
Seizure

Seizure is the act of taking possession of personal property. Section 9(3) of the Civil Enforcement Act authorizes a Civil Enforcement Agency to effect seizure unless otherwise provided under another statute. Subsection (4) requires the Civil Enforcement Agency to use only Civil Enforcement Bailiffs for the purpose of carrying out seizures.

There are two basic categories of seizure: writ and distress.

Writ Seizure

Writ Seizure is a seizure of non-exempt personal property to enforce a money judgment pursuant to writ proceedings authorized by the Civil Enforcement Act.

* Upon obtaining a judgment and entering it in the Court of Queen's Bench a creditor may prepare and file a Writ of Enforcement with the Clerk of the Court of Queen's Bench in the Judicial Centre in which the judgment was issued. This writ authorizes enforcement proceedings and must be registered with Personal Property Registry before enforcement can be initiated.

A Writ of Enforcement authorizes enforcement proceedings by a Civil Enforcement Bailiff in accordance with the Civil Enforcement Act for the purpose of enforcing a money judgment.

Distress Seizure

Distress seizure is a seizure of personal property to enforce the payment of certain claims that do not form part of a judgment issued by the Court.

A Distress Warrant is the document by which a creditor requests an Agency to effect a seizure and is the authorization under which the Agency acts.

Section 1(1)(m) of the Civil Enforcement Act sets out the rights of distress. The following are the most common:

- | | | |
|-----|--------------------|--|
| (1) | Contractual - PPSA | Seizure under the Personal Property Security Act arising from a default on a contractual agreement between two parties, i.e. security agreement. |
| (2) | Landlord Distress | Seizure by a landlord for arrears in rent. |
| (3) | Statutory Distress | Seizure under a specific statutory provision allowing for the enforcement of a claim that does not form part of a court ordered judgment. Some Acts specifically incorporate the provisions of the Civil Enforcement Act for their distress procedure. Others specifically exclude the provisions of the Civil Enforcement Act and the Civil Enforcement Agency must be careful in dealing with these to ensure that it follows the correct procedure. |

* Unless otherwise ordered by the court, a seizure or eviction or a removal of seized property that is carried out at a residence in accordance with the Civil Enforcement Act shall be carried out only between the hours of 6:00 a.m. and 10:00 p.m. For more information see Circular #1/97 in section 16 "Circulars".

Costs

Keep in mind that the costs incurred by you in the performance of your duties will eventually be applied to the debt. Therefore, care must be taken to avoid all unnecessary costs. If you have reason to believe that excessive costs will be incurred in carrying out the instructions, advise the instructing party before proceeding.