional and Procedural Legislation

Section 9B - Other Statutes and Regulations

High Court Enforcement Officers Regulations 2004

## Part 3 Post Authorisation

### 12.— Termination of authorisation or assignment

9B-1237+



- (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.

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# Regulation 13. - Fees

White Book 2023 | Commentary last updated March 31, 2014

Volume 2

Section 9 - Jurisdictional and Procedural Legislation

Section 9B - Other Statutes and Regulations

High Court Enforcement Officers Regulations 2004

## Regulation 13

### Part 4 Miscellaneous

#### 13.— Fees

9B-1238+ (1) Schedule 3 to these Regulations sets out the fees that may be charged by enforcement officers.



(2) [...]

(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.

(3A) Where an enforcement officer uses the Schedule 12 procedure and the proceeds, if any, are insufficient to enable the enforcement officer to recover the compliance fee, that fee (or the balance of it which remains outstanding) must be paid by the person on whose application the writ was issued.

(3B) In paragraph (3A), “*Schedule 12 procedure*” and “*compliance fee*” have the same meanings as in the Taking Control of Goods (Fees) Regulations 2014.

(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.

## Note

9B-1238.

1+



Amended subject to transitional and saving provisions by the [Tribunals, Courts and Enforcement Act 2007 \(Consequential, Transitional and Saving Provisions\) Order 2014 \(SI 2014/600\)](#), Sch, Pt.1, para.8, with effect from 6 April 2014 (for transitional and saving provisions see [arts 3–6](#)).

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# Regulation 14. - Directories

White Book 2023

Volume 2

Section 9 - Jurisdictional and Procedural Legislation


Section 9B - Other Statutes and Regulations

High Court Enforcement Officers Regulations 2004

Regulation 14

## Part 4 Miscellaneous

### 14. Directories

**9B-1239+**  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.

# Regulation 15. - Walking possession agreement

White Book 2023

Volume 2


Section 9 - Jurisdictional and Procedural Legislation

Section 9B - Other Statutes and Regulations

High Court Enforcement Officers Regulations 2004

## Part 4 Miscellaneous

### 15. Walking possession agreement

9B-1240+  *[Revoked subject to transitional and saving provisions by the Tribunals, Courts and Enforcement Act 2007 (Consequential, Transitional and Saving Provisions) Order 2014 (SI 2014/600), Sch, Pt.1, para.8, Pt.2, with effect from 6 April 2014 (for transitional and saving provisions see arts 3–6).]*

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# Schedule 1 - Districts for Writs of Execution Enforced by Enforcement Officers

White Book 2023 | Commentary last updated January 1, 2005

Volume 2

Section 9 - Jurisdictional and Procedural Legislation

Section 9B - Other Statutes and Regulations

High Court Enforcement Officers Regulations 2004

Schedule 1

Schedule 1 Districts for Writs of Execution Enforced by Enforcement Officers

Regulation 3

9B-1241+

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

Tweeddale (Berwick upon Tweed)	TD
Twickenham	TW
Wakefield	WF
Walsall	WS
Warrington	WA
Watford	WD
Wigan	WN
Wolverhampton	WV
Worcester	WR
York	YO

Note

9B-1242-Amended by [SI 2004/673](#).



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# Schedule 2 - Professional Bodies Recognised by the Lord Chancellor

White Book 2023

Volume 2

Section 9 - Jurisdictional and Procedural Legislation

Section 9B - Other Statutes and Regulations

High Court Enforcement Officers Regulations 2004

[Schedule 2](#)

**Schedule 2 Professional Bodies Recognised by the Lord Chancellor**

**Regulation 5**

9B-1243+ The Lord Chancellor recognises the following as professional bodies:

- High Court Enforcement Officers Association

# Schedule 3 - Fees Chargeable by Enforcement Officers

White Book 2023 | Commentary last updated March 31, 2014

Volume 2

Section 9 - Jurisdictional and Procedural Legislation

Section 9B - Other Statutes and Regulations

High Court Enforcement Officers Regulations 2004

## Schedule 3

### Schedule 3 Fees Chargeable by Enforcement Officers


#### Regulation 13

9B-1244+ 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.

<b>A. Fees chargeable on execution of writs of fieri facias</b>	
...	
<b>B. Fees chargeable on executing writs of possession or delivery</b>	
<i>8. Mileage</i>	
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
<i>9. Writs of possession</i>	
<p>(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, 3 per cent of the net annual value for rating shown in the valuation list in force immediately before 1 April 1990 in respect of the property seized, subject to paragraph (3).</p> <p>(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).</p> <p>(3) For the purposes of paragraph (1), where the property does not consist of one or more hereditament which, immediately before 1 April 1990—</p> <p>(a) had a separate net annual value for rating shown on the valuation list then in force; and</p> <p>(b) was domestic property within the meaning of section 66 of the Local Government Finance Act 1988,</p> <p>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.</p> <p>(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.</p>	
<i>10. Writs of delivery</i>	
For executing a writ of delivery, 4 per cent of the value of the goods as stated in the writ or judgment.	

<b>C. General fees</b>	
<i>11. Copies of returns</i>	
For a copy of any return indorsed by the enforcement officer on a writ of execution	£5.00
<i>12. Miscellaneous</i>	
For any matter not otherwise provided for, such sum as a Master, district judge or costs judge may allow upon application.	

Note

9B-1244.  
1+  Part A revoked subject to transitional and saving provisions by the [Tribunals, Courts and Enforcement Act 2007 \(Consequential, Transitional and Saving Provisions\) Order 2014 \(SI 2014/600\)](#), Sch, Pt.1, para.8, Pt.2, with effect from 6 April 2014 (for transitional and saving provisions see [arts 3–6](#)).

# Schedule 4 - Walking Possession Agreement

White Book 2023

Volume 2

Section 9 - Jurisdictional and Procedural Legislation

Section 9B - Other Statutes and Regulations

High Court Enforcement Officers Regulations 2004

Schedule 4

Schedule 4 Walking Possession Agreement

9B-1245+ *[Schedule 4 revoked subject to transitional and saving provisions by the Tribunals, Courts and Enforcement Act 2007 (Consequential, Transitional and Saving Provisions) Order 2014 (SI 2014/600), Sch, Pt. 1, para.8, Pt.2, with effect from 6 April 2014 (for transitional and saving provisions see arts 3–6).]*

# Regulation 1. - Citation and commencement

White Book 2023

Volume 2

Section 9 - Jurisdictional and Procedural Legislation

Section 9B - Other Statutes and Regulations

Proceeds of Crime Act 2002 (Legal Expenses in Civil Recovery Proceedings) Regulations 2005

Regulation 1

**(SI 2005/3382)**

## Part 1 Introduction

### 1. Citation and commencement

9B-1246 These Regulations may be cited as the Proceeds of Crime Act 2002 (Legal Expenses in Civil Recovery Proceedings) Regulations 2005 and shall come into force on 1 January 2006.

# Regulation 2. - Interpretation

White Book 2023 | Commentary last updated November 18, 2010

Volume 2

Section 9 - Jurisdictional and Procedural Legislation

Section 9B - Other Statutes and Regulations

Proceeds of Crime Act 2002 (Legal Expenses in Civil Recovery Proceedings) Regulations 2005

## Regulation 2

### Part 1 Introduction

#### 2.— Interpretation

- 9B-1247 (1) In these Regulations—
- “*the 1990 Act*” means the Courts and Legal Services Act 1990;
  - “*the 2002 Act*” means the Proceeds of Crime Act 2002;
  - “*CPR*” means the Civil Procedure Rules 1998;
  - “*the Order in Council*” means the Proceeds of Crime Act 2002 (External Requests and Orders) Order 2005;
  - “*RSC (NI)*” means the Rules of the Supreme Court (Northern Ireland) 1980;
  - “*civil recovery proceedings*” means proceedings under Part 5 of the 2002 Act or Part 5 of the Order in Council;
  - “*notice*” means notice in writing;
  - “*relevant enforcement authority*” means the enforcement authority which is conducting the civil recovery proceedings concerned;
  - “*solicitor*” means a solicitor of the Supreme Court and, in relation to England and Wales, includes any other person who is an authorised litigator within the meaning of section 119(1) of the 1990 Act;
  - “*solicitor*” means a solicitor of the Senior Courts and, in relation to England and Wales, includes any other person who, for the purposes of the Legal Services Act 2007, is an authorised person in relation to an activity which constitutes the conduct of litigation (within the meaning of that Act).
- (2) Any reference in these Regulations to the assessment of legal expenses by the court shall, in relation to Northern Ireland, be interpreted as referring to the taxation of those expenses by the Master (Taxing Office).

## Note

9B-1247.  
1

Amended by [SI 2008/523](#) and [SI 2009/3348](#), with effect from 1 January 2010.

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# Regulation 3. - Effect of this part

White Book 2023

Volume 2

Section 9 - Jurisdictional and Procedural Legislation

Section 9B - Other Statutes and Regulations

Proceeds of Crime Act 2002 (Legal Expenses in Civil Recovery Proceedings) Regulations 2005

Regulation 3

## Part 2 Required Conditions: General

### 3. Effect of this part

**9B-1248** This Part specifies the required conditions for the purposes of sections 245C(5) and 252(4) of the 2002 Act and articles 149(5) and 157(4) of the Order in Council.



# Regulation 4. - Condition relating to work covered by exclusion

White Book 2023

Volume 2

Section 9 - Jurisdictional and Procedural Legislation

Section 9B - Other Statutes and Regulations

Proceeds of Crime Act 2002 (Legal Expenses in Civil Recovery Proceedings) Regulations 2005

## Part 2 Required Conditions: General

### 4. Condition relating to work covered by exclusion

- 9B-1249 An exclusion from a property freezing order or interim receiving order must specify—
- (a) the stage or stages in civil recovery proceedings to which it relates; and
  - (b) the maximum amount which may be released in respect of legal expenses for each stage to which it relates.

# Regulation 5. - Condition relating to notification

White Book 2023 | Commentary last updated January 8, 2009

Volume 2

Section 9 - Jurisdictional and Procedural Legislation

Section 9B - Other Statutes and Regulations

Proceeds of Crime Act 2002 (Legal Expenses in Civil Recovery Proceedings) Regulations 2005

[Regulation 5](#)

## Part 2 Required Conditions: General

### 5. Condition relating to notification

**9B-1250** If the solicitor acting for the person to whose legal expenses the exclusion relates becomes aware that—

- (a) that person’s legal expenses in respect of any stage in civil recovery proceedings have exceeded or will exceed the maximum amount specified in the exclusion for that stage; or
- (b) that person’s total legal expenses in respect of all the stages to which the exclusion relates have exceeded or will exceed the total amount that may be released pursuant to the exclusion,

the solicitor must give notice to the relevant enforcement authority and the court as soon as reasonably practicable.

## Note

**9B-1250.**  
**1** Amended by [SI 2008/523](#).

## Regulation 6. - Condition relating to payment of expenses

White Book 2023

Volume 2

Section 9 - Jurisdictional and Procedural Legislation

Section 9B - Other Statutes and Regulations

Proceeds of Crime Act 2002 (Legal Expenses in Civil Recovery Proceedings) Regulations 2005

### Regulation 6

#### Part 2 Required Conditions: General

##### 6. Condition relating to payment of expenses

- 9B-1251 Where a person has incurred legal expenses in relation to a stage in civil recovery proceedings specified in an exclusion—
- (a) during any period when the property freezing order or interim receiving order has effect, a sum may only be released in respect of those expenses in accordance with Part 3;
  - (b) where the court makes a recovery order which provides for the payment of that person's reasonable legal expenses in respect of civil recovery proceedings, the sum payable in respect of his legal expenses shall be determined in accordance with Part 4, regardless of whether a sum has been released in respect of any of those expenses under Part 3.

# Regulation 7. - Effect of this Part

White Book 2023

Volume 2

Section 9 - Jurisdictional and Procedural Legislation

Section 9B - Other Statutes and Regulations

Proceeds of Crime Act 2002 (Legal Expenses in Civil Recovery Proceedings) Regulations 2005

## Part 3 Required Conditions: Release of Interim Payments

### 7. Effect of this Part

**9B-1252** This Part applies where, during a period when a property freezing order or interim receiving order has effect, a person to whose property the order applies seeks the release of a sum in respect of his legal expenses pursuant to an exclusion from the order.

# Regulation 8. - Request for relevant enforcement authority's agreement to release of interim payment

White Book 2023 | Commentary last updated January 8, 2009

Volume 2

Section 9 - Jurisdictional and Procedural Legislation

Section 9B - Other Statutes and Regulations

Proceeds of Crime Act 2002 (Legal Expenses in Civil Recovery Proceedings) Regulations 2005

## Regulation 8

### Part 3 Required Conditions: Release of Interim Payments

#### 8.— Request for relevant enforcement authority's agreement to release of interim payment

- 9B-1253
- (1) A request for the relevant enforcement authority's agreement to the release of a sum in respect of legal expenses pursuant to an exclusion must be made in writing to that authority by the person to whose expenses the exclusion relates.
  - (2) The request must—
    - (a) describe the stage or stages in the civil recovery proceedings in relation to which the legal expenses were incurred;
    - (b) summarise the work done in connection with each stage;
    - (c) be accompanied by any invoices, receipts or other documents which are necessary to show that the expenses have been incurred; and
    - (d) identify any item or description of property from which the person making the request wishes the sum to be released.
  - (3) A person may not make a request under this regulation—
    - (a) in respect of legal expenses which he has not yet incurred; or
    - (b) more than once in any 2 month period.

## Note

9B-1253.  
1 Amended by [SI 2008/523](#).

# Regulation 9. - Relevant enforcement authority's response to request

White Book 2023 | Commentary last updated January 8, 2009

Volume 2

Section 9 - Jurisdictional and Procedural Legislation

Section 9B - Other Statutes and Regulations

Proceeds of Crime Act 2002 (Legal Expenses in Civil Recovery Proceedings) Regulations 2005

## Regulation 9

### Part 3 Required Conditions: Release of Interim Payments

#### 9.— Relevant enforcement authority's response to request

- 9B-1254
- (1) Not later than 21 days after it receives the request, the relevant enforcement authority must give notice to the person who made the request stating—
- (a) whether it agrees to the release of the requested sum; and
  - (b) if it does not agree to the release of the requested sum—
    - (i) the amount (if any) which it agrees may be released; and
    - (ii) the reasons for its decision.
- (2) Where an interim receiving order applies to the property from which it is proposed that the requested sum should be released, the relevant enforcement authority must at the same time send copies of the request and the notice referred to in paragraph (1) to the interim receiver.
- (3) In determining the amount which may be released in respect of legal expenses with its agreement, the relevant enforcement authority must have regard to the provisions of Part 5 which would apply on the assessment of those expenses by the court.

## Note

9B-1254.  
1 Amended by [SI 2008/523](#).

# Regulation 10. - Release of interim payment

White Book 2023 | Commentary last updated January 8, 2009

Volume 2

Section 9 - Jurisdictional and Procedural Legislation

Section 9B - Other Statutes and Regulations

Proceeds of Crime Act 2002 (Legal Expenses in Civil Recovery Proceedings) Regulations 2005

[Regulation 10](#)

## Part 3 Required Conditions: Release of Interim Payments

### 10.— Release of interim payment

9B-1255

- (1) The sum which may be released pursuant to the exclusion is the greater of—
- (a) the amount which the relevant enforcement authority agrees may be released; and
  - (b) 65% of the requested sum.
- (2) The sum may only be released to—
- (a) the solicitor who is instructed to act in the civil recovery proceedings for the person to whose legal expenses the exclusion relates; or
  - (b) where appropriate, to the solicitor who was so instructed when the legal expenses to which the sum relates were incurred.

## Note

9B-1255.

1 Amended by [SI 2008/523](#).

# Regulation 11. - Effect of this Part

White Book 2023

Volume 2

Section 9 - Jurisdictional and Procedural Legislation

Section 9B - Other Statutes and Regulations

Proceeds of Crime Act 2002 (Legal Expenses in Civil Recovery Proceedings) Regulations 2005

Regulation 11

## Part 4 Agreement or Assessment of Expenses at Conclusion of Civil Recovery Proceedings

### 11. Effect of this Part

9B-1256 This Part specifies the procedure for determining the amount payable in respect of a person’s reasonable legal expenses in civil recovery proceedings, where the court has made a recovery order which provides for the payment of those expenses.

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## Regulation 12. - Agreement of expenses by the relevant enforcement authority

White Book 2023 | Commentary last updated January 8, 2009

Volume 2

Section 9 - Jurisdictional and Procedural Legislation

Section 9B - Other Statutes and Regulations

Proceeds of Crime Act 2002 (Legal Expenses in Civil Recovery Proceedings) Regulations 2005

### Regulation 12

#### Part 4 Agreement or Assessment of Expenses at Conclusion of Civil Recovery Proceedings

##### 12.— Agreement of expenses by the relevant enforcement authority

- 9B-1257** (1) This regulation applies where a person seeks the relevant enforcement authority's agreement to the payment of a sum in respect of its legal expenses pursuant to section 266(8B)(a) of the 2002 Act or article 177(11)(a) of the Order in Council.
- (2) In determining the amount which may be paid in respect of legal expenses with its agreement, the relevant enforcement authority must have regard to the provisions of Part 5 which would apply on the assessment of those expenses by the court.
- (3) Where the relevant enforcement authority agrees to the payment of the sum which a person seeks in respect of his legal expenses—
- (a) it shall give that person and the trustee for civil recovery notice of the agreed sum; and
  - (b) the sum payable in respect of those expenses shall be the agreed sum.

### Note

**9B-1257.**  
**1** Amended by [SI 2008/523](#).

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## Regulation 13. - Expenses to be assessed if not agreed

White Book 2023 | Commentary last updated January 8, 2009

Volume 2

Section 9 - Jurisdictional and Procedural Legislation

Section 9B - Other Statutes and Regulations

Proceeds of Crime Act 2002 (Legal Expenses in Civil Recovery Proceedings) Regulations 2005

### Regulation 13

#### Part 4 Agreement or Assessment of Expenses at Conclusion of Civil Recovery Proceedings

##### 13.— Expenses to be assessed if not agreed

- 9B-1258**
- (1) Unless the relevant enforcement authority agrees to the payment of the sum which a person seeks in respect of his legal expenses pursuant to provision made in a recovery order, that person must commence proceedings for the assessment of those expenses in accordance with paragraph (2).
- (2) Where paragraph (1) requires a person to commence proceedings for the assessment of his legal expenses—
- (a) in relation to civil recovery proceedings in England and Wales, he must commence proceedings for the detailed assessment of those expenses in accordance with CPR Part 47, subject to the modifications that—
    - (i) rule 47.7 shall have effect as if it provided that he must commence those proceedings not later than 2 months after the date of the recovery order; and
    - (ii) rule 47.14(2) shall have effect as if it provided that he must file a request for a detailed assessment hearing not later than 2 months after the expiry of the period for commencing the detailed assessment proceedings;
  - (b) in relation to civil recovery proceedings in Northern Ireland, he must begin proceedings for the taxation of those expenses in accordance with RSC (NI) Order 62, subject to the modification that rule 29(1) shall have effect as if it provided that he must begin those proceedings not later than 4 months after the date of the recovery order.
- (3) The court will assess the person's legal expenses in accordance with the provisions of Part 5 and the relevant rules of court, and the sum payable in respect of those expenses shall be the assessed amount.

### Note

**9B-1258.**  
**1** Amended by [SI 2008/523](#).

# Regulation 14. - Payment of expenses

White Book 2023

Volume 2

Section 9 - Jurisdictional and Procedural Legislation

Section 9B - Other Statutes and Regulations

Proceeds of Crime Act 2002 (Legal Expenses in Civil Recovery Proceedings) Regulations 2005

## Regulation 14

### Part 4 Agreement or Assessment of Expenses at Conclusion of Civil Recovery Proceedings

#### 14.— Payment of expenses

9B-1259

- (1) Where the sum payable in respect of a person's legal expenses—
- (a) exceeds the total amount which has been released in respect of those expenses in accordance with Part 3, the trustee for civil recovery must pay the balance out of the sums referred to in section 280(1) of the 2002 Act or article 191(1) of the Order in Council;
  - (b) is less than the total amount which has been released in respect of those expenses in accordance with Part 3, the person to whose expenses the sum relates must repay the balance to the trustee.
- (2) The trustee for civil recovery may only make a payment in respect of a person's legal expenses to—
- (a) the solicitor who is instructed to act for that person; or
  - (b) where appropriate, the solicitor who was so instructed when the legal expenses to which the sum relates were incurred.

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# Regulation 15. - Effect of this Part

White Book 2023

Volume 2

Section 9 - Jurisdictional and Procedural Legislation

Section 9B - Other Statutes and Regulations

Proceeds of Crime Act 2002 (Legal Expenses in Civil Recovery Proceedings) Regulations 2005

## Part 5 Basis of Assessment of Legal Expenses

### 15. Effect of this Part

9B-1260

This Part sets out the basis on which the court must assess the amount payable in respect of a person’s reasonable legal expenses of civil recovery proceedings pursuant to provision made in a recovery order.

# Regulation 16. - General principles

White Book 2023

Volume 2

Section 9 - Jurisdictional and Procedural Legislation

Section 9B - Other Statutes and Regulations

Proceeds of Crime Act 2002 (Legal Expenses in Civil Recovery Proceedings) Regulations 2005

## Part 5 Basis of Assessment of Legal Expenses

### 16.— General principles

- 9B-1261
- (1) Subject to regulation 17, the court will assess a person's legal expenses on the standard basis.
  - (2) The court must give effect to—
    - (a) any provision made in the recovery order for the purpose of enabling the person to meet his reasonable legal expenses of civil recovery proceedings; and
    - (b) subject to sub-paragraph (a), the terms of any exclusion made for the purpose of enabling that person to meet those legal expenses (including the required conditions).
  - (3) In paragraph (1), "*the standard basis*" has the meaning given in—
    - (a) CPR rule 44.4 in relation to proceedings in England and Wales;
    - (b) RSC (NI) Order 62 rule 12 in relation to proceedings in Northern Ireland.

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# Regulation 17. - Rates of remuneration

White Book 2023

Volume 2

Section 9 - Jurisdictional and Procedural Legislation

Section 9B - Other Statutes and Regulations

Proceeds of Crime Act 2002 (Legal Expenses in Civil Recovery Proceedings) Regulations 2005

## Part 5 Basis of Assessment of Legal Expenses

### 17.— Rates of remuneration

- 9B-1262 (1) Subject to the following paragraphs of this regulation, remuneration for work done by a legal representative may only be allowed at the appropriate hourly rate shown in the Table below.
- (2) The higher hourly rates specified in the third column of the Table may only be allowed where the case involves substantial novel or complex issues of law or fact.
- (3) The rates specified in the Table will be increased by—
- (a) 20% for legal representatives whose offices are situated in Central London; and
  - (b) 10% for legal representatives whose offices are situated in Outer London.
- (4) In paragraph (3)—
- (a) “*Central London*” means postcode districts EC1—4, SW1, W1 and WC1—2;
  - (b) “*Outer London*” means all other postcode districts in postcode areas BR, CR, DA, E, N, NW, SE, SW, UB and W.
- and “*postcode area*” and “*postcode district*” shall be construed in accordance with the Postcode Address File within the meaning given in section 116 of the Postal Services Act 2000.

TABLE:

TABLE: RATES OF REMUNERATION FOR LEGAL REPRESENTATIVES

CATEGORY OF FEE EARNER <sup>(1)</sup>	STANDARD HOURLY RATE (EXCLUDING VAT)	HIGHER HOURLY RATE (EXCLUDING VAT)
<b>Solicitors and their employees</b>		
Senior solicitor (of at least 8 years’ standing)	£187.50	£225.00

Solicitor (of at least 4 years' and less than 8 years' standing)	£150.00	£187.50
Junior solicitor (of less than 4 years' standing)	£107.50	£131.25
Trainee solicitor, paralegal or other fee earner	£75.00	£93.75
<b>Counsel</b>		
Queen's Counsel	–	£275.00
Senior junior counsel (of at least 10 years' standing)	£150.00	£225.00
Junior counsel (of less than 10 years' standing)	£100.00	£150.00
<sup>(1)</sup> In relation to England and Wales, a reference to a number of years' standing as a solicitor or counsel to be interpreted as referring to that number of years' general qualification (within the meaning of section 71 of the 1990 Act).		

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# Blood Tests (Evidence of Paternity) Regulations 1971

White Book 2023 | Commentary last updated January 1, 2016

Volume 2

Section 9 - Jurisdictional and Procedural Legislation

Section 9B - Other Statutes and Regulations

Blood Tests (Evidence of Paternity) Regulations 1971

Arrangement of SI

(SI 1971/1861)

**9B-1263** [As amended by the [Transfer of Functions \(Magistrates' Court and Family Law\) Order 1992 \(SI 1992/709\)](#), the [Blood Tests \(Evidence of Paternity\) \(Amendment\) Regulations 2001 \(SI 2001/773\)](#), the [Blood Tests \(Evidence of Paternity\) \(Amendment\) Regulations 2004 \(SI 2004/596\)](#), the [Health Professions \(Operating Department Practitioners and Miscellaneous Amendments\) Order 2004 \(SI 2004/2033\)](#), the [Blood Tests \(Evidence of Paternity\) \(Amendment\) Regulations 2008 \(SI 2008/972\)](#), the [Crime and Courts Act 2013 \(Family Court: Consequential Provision\) \(No.2\) Order \(SI 2014/879\)](#), the [Blood Tests \(Evidence of Paternity\) \(Amendment\) Regulations 2015 \(SI 2015/1834\)](#), and the [Blood Tests \(Evidence of Paternity\) \(Amendment\) \(Review\) Regulations 2015 \(SI 2015/2048\)](#).]

End of Document

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# Regulation 1. - Citation and Commencement

White Book 2023

Volume 2


Section 9 - Jurisdictional and Procedural Legislation

Section 9B - Other Statutes and Regulations

Blood Tests (Evidence of Paternity) Regulations 1971

[Regulation 1](#)

**1. Citation and Commencement**

9B-1264+  These Regulations may be cited as the Blood Tests (Evidence of Paternity) Regulations 1971 and shall come into operation on 1 March 1972.

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End of Document

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# Regulation 2. - Interpretation

White Book 2023 | Commentary last updated January 5, 2016

Volume 2

Section 9 - Jurisdictional and Procedural Legislation

Section 9B - Other Statutes and Regulations

Blood Tests (Evidence of Paternity) Regulations 1971

## Regulation 2

### 2.— Interpretation

9B-1265+ (1) In these Regulations, unless the context otherwise requires—

“*the Act*” means the Family Law Reform Act 1969;

“*court*” means a court which gives a direction for the use of scientific tests in pursuance of section 20(1) of the Act;

“*direction*” means a direction given as aforesaid;

“*direction form*” means Form 1 in Schedule 1 to these Regulations;

“*photograph*” means a recent photograph, taken full face without a hat, of at least the size required for insertion in a passport;

“*protected party*” means a person who lacks capacity, within the meaning of the Mental Capacity Act 2005, to consent to tests;

“*sample*” means bodily fluid or bodily tissue taken for the purpose of scientific tests;

“*sampler*” has the meaning given in paragraph (4) and is subject to the provisions of paragraphs (5) and (6);

“*subject*” means a person from whom a court directs that bodily samples shall be taken;

“*tester*” means an individual employed to carry out tests by a body which has been accredited for the purpose of s.20 of the Act either by the Lord Chancellor or by a body appointed by him for the purposes and which has been nominated in a direction to carry out tests;

“*tests*” scientific tests carried out under Pt III of the Act and includes any test made with the object of ascertaining the inheritable characteristics of bodily fluid or bodily tissue.

(2) [...]

(3) The Interpretation Act 1889 shall apply to the interpretation of these Regulations as it applies to the interpretation of an Act of Parliament. [Note: the [Interpretation Act 1889](#) has been replaced by the [Interpretation Act 1978](#).]

(4) In these Regulations, subject to the provisions of paragraphs (5) and (6), “*sampler*” means—

(a) a registered medical practitioner;

(b) a person who is under the supervision of a registered medical practitioner and who is—

(i) a registered nurse; or

- (ii) a registered biomedical scientist;
  - (c) a tester;
  - (d) an officer of the Service, within the meaning given by section 11(3) of the Criminal Justice and Court Services Act 2000;
  - (e) a Welsh family proceedings officer, within the meaning given by section 35(4) of the Children Act 2004; or
  - (f) a person, not being someone within sub-paragraphs (a) or (b), who is appointed by a tester to be a sampler.
- (5) A sampler who is within sub-paragraph (d) or (e) in the definition of “sampler” in paragraph (4) may only be involved in the obtaining of samples where—
- (a) the court has given a direction of its own initiative in proceedings for a child arrangements order under section 8 of the Children Act 1989;
  - (b) the sampler has been trained by a tester, or under arrangements made by a tester, in relation to the requirements of these Regulations; and
  - (c) the sample is to be obtained by way of a mouth swab.
- (6) A sampler who is within sub-paragraph (f) in the definition of “sampler” in paragraph (4) may only be involved in the obtaining of samples where—
- (a) the sampler has been trained by a tester, or under arrangements made by a tester, in relation to the requirements of these Regulations; and
  - (b) the sample is to be obtained by way of a mouth swab.

## Note

9B-1265.

1+



Paragraph (1) was amended and paras (3)–(6) were inserted by the [Blood Tests \(Evidence of Paternity\) \(Amendment\) Regulations 2015 \(SI 2015/1834\) reg.2\(2\)](#), with effect from 23 November 2015.

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End of Document

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# Regulation 3. - Direction form

White Book 2023 | Commentary last updated January 5, 2016

Volume 2


Section 9 - Jurisdictional and Procedural Legislation

Section 9B - Other Statutes and Regulations

Blood Tests (Evidence of Paternity) Regulations 1971

## Regulation 3

### 3. Direction form

9B-1266+  A sampler shall not obtain a sample from a subject unless Parts I and II of the direction form have been completed and the direction form purports to be signed by the proper ocer of the court or some person on his behalf.

## Note

9B-1266.  
1+  Amended by the [Blood Tests \(Evidence of Paternity\) \(Amendment\) Regulations 2015 \(SI 2015/1834\) reg.2\(3\)](#), with effect from 23 November 2015.

# Regulation 4. - Subject who is under 16 or a protected party to be accompanied to sampler

White Book 2023 | Commentary last updated January 4, 2016

Volume 2


Section 9 - Jurisdictional and Procedural Legislation

Section 9B - Other Statutes and Regulations

Blood Tests (Evidence of Paternity) Regulations 1971

Regulation 4

4. Subject who is under 16 or a protected party to be accompanied to sampler

9B-1267+  A subject who is under 16 or a protected party who attends a sampler for a sampler to be obtained shall be accompanied by a person of full age who shall identify him to the sampler.

## Note

9B-1267.  
1+  Amended by the [Blood Tests \(Evidence of Paternity\) \(Amendment\) Regulations 2015 \(SI 2015/1834\) reg.2\(4\)](#), with effect from 23 November 2015.

## Regulation 5. - Obtaining of samples

White Book 2023 | Commentary last updated January 5, 2016

Volume 2

Section 9 - Jurisdictional and Procedural Legislation

Section 9B - Other Statutes and Regulations

Blood Tests (Evidence of Paternity) Regulations 1971

### Regulation 5

#### 5.— Obtaining of samples

9B-1268+



(1) Without prejudice to the provisions of rules of court, a sampler may make arrangements for samples to be obtained from the subjects or may change any arrangements already made and make other arrangements.

(2) Subject to the provisions of these Regulations, where a subject attends a sampler in accordance with arrangements made under a direction, the sampler must on that occasion act in accordance with paragraph (2A), (2B) or (2C), as applicable to that sampler.

(2A) Where the sampler is a person within sub-paragraph (a), (b) or (c) of the definition of “*sampler*” in regulation 2(4), the sampler must take a sample from the subject.

(2B) Where the sampler is a person within sub-paragraph (d) or (e) of the definition of “*sampler*” in regulation 2(4), the sampler must supervise the taking of the sample—

(a) by the subject; or

(b) where the subject is under 16 or a protected party, by the person of full age who has accompanied the subject.

(2C) Where the sampler is a person within sub-paragraph (f) of the definition of “*sampler*” in regulation 2(4), the sampler must—

(a) take the sample; or

(b) supervise the taking of the sample—

(i) by the subject; or

(ii) where the subject is under 16 or a protected party, by the person of full age who has accompanied the subject.

(3) A sampler shall not obtain a sample from a subject if—

(i) he has reason to believe that the subject has been transfused with blood within the three months immediately preceding the day on which the sample is to be obtained in the case of a blood sample; or

(ii) in his opinion, tests on a sample obtained at that time from that subject could not effectively be carried out for the purposes of and in accordance with the direction; or

(iii) in his opinion, obtaining a sample might have an adverse effect on the health of the subject.

(4) A sampler may take a sample from a subject who has been injected with a blood product or blood plasma if, in his opinion, the value of any tests done on that sample would not be thereby affected, but shall inform the tester that the subject was so injected.

(5) Where a sampler does not obtain a sample from a subject in accordance with arrangements made for obtaining that sample and no other arrangements are made, he shall return the direction form relating to that subject to the court, having stated on the form his reason for not obtaining the sample and any reason given by the subject (or the person having the care and control of the subject) for any failure to attend in accordance with those arrangements.

(6) A subject who attends a sampler to give a sample may be accompanied by his legal representative.

## Note

9B-1268.

1+

Amended by the [Blood Tests \(Evidence of Paternity\) \(Amendment\) Regulations 2015 \(SI 2015/1834\) reg.2\(5\)](#), with effect from 23 November 2015.



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End of Document

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## Regulation 6. - Sampling procedure

White Book 2023 | Commentary last updated January 5, 2016

Volume 2

Section 9 - Jurisdictional and Procedural Legislation

Section 9B - Other Statutes and Regulations

Blood Tests (Evidence of Paternity) Regulations 1971

### Regulation 6

#### 6.— Sampling procedure

9B-1269+



(1) A sampler shall comply with the provisions of this Regulation, all of which shall be complied with in respect of one subject before any are complied with in respect of any other subject; so however that a report made in accordance with the provisions of section 20(2) of the Act or any other evidence relating to the samples or the tests made on the samples shall not be challenged solely on the grounds that a sampler has not acted in accordance with the provisions of this Regulation.

(2) The sampler shall ensure that a photograph of the subject is attached to the direction form relating to him before he obtains a sample from that subject.

(3) Before a sample is obtained from a subject, he, or where he is under 16 or a protected party the person of full age accompanying him, shall complete the declaration in Part V of the direction form (that that subject is the subject to whom the direction form relates and, where a photograph is attached to the direction form, that the photograph is a photograph of that subject) which shall be signed in the presence of and witnessed by the sampler.

(5) A sample shall not be obtained from any subject unless—

(a) he or, where he is under 16 or a protected party, the person having the care and control of him, has signed a statement on the direction form that he consents to the sample being obtained; or

(b) where he is under 16 or a protected party and is not accompanied by the person having the care and control of him, the sampler is in possession of a statement in writing, purporting to be signed by that person that he consents to the sample being obtained.

(c) where he is under the age of sixteen years, and the person with care and control of him does not consent, the court has nevertheless ordered that sample to be obtained.

(6) The sampler shall attach to the direction form any statement referred to in sub-paragraph (b) of the preceding paragraph.

(7) If a subject or, where he is under 16 or a protected party, the person having the care and control of him, does not consent to a sample being obtained, he may record on the direction form his reasons for withholding his consent.

(8) When the sampler has obtained a sample he shall place it in a suitable, tamper proof, container and shall affix to the container a label giving the full name, age and sex of the subject from whom it was obtained and the label shall be signed by the sampler.



(9) The sampler shall state in Part VII of the direction form that he has obtained the sample and the date on which he did so.

## Note

9B-1269.  
1+ Amended by the [Blood Tests \(Evidence of Paternity\) \(Amendment\) Regulations 2015 \(SI 2015/1834\) reg.2\(6\)](#), with effect from 23 November 2015.



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End of Document

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# Regulation 7. - Despatch of samples to tester

White Book 2023 | Commentary last updated January 5, 2016

Volume 2


Section 9 - Jurisdictional and Procedural Legislation

Section 9B - Other Statutes and Regulations

Blood Tests (Evidence of Paternity) Regulations 1971

## Regulation 7

### 7.— Despatch of samples to tester

- 9B-1270+  

- (1) When a sampler has obtained samples, he shall, where he is not himself the tester, pack the containers together with the relevant direction forms and shall despatch them forthwith to the tester by post by recorded signed for delivery or international signed for delivery or shall deliver them or cause them to be delivered to the tester by some person other than a subject or a person who has accompanied a subject to the sampler.

(2) If at any time a sampler despatches to a tester samples from some only of the subjects and has not previously despatched samples obtained from the other subjects, he shall inform the tester whether he is expecting to obtain any samples from those other subjects and, if so, from whom and on what date.

## Note

- 9B-1270.  
1+  

- Amended by the [Blood Tests \(Evidence of Paternity\) \(Amendment\) Regulations 2015 \(SI 2015/1834\) reg.2\(7\)](#), with effect from 23 November 2015.

End of Document

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# Regulation 8. - Procedure where sampler nominated is unable to obtain the samples

White Book 2023 | Commentary last updated January 5, 2016

Volume 2


Section 9 - Jurisdictional and Procedural Legislation

Section 9B - Other Statutes and Regulations

Blood Tests (Evidence of Paternity) Regulations 1971

## Regulation 8

### 8.— Procedure where sampler nominated is unable to obtain the samples

- 9B-1271+  

- (1) Where a sampler is unable himself to obtain samples from all or any of the subjects, he may nominate another sampler medical practitioner or tester to take the samples which he is unable to obtain.

(2) The sampler shall record the nomination of the other sampler on the relevant direction forms and shall forward them to the sampler nominated by him.

## Note

- 9B-1271.  
1+  

- Amended by the [Blood Tests \(Evidence of Paternity\) \(Amendment\) Regulations 2015 \(SI 2015/1834\) reg.2\(8\)](#), with effect from 23 November 2015.

End of Document

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# Regulation 8A. - Accreditation

White Book 2023

Volume 2

Section 9 - Jurisdictional and Procedural Legislation

Section 9B - Other Statutes and Regulations

Blood Tests (Evidence of Paternity) Regulations 1971

Regulation 8a

8A. Accreditation

9B-1272+



- (1) Subject to paragraph 2(2), a body shall not be eligible for the purposes of section 20 of the Act unless it is accredited to ISO/IEC/17025 by an accreditation body which complies with the requirements of ISO Guide 58.
- (2) A body which employs a person who at the date of the coming into force of the Blood Tests (Evidence of Paternity) (Amendment) Regulations 2001 was a tester appointed by the Lord Chancellor shall, until three years after the date, be eligible for accreditation for the purposes of Section 20 of the Act notwithstanding; that it does not comply with paragraph (1).

# Regulation 9. - Testing of samples

White Book 2023 | Commentary last updated November 23, 2015

Volume 2


Section 9 - Jurisdictional and Procedural Legislation

Section 9B - Other Statutes and Regulations

Blood Tests (Evidence of Paternity) Regulations 1971

## Regulation 9

### 9.— Testing of samples

- 9B-1273+  

- (1) Samples obtained for the purpose of giving effect to a direction shall (so far as practicable) all be tested by the same tester.

(2) A tester shall not make tests on any samples for the purpose of a direction unless he will, in his opinion, be able to show from the results of those tests (whether alone or together with the results of tests on any samples which he has received and tested or expects to receive subsequently) that a subject is or is not excluded from being the father or mother of the person whose parentage falls to be determined or mother of the person whose parentage falls to be determined.

## Note

- 9B-1273.  
1+  

- Amended by the [Blood Tests \(Evidence of Paternity\) \(Amendment\) Regulations 2015 \(SI 2015/1834\) reg.2\(9\)](#), with effect from 23 November 2015.

End of Document

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# Regulation 10. - Report by tester

White Book 2023

Volume 2

Section 9 - Jurisdictional and Procedural Legislation

Section 9B - Other Statutes and Regulations

Blood Tests (Evidence of Paternity) Regulations 1971

Regulation 10

## 10. Report by tester

9B-1274+ On completion of the tests in compliance with the direction, the tester shall forward to the court a report in Form 2 in Schedule 1 to these Regulations, together with the appropriate direction forms.



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End of Document

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# Regulation 11. - Procedure where tests not made

White Book 2023


Volume 2

Section 9 - Jurisdictional and Procedural Legislation

Section 9B - Other Statutes and Regulations

Blood Tests (Evidence of Paternity) Regulations 1971

## 11. Procedure where tests not made

9B-1275+  If at any time it appears to a tester that he will be unable to make tests in accordance with the direction, he shall inform the court, giving his reasons, and shall return the direction forms in his possession to the court.

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End of Document

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# Regulation 12. - Fees

White Book 2023

Volume 2


Section 9 - Jurisdictional and Procedural Legislation

Section 9B - Other Statutes and Regulations

Blood Tests (Evidence of Paternity) Regulations 1971

## Regulation 12

### 12.— Fees

- 9B-1276+
- 
- (1) A sampler may charge £37.90 for making the arrangements to obtain a sample.

(2) The charge in paragraph (1) is payable whether or not a sample is obtained.

(3) This regulation does not apply where regulation 2(5) applies in a given case.



# Schedule 1

White Book 2023 | Commentary last updated January 5, 2016

Volume 2

Section 9 - Jurisdictional and Procedural Legislation

Section 9B - Other Statutes and Regulations

Blood Tests (Evidence of Paternity) Regulations 1971

9B-1276.  
1+

## Schedule 1



[View PDF](#)

## Note

9B-1276.  
2+



Amended by the [Blood Tests \(Evidence of Paternity\) \(Amendment\) Regulations 2015 \(SI 2015/1834\) reg.2\(10\)](#), with effect from 23 November 2015.

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# Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951

White Book 2023 | Commentary last updated December 17, 2007

Volume 2

Section 9 - Jurisdictional and Procedural Legislation


Section 9B - Other Statutes and Regulations

Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951


[Arrangement of Act](#)

**(1951 14 and 15 Geo. 6 c.65)**

## Editorial note

**9B-1277**  This [1951 Act](#) is of renewed importance given the current policy of using reserve forces, such as regiments of the Territorial Army in active service. Reservists have been called up and are serving in theatres of war, in peacekeeping duties and/or to assume the duties of regulars who are themselves on active service. Clearly any court is likely to have sympathy for a reservist unable to deal with his/her personal affairs while on active service and could in any event in the exercise of its discretion stay proceedings or stay enforcement. However, it is not merely a matter of discretion. In some circumstances the Act requires leave before issuing; in other circumstances it prohibits proceedings or enforcement. These provisions need to be known by landlords, mortgagees and other lenders.

## Scheme of the Act

**9B-1278**  The Act is in seven parts. We are concerned here only with the provisions relating to civil proceedings and enforcement and also omit provisions applicable only to Scotland. In cases governed by [s.3](#) no one may, without leave, proceed to execution on or enforcement of a judgment. Secondly, no one may, without leave, levy distress, take possession or appoint a receiver of property, re-enter on land, realise a security, take forfeiture at a deposit or institute proceedings for foreclosure. Thirdly, no one may without leave, proceed to execution or other enforcement of a judgment or order for recovery at possession of land in default of payment of rent. There is power to stay a bankruptcy petition.

[Part II \(ss.14—25\)](#) protects the reservist and family from eviction during the period of service and for four months thereafter.

[Part III \(ss.26—40\)](#) give protection to a reservist who was the working proprietor of a business or professional practice immediately before service.

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# Section 1. - Application of sections two to six

White Book 2023 | Commentary last updated December 17, 2007

Volume 2

Section 9 - Jurisdictional and Procedural Legislation

Section 9B - Other Statutes and Regulations

Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951

Section 1

## Part I Protection Against Certain Legal Remedies

### Provisions as to England and Wales

#### 1. Application of sections two to six

9B-1279+ The five next following sections shall apply to England and Wales only.



## Note

9B-1280+Subsections (1)(d) were substituted by the [Children Act 1989 s.108\(5\)](#) and (6), [Sch.13 para.12](#) and [Sch.14 para.1](#); subs.(6) was amended by the [Statute Law \(Repeals\) Act 1993](#).



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## Section 2. - General restrictions on execution and other remedies

White Book 2023

Volume 2

Section 9 - Jurisdictional and Procedural Legislation

Section 9B - Other Statutes and Regulations

Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951

### Section 2

#### Part I Protection Against Certain Legal Remedies

#### Provisions as to England and Wales

##### 2.— General restrictions on execution and other remedies

9B-1281+



(1) In the cases mentioned in the next following section no person shall be entitled, subject to the provisions of this Part of this Act, to proceed, except with the leave of the appropriate court, to execution on, or otherwise to the enforcement of, a judgment or order of any court other than a county court (whether given or made before or after the commencement of this Act) for the payment or recovery of a sum of money:

Provided that nothing in this subsection shall apply to—

- (a) a judgment for the recovery of damages for tort;
- (b) a judgment or order for the recovery of a debt which has become due by virtue of a contract made after the relevant date;
- (c) a judgment or order under which no sum of money is recoverable otherwise than in respect of costs;
- (d) an order for alimony, maintenance or other payment made under sections 21 to 33 of the Matrimonial Causes Act 1973 or made, or having effect as if made, under Schedule 1 to the Children Act 1989.
- (e) an order made in criminal proceedings, or an order made in proceedings for the recovery of a penalty in respect of a contravention of, or failure to comply with, any provisions of an Act;

or to the enforcement of any other judgment or order by judgment summons.

(2) In the cases mentioned in the next following section no person shall be entitled, subject to the provisions of this Part of this Act, except with the leave of the appropriate court—

- (a) to proceed to exercise any remedy which is available to him by way of—
  - the levying of distress;
  - the taking of possession of any property;
  - the appointment of a receiver of any property;
  - re-entry upon land;

the realisation of a security; or

the forfeiture of a deposit; or

**(b)** to institute proceedings for foreclosure or for sale in lieu of foreclosure, or for the recovery of possession of mortgaged property, or to take any step in any such proceedings instituted before the relevant date:

Provided that this subsection shall not apply to any remedy or proceedings available in consequence of default in the payment of a debt arising by virtue of a contract made after the relevant date or the performance of an obligation so arising; and nothing in this subsection shall affect—

**(i)** a power of sale of a mortgagee of land or an interest in land who is in possession of the mortgaged property at the relevant date, or who before that date has appointed a receiver who at that date is in possession, or in receipt of the rents and profits, of the mortgaged property; or

**(ii)** a power of sale of a mortgagee in possession of property other than land or some interest in land, where the power of sale has arisen and notice of the intended sale has been given before the relevant date; or

**(iii)** a right or power of a pawnbroker to deal with a pledge; or

**(iv)** any right or power of a person to sell goods in his custody as a bailee, being a right or power arising by reason of default in the payment of a debt; or

**(v)** the institution or prosecution of proceedings for the appointment by the court of a receiver of any property.

**(3)** In the cases mentioned in the next following section no person shall be entitled, subject to the provisions of this Part of this Act, to proceed, except with the leave of the appropriate court, to execution on, or otherwise to the enforcement of, a judgment or order of any court (whether given or made before or after the commencement of this Act) for the recovery of possession of land in default of payment of rent or for the delivery of any property other than mortgaged property by reason of a default in the payment of money:

Provided that nothing in this subsection shall apply to a judgment given or order made in proceedings for the enforcement of a contract made after the relevant date.

**(4)** If, on any application for such leave as is required under this section for the exercise of any of the rights and remedies mentioned in subsections (1), (2) and (3) of this section, the appropriate court is of opinion that the person liable to satisfy the judgment or order, or to pay the rent or other debt, or to perform the obligation, in question is unable immediately to do so by reason of circumstances directly or indirectly attributable to his or someone else's performing or having performed a period of relevant service, the court may, subject to the provisions of this Part of this Act, refuse leave for the exercise of that right or remedy, or give leave therefor subject to such restrictions and conditions as the court thinks proper.

**(5)** The appropriate court, in determining for the purpose of the last foregoing subsection whether a person is unable immediately to satisfy the judgment or order, or to pay the rent or other debt, or to perform the obligation, in question by reason of any such circumstances as are mentioned in that subsection, or in determining the restrictions and conditions (if any) subject to which leave is to be given under that subsection, may take account of other liabilities, whether present or future, of his.

**(6)** Where—

**(a)** a bankruptcy petition has been presented against a debtor, and it is shown to the satisfaction of the court having jurisdiction in the bankruptcy that his inability to pay his debts is due to circumstances directly or indirectly attributable to his or someone else's performing or having performed a period of relevant service; or

**(b)** [...]

the court may at any time stay the proceedings under the petition for such time and subject to such conditions as the court thinks fit.

## Section 3. - Scope of protection

White Book 2023

Volume 2

Section 9 - Jurisdictional and Procedural Legislation

Section 9B - Other Statutes and Regulations

Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951

### Part I Protection Against Certain Legal Remedies

#### Provisions as to England and Wales

##### 3.— Scope of protection

9B-1282+



(1) Subject to the following provisions of this section, the provisions of subsection (1), (2) or (3) of the last foregoing section shall apply to the exercise of a right or remedy in the following cases, and in the following cases only, that is to say:—

(a) they shall apply (by virtue of this paragraph and without more) where the person liable to satisfy the judgment or order, or to pay the rent or other debt, or to perform the obligation, in question is for the time being performing a period of relevant service;

(b) they shall apply (by virtue of this paragraph and without more, but subject to any order of the appropriate court directing that they shall not so apply or shall cease so to apply) where the person liable as aforesaid has been performing a period of relevant service and, while he was so doing, an application was made to the appropriate court for leave under the last foregoing section to exercise the right or remedy;

(c) they shall apply in a case where—

(i) the appropriate court by order so directs, on the application of the person liable as aforesaid and on being satisfied that he is unable immediately to satisfy the judgment or order, or to pay the rent or other debt, or to perform the obligation, in question by reason of circumstances directly or indirectly attributable to his or someone else's performing or having performed a period of relevant service; or

(ii) the person liable as aforesaid has made to the appropriate court an application for an order under this paragraph and the application has not been disposed of, or not having made such an application has given to the proper person written notice of his intention to do so.

(2) A notice given for the purpose of paragraph (c) of the foregoing subsection shall expire at the expiration of fourteen days (or, if given in a class of case as to which a longer period is prescribed for the purposes of this subsection, at the expiration of that period) from the date on which it was given, and where the person giving a notice for that purpose has given a previous notice to the like effect the later notice shall have no operation unless the previous notice was withdrawn with the consent of the proper person before it expired.

(3) For the purpose of the foregoing subsections, the expression “*the proper person*” means the person seeking to exercise the right or remedy in question, but a notice shall be deemed to be given to the proper person if given to any person (whether the proper person or his agent or not) proceeding to the enforcement of that right or remedy.

(4) Where the appropriate court makes an order under paragraph (c) of subsection (1) of this section with respect to the exercise of a right or remedy, the powers of the court under the last foregoing section shall thereupon be exercisable as if an application for leave to exercise the right or remedy in question had been made under that section.

(5) The appropriate court, in determining for the purpose of the said paragraph (c) whether the applicant is unable immediately to satisfy the judgment or order, or to pay the rent or other debt, or to perform the obligation, in question by reason of any such circumstances as are mentioned in that paragraph, may take account of other liabilities, whether present or future, of his.

(6) In their application to the enforcement of a judgment or order for the recovery of possession of land in default of payment of rent, the references in subsection (4) of the last foregoing section and subsection (1) of this section to the person liable to satisfy the judgment or order, or to pay the rent or other debt, or to perform the obligation, in question shall be construed as referring only to the person or persons against whom the judgment or order was made and who is or are, or would, but for any forfeiture incurred in consequence of the default be, entitled to the benefit of the lease under which the rent was reserved.

(7) Any reference in subsection (4) of the last foregoing section or subsection (1) of this section to the person liable to satisfy the judgment or order, or to pay the rent or other debt, or to perform the obligation, in question shall in a case where it is sought to exercise a right or remedy against one such person separately from any others who are also so liable, be construed as referring to him only and not including any such other person, but, in a case where it is sought to exercise it against two or more such persons jointly, shall be construed as referring to all or any of the persons against whom it is sought to exercise the right or remedy; and in this subsection references to exercising a right or remedy against a person shall include exercising it against property in which he has an interest or of which he is in possession.

(8) This section, and subsection (4) of the last foregoing section, shall apply to a person affected, or claiming to be affected, by an exercise or proposed exercise by the mortgagee of any property of any of the rights or remedies mentioned in subsection (2) of the last foregoing section, being a right or remedy arising by virtue of a default in the payment of any mortgage money or a breach of any mortgage obligation, as if that person were a person liable to pay the mortgage money or to perform the mortgage obligation:

Provided that the said subsection (2) shall not apply to require leave for the exercise of the right or remedy otherwise than against the person liable as aforesaid except by virtue of paragraph (c) of subsection (1) of this section.

(9) For the purposes of the last foregoing section and of subsection (3) of this section a person shall be deemed to be proceeding to execution on, or otherwise to the enforcement of, a judgment or order if, being entitled to the benefit of the judgment or order—

(a) he issues a bankruptcy notice or presents a bankruptcy petition or a winding-up petition founded on the non-payment of money due under the judgment or order; or

(b) he takes out some judicial process with a view to, or in the course of, the enforcement of the judgment or order;

and, where a person has (in a case for which leave was not required under the last foregoing section) taken out any judicial process with a view to, or in the course of, the enforcement of a judgment or order, or proceeded to the exercise of any such remedy as is mentioned in subsection (2) of that section, he shall be deemed to be proceeding to the enforcement of the judgment or order or to the exercise of the remedy when any step is taken by him or on his behalf towards its completion:

Provided that—

(i) the last foregoing section shall not apply to require leave for the taking of any such step as aforesaid except by virtue of paragraph (c) of subsection (1) of this section; and



(ii) for the purposes of this subsection, an application for discovery in aid of execution shall not be treated as the taking out of a judicial process or as the taking of a step towards the completion of the enforcement of a judgment or order.

(10) For the purposes of the last foregoing section, the expression “*the relevant date*” means the date on which the service man in question began to perform the period of relevant service:

Provided that—

(a) for the purposes of any reference in the last foregoing section to a contract made after the relevant date, where a service man performs two or more periods of relevant service the said expression means the date on which he began the later or latest of those periods of service; and

(b) for the purposes of paragraph (b) of subsection (2) of the last foregoing section, and of paragraphs (i) and (ii) of the proviso to the said subsection (2)—

(i) where the said date was before the commencement of this Act, then subject to sub-paragraph (ii) of this paragraph the said expression means the date of that commencement; and

(ii) in a case to which the last foregoing section applies by virtue of paragraph (c) of subsection (1) of this section, the said expression means the date on which that section began so to apply.

## Section 4. - Special provisions as to leases and hire-purchase agreements

White Book 2023 | Commentary last updated December 17, 2007

Volume 2

Section 9 - Jurisdictional and Procedural Legislation

Section 9B - Other Statutes and Regulations

Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951

### Section 4

#### Part I Protection Against Certain Legal Remedies

#### Provisions as to England and Wales

##### 4.— Special provisions as to leases and hire-purchase agreements

9B-1283+



(1) Where under section two of this Act the appropriate court refuses, or grants subject to restrictions and conditions, leave to enforce a judgment or order for the recovery of possession in default of payment of rent of any premises, the lease shall be deemed not to have been forfeited by reason of the default so long as the judgment or order remains unenforceable; and a judgment or order shall be deemed to have remained unenforceable, notwithstanding that it has at some time been enforceable, if before it is enforced it again becomes unenforceable.

(2) A judgment or order for the recovery of possession of a dwelling house let on or subject to a protected tenancy of statutory tenancy within the meaning of the Rent Act 1977 shall be deemed for the purposes of the foregoing provisions of this Act to be a judgment or order for the recovery of possession of the dwelling house in default of payment of rent if the court in giving or making the judgment or order was exercising the power conferred by Case 1 in Schedule 15 to the Rent Act 1977 on the sole ground that rent lawfully due from the tenant had not been paid and was not exercising any other power conferred by that Schedule.

(2A) For the purposes of the foregoing provisions of this Act, a judgment or order for the recovery of possession of a dwelling-house let on an assured tenancy within the meaning of Part I of the Housing Act 1988 shall be regarded as a judgment or order for the recovery of possession in default of payment of rent if the judgment or order was made on any of Grounds 8, 10 and 11 in Schedule 2 to that Act and not on any other ground.

(3) On an application under section two of this Act for leave to enforce a judgment or order for the recovery in default of payment of rent of possession of land held in distinct parcels under one lease by two or more lessees, the court may (notwithstanding that a single rent was reserved by the lease and the proviso for re-entry in default of payment of the rent was not severable) order that the application shall be dealt with as if those parcels had been held under distinct leases and applications were being made for leave to enforce separate judgments or orders in relation thereto, and may make such consequential provision as seems just for the apportionment of the arrears of rent, for the relief of any lessee from forfeiture of the parcel held by him and for the adjustment of the rights and obligations under the lease of the parties to the application.

[(4) Where the appropriate court refuses leave under section 4(2) of this Act to take possession of goods subject to a hire-purchase agreement or a conditional sale agreement or to execute a judgment or order for delivery of such goods, or gives leave subject to restrictions and conditions, and the person to whom the goods are bailed, or, as the case may be, the buyer, before possession is taken or execution on the judgment or order completed, pays the total price, the creditor's title to the goods shall, notwithstanding any failure to pay the total price at the time required by the agreement, vest in that person.

(5) Where the creditor under a hire-purchase agreement or a conditional sale agreement has taken possession of the goods bailed or agreed to be sold under it, the appropriate court on an application under section 3(1)(c) of this Act, may, if it thinks fit, deal with the case as if the creditor were proceeding to take possession of the goods and, if it makes an order under that paragraph, may direct accordingly that the goods be restored to the person to whom they were bailed or, as the case may be, the buyer; and if, after the creditor has taken possession of the goods, notice is given under that paragraph with respect to them, he shall not, so long as the notice is in force or any application in pursuance of the notice is undisposed of, deal with the goods in such a way as to prejudice the powers of the appropriate court under this subsection.

## Note

**9B-1284** Subsections (1)(d) were substituted by the [Children Act 1989 s.108\(5\)](#) and (6), [Sch.13 para.12](#) and [Sch.14 para.1](#); subs.(6) was amended by the [Statute Law \(Repeals\) Act 1993](#).



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## Section 5. - Appropriate courts and procedure

White Book 2023 | Commentary last updated December 17, 2007

Volume 2

Section 9 - Jurisdictional and Procedural Legislation

Section 9B - Other Statutes and Regulations

Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951

### Section 5

#### Part I Protection Against Certain Legal Remedies

#### Provisions as to England and Wales

##### 5.— Appropriate courts and procedure

9B-1285+



(1) The appropriate court for the purposes of any of the provisions of this Part of this Act applying to England and Wales shall be such court as may be designated by rules made by the Lord Chancellor under this section, and such rules may designate different courts in relation to different classes of proceedings.

(2) Rules may be made in accordance with Part 1 of Schedule 2 to the Constitutional Reform Act 2005 prescribing the manner in which applications under the said provisions are to be made, and prescribing any matter which under any of those provisions is to be prescribed, and generally for regulating the conduct of proceedings under the said provisions.

(3) Rules under subsection (2) may in particular make provision for enabling a court, for the purpose of hearing and determining an application under the said provisions of this Part of this Act or in exercising any discretion for the purposes of the said provisions of this Part of this Act, to admit any document as evidence of any facts stated therein.

(4) Rules under subsection (2) may in particular make provision for requiring, or dispensing with, service of notice of any application under the said provisions of this Part of this Act upon persons who may be affected, whether by virtue of subsection (5) of section two or subsection (5) or (8) of section three or otherwise, and for enabling any persons to be heard at the hearing of any application under those provisions, and may also make provision for the making of applications ex parte in such cases as may be prescribed by the rules.

(5) Rules under subsection (2) may, for the purpose of enabling a person performing relevant service to obtain the protection afforded by subsections (8) and (9) of section three of this Act, provide for enabling the appropriate court to treat as an application made by him for an order under paragraph (c) of subsection (1) of the said section three, an application for that purpose made by some other person on his behalf; and the rules may further provide that an application which the appropriate court has, under the rules, power to treat as an application by the person performing relevant service shall also be treated for the purposes of sub-paragraph (ii) of the said paragraph (c) as an application made by that person.

(5A) The Lord Chancellor must consult the Lord Chief Justice of England and Wales before making rules under subsection (1) that relate to England and Wales.

**(5B)** The Lord Chief Justice may nominate a judicial office holder (as defined in section 109(4) of the Constitutional Reform Act 2005) to exercise his functions under subsection (5A).

**(6)** The power to make rules conferred by subsection (1) shall be exercisable by statutory instrument, which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

## Note

**9B-1286** Subsections (2) to (6) were amended and subss.(5A) and (5B) were inserted by the [Constitutional Reform Act 2005 s.12\(2\)](#) and [Sch.1 Pt II, para.8](#) and [Sch.4, Pt I, para.41](#).



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## Section 6. - Interpretation of sections two to five

White Book 2023

Volume 2

Section 9 - Jurisdictional and Procedural Legislation

Section 9B - Other Statutes and Regulations

Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951

### Section 6

#### Part I Protection Against Certain Legal Remedies

#### Provisions as to England and Wales

##### 6.— Interpretation of sections two to five

9B-1287+



(1) In the foregoing provisions of this Act the following expressions have the meanings hereby respectively assigned to them, that is to say:—

“*costs*” includes all charges and possession money payable to a sheriff in respect of interpleader proceedings taken by him;

“*lease*” includes an underlease and any contract of tenancy, and the expression “*lessee*” shall be construed accordingly;

“*mortgage*” includes any charge, and the expressions “*mortgagor*” and “*mortgagee*” shall be construed accordingly;

“*mortgage money*” includes any part thereof and interest thereon;

“*mortgage obligation*” means any obligation arising under or by virtue of the mortgage, other than an obligation to pay the mortgage money;

“*prescribed*” means prescribed by rules made under the last foregoing section;

“*rent*” includes any sum payable by way of mesne profits;

“*the relevant date*” has the meaning assigned to it by subsection (10) of section three of this Act.

(2) It is hereby declared that in this Part of this Act the expression “*distress*” includes distress for rates.

(3) For the purposes of the foregoing provisions of this Act an execution against goods shall be deemed to be completed by seizure and sale or, where a writ or warrant of delivery is issued, by delivery of the goods, an attachment of a debt shall be deemed to be completed by the receipt of the debt, an execution against land shall be deemed to be completed by seizure or, in the case of an equitable interest, by the appointment of a receiver, and the enforcement of a judgment or order for recovery of possession of land shall be deemed to be completed by delivery of possession.

(4) References in the foregoing provisions of this Act to judgments or orders for the recovery of possession of land include references to any judgment or order the effect of which is to enable a person to obtain possession of land, and in particular includes, in relation to a mortgagee, a judgment or order for the delivery of possession of the mortgaged land.

(5) For the purposes of the foregoing provisions of this Act a mortgagee of land or any interest in land shall be treated as not being entitled to obtain possession of the mortgaged property, whether by virtue of his estate or interest as mortgagee or of any attornment or other provision contained in the mortgage or in any agreement collateral thereto, unless default has been made in payment of some mortgage money, or there has been a breach on the part of the mortgagor, or of some person concurring in the making of the mortgage of some mortgage obligation; and for this purpose default shall not be deemed to have been made in payment of any mortgage money (except in a case where the mortgage money is repayable by instalments) unless a written demand for payment has been served on the person liable, and a period of three months has elapsed since the service of the demand

## Section 13. - Effect of failure to observe restrictions under Part I

White Book 2023

Volume 2

Section 9 - Jurisdictional and Procedural Legislation

Section 9B - Other Statutes and Regulations

Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951

### Section 13

#### Part I Protection Against Certain Legal Remedies

### Effect of failure to observe restrictions under Part I

#### 13.— Effect of failure to observe restrictions under Part I

9B-1288+



(1) Omission to obtain leave required under section two of this Act, failure to observe a restriction or condition subject to which leave so required was given, or contravention of the prohibition in subsection (5) of section four of this Act against dealing with goods, shall not render invalid, or alter the effect of—

- (a) anything which would have operated as a transfer of the title to any property or of the possession of any property if leave had not been required or the restriction, condition or prohibition had not been imposed;
- (b) any payment, receipt, appointment or other transaction; or
- (c) any legal proceedings.

(2) In any action for damages for conversion or other proceedings which lie by virtue of any such omission, failure or contravention, the court may take account of the conduct of the defendant with a view, if the court thinks fit, to awarding exemplary damages in respect of the wrong sustained by the plaintiff.

(3) If in any action or proceedings which lie by virtue of any such omission, failure or contravention the court is satisfied that the defendant acted honestly and reasonably, and ought fairly to be excused for it, the court may relieve the defendant from liability in respect thereof.

(4) In so far as it appears to the appropriate court to be practicable to remedy the results of any such omission, failure or contravention as aforesaid specifically without prejudice to the interests of third parties, the court may give any such directions for restoration of property, repayment of money or other measures as may appear to the court to be requisite for that purpose.

In this subsection the expression “*third parties*” means persons other than—

- (a) in the case of such an omission or failure in connection with the enforcement of a judgment or order or the exercise of a remedy, the person proceeding thereto and any person acting in relation thereto on his behalf;



(b) in the case of an omission to obtain leave for instituting such proceedings as are mentioned in paragraph (b) of subsection (2) of section two of this Act or for taking a step in such proceedings, the person instituting the proceedings or taking the step in question;

(c) in the case of a contravention of the prohibition in subsection (5) of section four of this Act, the owner of the goods; and

(d) in any of the cases aforesaid, any person taking a transfer of the title to or possession of any property under a transaction in connection with which the omission, failure or contravention took place, if he took with knowledge of the circumstances which rendered what was done such an omission, failure or contravention.

(5) In relation to an action or other proceedings tried by a judge and jury—

(a) the references to the court in subsections (2) and (3) of this section shall be construed as references to the jury, but without prejudice to the power of the judge to give to the jury directions whether there is any evidence of facts justifying an award of exemplary damages on the one hand or the granting of relief on the other hand, or to give them advice as to the making of such an award or grant;

(b) the references to the court in subsection (4) of this section shall be construed as references to the judge alone.

(6) This section shall apply to Scotland subject to the following modifications:—

(a) for references to section two or to subsection (5) of section four of this Act there shall be respectively substituted references to section eight or to subsection (2) of section ten of this Act;

(b) paragraph (b) of subsection (4) of this section shall be omitted;

(c) the expression “*plaintiff*” means pursuer and the expression “*defendant*” means defender and any reference to a judgment shall include a reference to a decree.

## Section 14. - Period of residence protection, and scope of three succeeding sections (protection of tenure under lettings at a rent)

White Book 2023 | Commentary last updated December 29, 2009

Volume 2

Section 9 - Jurisdictional and Procedural Legislation

Section 9B - Other Statutes and Regulations

Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951

### Section 14

#### Part II Protection Against Insecurity of Tenure of Place of Residence

#### Protection during service other than short period of training

##### 14.— Period of residence protection, and scope of three succeeding sections (protection of tenure under lettings at a rent)

9B-1289+



(1) The three next succeeding sections shall have effect, subject to subsection (2) of this section, in the case of a service man who performs a period of relevant service, other than a short period of training, either wholly after the commencement of this Act or partly theretofore and partly thereafter, for giving, during that period of service, or the residue of it if it began before the commencement of this Act, and four months from the date of the ending of it (in this Part of this Act referred to, in relation to such a service man, as his “period of residence protection”), security of tenure of premises which at any time during the period of protection are a rented family residence of his.

For the purposes of the operation of this Part of this Act at any time during a service man’s period of residence protection—

(a) the expression “*rented family residence*” means premises in which (or in part of which) the service man was living immediately before the beginning of his period of service with a dependant or dependants of his in right of a tenancy at a rent of those premises being a tenancy vested in him or in that dependant or any of those dependants, and in which (or in part of which) at the time in question during the period of protection a dependant or dependants of his is or are living, whether with or without him, in right of such a tenancy of those premises being a tenancy vested in him or in that dependant or any of those dependants; and

(b) the expression “*tenancy qualifying for protection*” means the tenancy of a rented family residence of the service man in right of which a dependant or dependants of his is or are living therein or in part thereof at the time in question.


(2) The three next succeeding sections shall not have effect if and so long as the rented family residence—

(a) is a dwelling house which consists of or comprises premises which, by virtue of a premises licence issued under the Licensing (Scotland) Act 2005, are licensed for the sale of alcohol (within the meaning of section 2 of that Act) for consumption on the premises; or

(b) is bona fide let at a rent which includes payments in respect of board; or

(c) is a dwelling-house which is subject to a protected occupancy or statutory tenancy as defined in the Rent (Agriculture) Act 1976.

## Note

 **9B-1290** Subsection (2)(a) was amended by the [Rent Act 1968 s.117\(2\)](#) and [Sch.15](#) and by the [Licensing Act 2003 s.198\(1\)](#) and [Sch.6, paras 21 and 22](#); subs.(2)(c) was amended by the [Rent \(Agriculture\) Act 1976 s.40](#) and [Sch.8 para.1](#). Subsection (2)(a) was amended by the [Licensing \(Scotland\) Act 2005 \(Consequential Provisions\) Order 2009 \(SSI 2009/248\)](#) with effect from 1 September 2009.

# Section 15. - Protection of tenure of furnished, and certain other, rented premises, by extension of the Furnished Houses (Rent Control) Act

White Book 2023 | Commentary last updated December 17, 2007

Volume 2

Section 9 - Jurisdictional and Procedural Legislation

Section 9B - Other Statutes and Regulations

Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951

## Section 15

### Part II Protection Against Insecurity of Tenure of Place of Residence

#### Protection during service other than short period of training

##### 15.— Protection of tenure of furnished, and certain other, rented premises, by extension of the Furnished Houses (Rent Control) Act

9B-1291+



(1) Subject to subsection (2) of the last preceding section, where at any time during a service man's period of residence protection,

(a) the rented family residence is let under the tenancy qualifying for protection either on such terms as are mentioned in section 19(2) of the Rent Act 1977 (which relates to premises let in consideration of a rent which includes payment for the use of furniture or for services) or on terms of sharing with the lessor, and

(b) a notice to quit has been served by the lessor on the lessee (whether after or before the beginning of the period of protection) and the notice has not expired, but

(c) the condition specified in subsection (1)(b) of [section 104 of the Rent Act 1977 is not fulfilled, the said section 104 shall apply in relation to the notice to quit as if that condition had been fulfilled as to the contract under which that tenancy subsists.

(1A) This section does not apply in relation to any tenancy entered into after the commencement of section 69(2) of the Housing Act 1980.

(2) The reference in paragraph (a) of the preceding subsection to a letting on terms of sharing with the lessor is a reference to a letting under which—

(a) the lessee has the exclusive occupation of some accommodation (in this subsection referred to as “the separate accommodation”);

(b) he has the use of other accommodation in common with the lessor or with the lessor and other persons; and

(c) the accommodation mentioned in the last preceding paragraph is or includes accommodation of such a nature that the circumstances specified in that paragraph is sufficient to prevent the separate accommodation from being

a dwelling-house [let on or subject to a protected tenancy or statutory tenancy within the meaning of the Rent Act 1977, whether apart from that circumstance it would be such a dwelling-house or not.

(3) The subsistence of a Crown interest in premises shall not affect the operation of this section if the interest of the immediate landlord of the tenant under the tenancy in question is not a Crown interest, but nothing in this subsection shall be construed as excluding the operation of this Part of this Act in cases where there subsists a Crown interest not being the reversion immediately expectant on the tenancy in question.

(4) References in the said section 104 to that section shall be construed as including references to the preceding provisions of this section and to the said section 104 as extended by those provisions.

(5) Nothing in the preceding provisions of this section shall be construed as rendering the said section 104 applicable in a case in which the contract under which the tenancy in question subsists is excluded from being a restricted contract (within the meaning of the Rent Act 1977) by paragraph 17 of Schedule 24 to that Act.

## Note

**9B-1292** Subsection (1) was amended by the [Rent Act 1968 s.117\(2\)](#) and [Sch.15](#) and the [Rent Act 1977 s.155](#) and [Sch.23, para.3](#); subs. (1A) was inserted by the [Housing Act 1980 s.152, Sch.25, para.1](#); subss.(2), (4), (5) were amended by the [Rent Act 1977 s.155](#) and [Sch.23 para.3](#); subs.(3) was amended by the [Rent Act 1968 s.117\(2\)](#) and [Sch.15](#).



## Section 16. - Protection of tenure of certain rented premises by extension of Housing Act 1988

White Book 2023 | Commentary last updated December 17, 2007

Volume 2

Section 9 - Jurisdictional and Procedural Legislation

Section 9B - Other Statutes and Regulations

Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951

### Section 16

#### Part II Protection Against Insecurity of Tenure of Place of Residence

#### Protection during service other than short period of training

##### 16.— Protection of tenure of certain rented premises by extension of Housing Act 1988

9B-1293+



(1) Subject to subsection (2) of section 14 of this Act and subsection (3) below, if at any time during a service man's period of residence protection—

(a) a tenancy qualifying for protection which is a fixed term tenancy ends without being continued or renewed by agreement (whether on the same or different terms and conditions), and

(b) by reason only of such circumstances as are mentioned in subsection (4) below, on the ending of that tenancy no statutory periodic tenancy of the rented family residence would arise, apart from the provisions of this section,

Chapter I of Part I of the Housing Act 1988 shall, during the remainder of the period of protection, apply in relation to the rented family residence as if those circumstances did not exist and had not existed immediately before the ending of that tenancy and, accordingly, as if on the ending of that tenancy there arose a statutory periodic tenancy which is an assured tenancy during the remainder of that period.

(2) Subject to subsection (2) of section 14 of this Act and subsection (3) below, if at any time during a service man's period of residence protection—

(a) a tenancy qualifying for protection which is a periodic tenancy would come to an end, apart from the provisions of this section, and

(b) by reason only of such circumstances as are mentioned in subsection (4) below that tenancy is not an assured tenancy, and

(c) if that tenancy had been an assured tenancy, it would not have come to an end at that time,

Chapter I of Part I of the Housing Act 1988 shall, during the remainder of the period of protection, apply in relation to the rented family residence as if those circumstances did not exist and, accordingly, as if the tenancy had become an assured tenancy immediately before it would otherwise have come to an end.

**(3)** Neither subsection (1) nor subsection (2) above applies if, on the ending of the tenancy qualifying for protection, a statutory tenancy arises.

**(4)** The circumstances referred to in subsections (1) and (2) above are any one or more of the following, that is to say,—

**(a)** that the tenancy was entered into before, or pursuant to a contract made before, Part I of the Housing Act 1988 came into force;

**(b)** that the rateable value (as defined for the purposes of that Act) of the premises which are the rented family residence, or of a property of which those premises form part, exceeded the relevant limit specified in paragraph 2A of Schedule 1 to that Act;

**(c)** that the circumstances mentioned in paragraph 2, 3, 3A, 3B or paragraph 6 of that Schedule applied with respect to the tenancy qualifying for protection; and

**(d)** that the reversion immediately expectant on the tenancy qualifying for protection belongs to any of the bodies specified in paragraph 12 of that Schedule.

## Note

**9B-1294** Substituted by the [Housing Act 1988 s.140](#) and [Sch.17 Pt I](#); subs.(4) was amended by [SI 1990/434](#).



## Section 17. - Provisions supplementary to section sixteen in case of rented premises which include accommodation shared otherwise than with the landlord

White Book 2023 | Commentary last updated December 17, 2007

Volume 2

Section 9 - Jurisdictional and Procedural Legislation

Section 9B - Other Statutes and Regulations

Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951

### Section 17

#### Part II Protection Against Insecurity of Tenure of Place of Residence

#### Protection during service other than short period of training

##### 17.— Provisions supplementary to section sixteen in case of rented premises which include accommodation shared otherwise than with the landlord

9B-1295+



(1) Where at any time during a service man's period of residence protection a tenancy qualifying for protection which is a fixed term tenancy ends as mentioned in paragraph (a) of subsection (1) of the last preceding section, and immediately before the ending of the tenancy—

(a) the tenant under the terms of the tenancy had the exclusive occupation of some accommodation (in this section referred to as "the separate accommodation") and had the use of other accommodation in common with another person or other persons, not being or including the landlord, but

(b) by reason only of such circumstances as are mentioned in section 16(4) above, subsection (1) of section 3 of the Housing Act 1988 (provisions where tenant shares accommodation with persons other than landlord) did not have effect with respect to the separate accommodation,

the said section 3 shall during the remainder of the period of protection apply in relation to the separate accommodation as if the circumstances referred to in paragraph (b) of this subsection did not exist, and had not existed immediately before the ending of the tenancy, and, accordingly, as if on the ending of the tenancy there arose a statutory periodic tenancy which is an assured tenancy during the remainder of that period.

(2) Where, at any time during a service man's period of residence protection—

(a) a tenancy qualifying for protection which is a periodic tenancy would come to an end, apart from the provisions of this section and section 16 above, and

(b) paragraphs (a) and (b) of subsection (1) above apply,

section 3 of the Housing Act 1988 shall, during the remainder of the period of protection, apply in relation to the separate accommodation as if the circumstances referred to in subsection (1)(b) above did not exist and, accordingly, as if the tenancy had become an assured tenancy immediately before it would otherwise have come to an end.



(3) Neither subsection (1) nor subsection (2) above applies if, on the ending of the tenancy qualifying for protection, a statutory tenancy arises.

## Note

**9B-1296** Subsection (1) was amended by the [Rent Act 1968 s.117\(2\)](#) and [Sch.15](#); the [Housing Act 1988 s.140](#) and [Sch.17 Pt I](#); subss.(2) and (3) substituted for original subs.(2) by the [Housing Act 1988 s.140](#) and [Sch.17 Pt I](#).



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## Section 18. - Protection of tenure, in connection with employment, under a licence or a rent-free letting, by extension of the Rent Acts

White Book 2023 | Commentary last updated November 5, 2012

Volume 2

Section 9 - Jurisdictional and Procedural Legislation

Section 9B - Other Statutes and Regulations

Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951

### Section 18

#### Part II Protection Against Insecurity of Tenure of Place of Residence

#### Protection during service other than short period of training

##### 18.— Protection of tenure, in connection with employment, under a licence or a rent-free letting, by extension of the Rent Acts

9B-1297+



##### (1) Where—

(a) a service man begins a period of relevant service, other than a short period of training, after the commencement of this Act, and immediately before beginning it he was living, together with a dependant or dependants of his, in any premises by virtue of a licence in that behalf granted to him by his employer in consequence of his employment, or by virtue of a tenancy so granted otherwise than at a rent (in this section referred to as a “rent-free tenancy”), or

(b) a service man is performing a period of relevant service, other than a short period of training, at the commencement of this Act, and immediately before beginning it he was living as aforesaid, and a dependant or dependants of his is or are living in the premises or in part thereof, otherwise than in right of a tenancy at a rent, at the commencement of this Act,

then during the service man’s period of residence protection as defined in section fourteen of this Act Chapter I of Part I of the Housing Act 1988 shall, subject to the provisions of this section, apply in relation to those premises as if instead of the licence, or of the rent-free tenancy, as the case may be, there had been granted to the service man a tenancy at a rent—

(i) for a term of years certain expiring at the beginning of the period of service, or at the commencement of this Act if the period of service began theretofore, and

(ii) in other respects on the same terms and conditions (excluding any terms or conditions relating to the employment) as those on which the licence, or the rent-free tenancy, as the case may be, was granted; and those premises shall be deemed to be during the period of protection a dwelling-house let on a statutory periodic tenancy which is an assured tenancy if apart from this section they would not have been so.

(2) [repealed]

(3) Subsection (1) of this section shall not have effect—

(a) where the licence, or the rent-free tenancy, as the case may be, was granted in connection with the management of premises in England and Wales which, by virtue of a premises licence under the Licensing Act 2003, may be used for the supply of alcohol (within the meaning of section 14 of that Act) on the premises for consumption on the premises which, by virtue of a premises licence issued under the Licensing (Scotland) Act 2005, are licensed for the sale of alcohol (within the meaning of section 2 of that Act) for consumption on the premises, or

(b) where the licence, or the rent-free tenancy, as the case may be, was granted pursuant to a contract which imposed on the grantor thereof an obligation to provide board for the service man and the dependant or dependants, or

(c) where the premises are a dwelling-house subject to a protected occupancy or statutory tenancy as defined in the Rent (Agriculture) Act 1976, or


(d) is a dwelling-house which is let on or subject to an assured agricultural occupancy within the meaning of Part I of the Housing Act 1988 which is not an assured tenancy.

(4) As regards the assumption of the granting of a tenancy which is to be made for the purposes of subsection (1) of this section in a case where the grant in question was of a licence, if the granting of such a tenancy would have been a subletting of the premises it shall not be treated for any purpose as constituting a breach of any covenant or agreement prohibiting or restricting subletting.

(5) The subsistence of a Crown interest in the premises shall not affect the application of this section if the interest of the grantor of the licence, or the rent-free tenancy, as the case may be, is not a Crown interest.

(6) In relation to a policeman service man this section shall have effect with the substitution of a reference to a grant to him, either by the relevant local policing body or relevant police authority or by another person under arrangements made by that body or authority with that person, in consequence of the service man's membership of the relevant police force, for the reference in subsection (1) to a grant to a service man by his employer in consequence of his employment.

## Note

 **9B-1298** Subsection (1) was amended by the [Rent Act 1968 s.117\(2\)](#) and [Sch.15](#) and the [Housing Act 1988 s.140](#) and [Sch.17 Pt I](#); subs. (2) was repealed by the [Housing Act 1988 s.140](#) and [Sch.17, Pt I](#); subs.(3)(a) was amended by the [Licensing Act 2003 s.198\(1\)](#) and [Sch.6 paras 21 and 23](#); subs.(3)(c) was amended by the [Rent \(Agriculture\) Act 1976 s.40](#) and [Sch.8 para.2](#); subs.(3)(d) was inserted by the [Housing Act 1988 s.140](#) and [Sch.17 Pt I](#); subs.(6) was amended by the [Police Reform and Social Responsibility Act 2011 Sch.16 Pt.3 para.70](#), with effect from 16 January 2012. Subsection (3)(a) was amended by the [Licensing \(Scotland\) Act 2005 \(Consequential Provisions\) Order 2009 \(SSI 2009/248\)](#) with effect from 1 September 2009.

# Section 19. - Limitation on application of Housing Act 1988 by virtue of sections 16 to 18

White Book 2023 | Commentary last updated December 17, 2007

Volume 2

Section 9 - Jurisdictional and Procedural Legislation

Section 9B - Other Statutes and Regulations

Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951

## Section 19

### Part II Protection Against Insecurity of Tenure of Place of Residence

#### Protection during service other than short period of training

##### 19. Limitation on application of Housing Act 1988 by virtue of sections 16 to 18

9B-1299+ Where by virtue of sections 16 to 18 above, the operation of Chapter I of Part I of the Housing Act 1988 in relation to any premises is extended or modified, the extension or modification shall not affect—



- (a) any tenancy of those premises other than the statutory periodic tenancy which is deemed to arise or, as the case may be, the tenancy which is for any period deemed to be an assured tenancy by virtue of any of those provisions; or
- (b) any rent payable in respect of a period beginning before the time when that statutory periodic tenancy was deemed to arise or, as the case may be, before that tenancy became deemed to be an assured tenancy; or
- (c) anything done or omitted to be done before the time referred to in paragraph (b) above.

## Note

9B-1300+Substituted by the [Housing Act 1988 s.140, Sch.17, Pt I](#).



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## Section 20. - Modifications of Rent Acts as respects occupation by employees

White Book 2023 | Commentary last updated January 6, 2023

Volume 2

Section 9 - Jurisdictional and Procedural Legislation

Section 9B - Other Statutes and Regulations

Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951

### Section 20

#### Part II Protection Against Insecurity of Tenure of Place of Residence

#### Protection during service other than short period of training

##### 20.— Modifications of Rent Acts as respects occupation by employees

9B-1301+



(1) Where the carrying out of duties connected with an employment which a service man had before beginning a period of relevant service (or, in the case of a policeman service man, the carrying out of his police duties) constitutes an obligation of a tenancy, and his performing that service prevents his carrying out those duties, the fact that he does not carry them out shall not be treated for the purposes of Case 1 in Schedule 15 to the Rent Act 1977 or Ground 12 in Schedule 2 to the Housing Act 1988 (which relates to recovery of possession where an obligation of a tenancy has been broken or not performed) or the ground in section 157 of the Renting Homes (Wales) Act 2016 (anaw 1) (which relates to breach of contract) as a breach or non-performance of the obligation.

(2) Case 8 in the said Schedule 15 or, as the case may be, Ground 16 in the said Schedule 2 (which relates to recovery of possession, without proof of suitable alternative accommodation, in circumstances connected with occupation by employees) shall not apply for the purposes of the proceedings on an application for possession of premises made at any time during a service man's period of residence protection (as defined in section fourteen of this Act) if either—

(a) the premises are a rented family residence of his as defined in that section; or

(b) Chapter I of Part I of the Housing Act 1988 applies in relation to the premises as mentioned in section 18(1) of this Act and a dependant or dependants of the service man is or are living in the premises or in part thereof in right of the statutory periodic tenancy or assured tenancy referred to in section 19(a) of this Act.

(3) Where the last preceding subsection has effect as to an application for possession, the circumstances specified in the Cases in Part I of the said Schedule 15 or, as the case may be, Grounds 10 to 16 in Part II of the said Schedule 2 in which the court has power to make or give an order or judgment for the recovery of possession without proof of suitable alternative accommodation shall include the circumstances specified in either of the following paragraphs, that is to say—

(a) that the landlord is a body who are statutory undertakers or a local authority or development corporation having public utility functions, and that the premises are required by that body in the public interest for occupation as a residence for some person who is engaged in their whole-time employment in connection with their public


utility functions or with whom, conditional on housing accommodation being provided, a contract for such employment has been entered into;

(b) where the last preceding subsection has effect by virtue of paragraph (b) thereof and the service man in question is a policeman service man, that the premises are required by the relevant local policing body or relevant police authority for occupation as a residence by a member of the police force in question:

Provided that, where the court is satisfied that circumstances exist such as are specified in paragraph (a) of this subsection, the matters relevant for the court in determining under section 98(1) of the Rent Act 1977 or, as the case may be, section 7(4) of the Housing Act 1988 whether it is reasonable to make or give such an order or judgment shall (without prejudice to the generality of that subsection) include the question whether the body seeking the order or judgment have at their disposal any vacant accommodation which would be suitable alternative accommodation for the tenant, or will have such accommodation at their disposal at or before the time when it is proposed that the order or judgment should take effect.

(4) In the last preceding subsection the expressions “*statutory undertakers*” and “*local authority*” have the same meanings as in the Town and Country Planning Act, 1971, the expression “*development corporation*” has the same meaning as in the New Towns Act 1965, and the expression “*public utility functions*” means powers or duties conferred or imposed by or under any enactment being powers or duties to carry on a statutory undertaking (as defined in the said Act of 1971) or being powers or duties of an internal drainage board.

## Note

 **9B-1302** Subsection (1) was amended by the [Rent Act 1968 s.117\(2\)](#) and [Sch.15](#), the [Rent Act 1977 s.155](#) and [Sch.23 para.8](#), and the [Housing Act 1988 s.140](#) and [Sch.17 Pt I](#); subs.(2) amended by the [Rent Act 1977 s.155](#) and [Sch.23 para.8](#), and the [Housing Act 1988 s.140](#) and [Sch.17 Pt I](#); subs.(3) was amended by the [Rent Act 1968 s.117\(2\)](#) and [Sch.15](#), the [Rent Act 1977 s.155](#) and [Sch.23, para.8](#), and the [Housing Act 1988 s.140](#) and [Sch.17, Pt I](#); subs.(4) was amended by the [Water Act 1989 s.190](#) and [Sch.25, para.16](#); subs.(3)(b) was amended by the [Police Reform and Social Responsibility Act 2011 Sch.16 Pt.3 para.71](#), with effect from 16 January 2012. Subsection (1) further amended by the [Renting Homes \(Wales\) Act 2016 \(Consequential Amendments\) Regulations 2022 \(SI 2022/1166\) reg.4\(2\)](#), with effect from 1 December 2022.

## Section 22. - Facilities for action on behalf of men serving abroad in proceedings as to tenancies

White Book 2023 | Commentary last updated January 6, 2023

Volume 2

Section 9 - Jurisdictional and Procedural Legislation

Section 9B - Other Statutes and Regulations

Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951

### Section 22

#### Part II Protection Against Insecurity of Tenure of Place of Residence

#### Protection during service other than short period of training

##### 22.— Facilities for action on behalf of men serving abroad in proceedings as to tenancies

9B-1303+



(1) Where in the course of any proceedings brought under Part I of the Protection from Eviction Act 1977 or under Part III, IV, or VII of the Rent Act 1977 or under Part I of the Housing Act 1988 or under Part 9 of the Renting Homes (Wales) Act 2016 (anaw 1) (termination etc of occupation contracts), or of any proceedings consequential upon the making of a reference or application to a rent tribunal under Part V of the Rent Act 1977 or Part I of the Housing Act 1988 of that Act, or under the Renting Homes (Wales) Act 2016, or under this Part of this Act, it appears to the court or tribunal—

(a) that the proceedings relate to a tenancy or licence vested in a service man;

(b) that a person other than the service man desires to take a step in the proceedings on behalf of the service man at a time when he is serving abroad, or has purported to take a step in the proceedings on his behalf at a time when he was so serving; and

(c) that the said person, in seeking or purporting to take that step, is or was acting in good faith in the interests of the service man, and is or was a fit person to take that step on his behalf, but is or was not duly authorised to do so,

the court or tribunal may direct that the said person shall be deemed to be, or to have been, duly authorised to take that step on behalf of the service man.

(2) The provisions of the preceding subsection apply in relation to the institution of proceedings before a court as they apply in relation to the taking of a step in such proceedings, and apply in relation to the making of a reference or application to a rent tribunal as they apply in relation to the taking of a step in proceedings consequential upon the making of such a reference or application; and references in that subsection to proceedings brought or a reference or application made as therein mentioned include references to proceedings which purport to be so brought or to a reference or application which purports to be so made, as the case may be.


(3) Where in the course of any proceedings a court or tribunal gives a direction under subsection (1) of this section, the person to whom the direction relates shall have the like right of audience in those proceedings as the service man himself would have.

(3A) In relation to any proceedings before a rent officer or rent assessment committee, within the meaning of the Rent Act 1977, subsections (1) to (3) of this section shall have effect as if the references to the court or tribunal included references to a rent officer or rent assessment committee.

(4)–(6) [repealed]

(7) References in this section to a time when a service man is serving abroad are references to a time when he is performing a period of relevant service and is outside the United Kingdom.

## Note

 **9B-1304** Subsection (1) was amended by the [Rent Act 1968 s.117\(2\)](#) and [Sch.15](#), the [Protection from Eviction Act 1977 s.12](#) and [Sch1, para.1](#), the [Rent Act 1977 s.155](#) and [Sch.23 para.9](#), and the [Housing Act 1988 s.140](#) and [Sch.17, Pt I](#); subss.(4)–(6) were repealed by the [Agricultural Holdings \(Notices to Quit\) Act 1977 s.13](#) and [Sch 2](#).

Subsection (1) further amended by the [Renting Homes \(Wales\) Act 2016 \(Consequential Amendments\) Regulations 2022 \(SI 2022/1166\) reg.4\(3\)](#), with effect from 1 December 2022.



## Section 23. - Interpretation of Part II

White Book 2023 | Commentary last updated November 5, 2012

Volume 2

Section 9 - Jurisdictional and Procedural Legislation

Section 9B - Other Statutes and Regulations

Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951

### Section 23

#### Part II Protection Against Insecurity of Tenure of Place of Residence

#### Protection during service other than short period of training

##### 23.— Interpretation of Part II

9B-1305+



(1) In this Part of this Act, unless the context otherwise requires, the following expressions have the meanings hereby assigned to them respectively, that is to say:—

“*agricultural land*” has the same meaning as it has for the purposes of section 26 of the Rent Act 1977;

“*assured tenancy*” has the same meaning as in Part I of the Housing Act 1988

“*Crown interest*” means an interest belonging to His Majesty in right of the Crown or of the Duchy of Lancaster, or to the Duchy of Cornwall, or to a Government department, or held on behalf of His Majesty for the purposes of a Government department;

“*dependant*”, in relation to a service man, means—

(a) his spouse or civil partner, and

(b) any other member of his family who was wholly or mainly maintained by him immediately before the beginning of the period of service in question;

“*fixed term tenancy*” means any tenancy other than a periodic tenancy;

in relation to a statutory tenancy or to a provision of the Rent Act 1977 “*landlord*” and “*tenant*” have the same meaning as in that Act but, subject to that, those expressions have the same meaning as in Part I of the Housing Act 1988

“*policeman service man*” means a service man who, immediately before beginning the period of relevant service in question, was a member of a police force;

“*relevant local policing body*” or “*relevant police authority*” means, in relation to a police force, the local policing body or the police authority responsible for the maintenance of that force;

“*statutory periodic tenancy*” has the same meaning as in Part I of the Housing Act 1988

“*statutory tenancy*” means a right to retain possession of premises after the ending of a tenancy thereof, being a right arising on the ending of that tenancy from the operation of the Rent Act 1977 (or of the Rent Act 1977 as

extended by this Part of this Act) in relation to a person as being, or being the surviving spouse or surviving civil partner of or otherwise related to, the former owner of the tenancy, or a right to retain possession of premises arising by virtue of subsection (1) of section eighteen of this Act;

“*tenancy*” includes a statutory tenancy, and, apart from a statutory tenancy, means a tenancy created either immediately or derivatively out of the freehold, whether by a lease or underlease, by an agreement for a lease or underlease or by a tenancy agreement, but does not include any relationship between a mortgagor and a mortgagee as such.

**(1A)** Any reference in this Part of this Act to Chapter I of Part I of the Housing Act 1988 includes a reference to the General Provisions of Chapter VI of that Part, so far as applicable to Chapter I.

**(2)** In this Part of this Act—

**(a)** references to the ending of a tenancy are references to the coming to an end thereof however brought about, whether by effluxion of time, notice to quit or otherwise, and in particular, as respects a statutory tenancy, include references to the coming to an end thereof as between the tenant and a landlord who is himself a tenant by reason of the ending of the tenancy of the landlord;

**(b)** references to a tenancy vested in any person include references to a tenancy vested in trustees, or held as part of the estate of a deceased person, where the first-mentioned person has a right or permission to occupy the premises arising by reason of a beneficial interest (whether direct or derivative) under the trusts or, as the case may be, in the estate of the deceased person or under trusts of which the deceased person was trustee.

**(3)** In this Part of this Act, and in the Rent Act 1977 or Chapter I of Part I of the Housing Act 1988 as applied by any provision thereof, references to rent shall be construed as including references to any sum in the nature of rent payable in respect of such a licence as is mentioned in section eighteen of this Act.

## Note

**9B-1306** In subs.(1) the definition “agricultural land” was amended by the [Rent Act 1968 s.117\(2\)](#) and [Sch.15](#), the [Rent Act 1977 s.155](#) and [Sch.23 para.10](#); the definitions “assured tenancy”, “fixed term tenancy” and “statutory periodic tenancy” were inserted by the [Housing Act 1988 s.140](#) and [Sch.17 Pt I](#); the definitions “dependant” and “statutory tenancy” were amended by the [Civil Partnership Act 2004 s.257](#) and [Sch.26 para.21](#); the definition ““landlord” and “tenant”” was substituted by the [Housing Act 1988 s.140](#) and [Sch.17 Pt I](#); the definition “police force” repealed and the definition “relevant police authority” was amended by the [Police Act 1964 s.64\(3\)](#) and [Sch.10 Pt I](#); and the definition “statutory tenancy” was amended by the [Rent Act 1977 s.155](#) and [Sch.23 para.10](#).

Subsection (1A) was inserted by the [Housing Act 1988 s.140](#) and [Sch.17 Pt I](#).

Subsection (3) was amended by the [Rent Act 1977 s.155](#) and [Sch.23 para.10](#) and the [Housing Act 1988 s.140](#) and [Sch.17 Pt I](#). In subs.(1) definition “relevant local policing body” or “relevant police authority” was amended by the [Police Reform and Social Responsibility Act 2011 Sch.16 Pt.3 para.72](#), with effect from 16 January 2012.

## Section 25. - Protection during short period of training

White Book 2023 | Commentary last updated December 17, 2007

Volume 2

Section 9 - Jurisdictional and Procedural Legislation

Section 9B - Other Statutes and Regulations

Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951

### Section 25

## Part II Protection Against Insecurity of Tenure of Place of Residence

### Protection during short period of training

#### 25.— Protection during short period of training

9B-1307+



(1) Where a service man who has been living with a dependant or dependants of his in any premises in right of a tenancy, or of a licence in that behalf granted by his employer in consequence of his employment, performs a short period of training, then, for so long during that period and within fourteen days from the ending of it as the dependant or dependants and the service man or any of them is or are still living in the premises or any part thereof, no person shall be entitled, except with the leave of the appropriate court, to proceed—

(a) to execution on, or otherwise to the enforcement of, any judgment or order given or made against any of them for the recovery of possession of any part of the premises in which any of them is or are living, or

(b) to exercise against any of them any right to take possession of, or to re-enter upon, any such part thereof.

(2) If, on any application for such leave as is required by the preceding subsection, the court is of opinion that, by reason of circumstances directly or indirectly attributable to the service man's performing or having performed the period of service in question, the judgment, order or right ought not to be immediately executed, enforced or exercised, the court may refuse leave or give leave subject to such restrictions and conditions as the court thinks proper.

(3) References in this section to a judgment or order for the recovery of possession of premises include references to any judgment or order the effect of which is to enable a person to obtain possession of the premises, and in particular includes, in relation to a mortgagee, a judgment or order for the delivery of possession of the premises.

(4) For the purposes of this section a person shall be deemed to be proceeding to execution on, or otherwise to the enforcement of, a judgment or order in the circumstances in which, by virtue of subsection (9) of section three of this Act, he would be deemed to be so proceeding for the purposes of section two of this Act, and, where a person has, in a case for which leave was not required under this section, taken out any judicial process with a view to, or in the course of, the enforcement of a judgment or order or proceeded to the exercise of a right to take possession of or to re-enter upon premises, he shall be deemed to be proceeding to the enforcement of the judgment or order or to the exercise of the right when any step is taken by him or on his behalf towards its completion.

(5) The references in section five and subsection (1) of section eleven of this Act to the provisions of Part I of this Act shall include references to the provisions of this section, and the provisions of section thirteen of this Act which relate to omission to obtain leave required under section two of this Act shall have effect in relation to omission to obtain leave required under this section.

(6) In this section the expression “*dependant*” , in relation to a service man, means—

(a) his spouse or civil partner, and

(b) any other member of his family wholly or mainly maintained by him.

## Note

~~9B-1308~~ Subsection (6) was amended by the [Civil Partnership Act 2004 s.257](#) and [Sch.26, para.22](#).



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