

Glossary

A

Affidavit of Service A sworn statement outlining that a particular document has been given(served) to an individual or corporation in the manner set out in this sworn document.

Assignment of Book Debts A transfer to an assignee of monies owing to the assignor.

Attachment Order An order granted by the Court as a form of prejudgment relief.

B

Bailee A person who has undertaken to hold property seized by the Civil Enforcement Bailiff on behalf of a Civil Enforcement Agency until it is required by the Civil Enforcement Agency.

Bailee's Undertaking An agreement signed by the bailee agreeing to keep the personal property seized by the Civil Enforcement Bailiff and surrender it when required.

C

Civil Enforcement Bailiff An officer appointed under the Civil Enforcement Act and empowered to conduct specific enforcement activities such as seizures and evictions.

Custodia Legis A Latin term meaning "in the custody of the law". It is used in reference to personal property that has been the subject of a previous seizure.

D

Debtor	One who owes money to another.
Distress	The right that a person has to enforce the payment of certain claims against another person that do not form part of a judgment issued by a court.

E

Encumbrance	A claim of a right or interest that a person has in property owned by another that may affect the ability of the owner to freely deal with the property e.g. security agreement, lien, etc.
Enforcement Creditor	A person in whose favour a writ is in force.
Enforcement Debtor	A person against whom a writ is in force.
Equitable Interest	A right or claim to property that is less than a legal interest, e.g. an unregistered agreement for the sale of land.
Examination	Interrogation on oath.
Exigible	The portion of personal property in which the debtor has equity, that is liable to seizure.

G

Garnishee	A person who is required by a Garnishee Summons to pay to the creditor money that would otherwise be payable to the debtor.
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I

Indemnity	A contract or assurance, by which one person agrees to secure another against an anticipated loss .
Instructing Creditor	Enforcement creditor on whose instruction the Agency commences seizure activity.
Instructing Party	In this manual, the term refers to an instructing creditor, his agent or his solicitor who provides written instructions to the Agency.

J

Judgment	The final decision of the court resolving the dispute and determining the rights and obligations of the parties.
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L

Lien	The right to hold the property of another as security for performance of an obligation.
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P

- Perfected Security Interest** A security interest registered in the Personal Property Registry. A security interest may be perfected
- (a) by registration in the Personal Property Registry, or
 - (b) by taking possession of the property that is subject to the security interest other than under enforcement proceedings.
- Personal Property** Property other than land.

R

- Removal and Sale** The taking of possession of seized personal property from the debtor and sale of the seized personal property pursuant to the terms of the Civil Enforcement Act.
- Replevin** Recovery of personal property from one who has wrongfully or fraudulently taken or withheld it.
- Reserve Bid** Bid placed by an absentee bidder for a certain amount on an item being auctioned. The item cannot be sold for less but can be sold to another bidder for more.

S

Sale By Tender	Sale by sealed bids of seized personal property.
Seizure	The act of taking possession of personal property.
Statement of Claim	The pleading by which a plaintiff commences an action against a defendant.
Stay of Proceedings	The suspending of proceedings by the court.
Style of Cause	The name of the plaintiff and the defendant (creditor/debtor) as it appears on a document.
Substitutional Service	Service that is authorized by the Court, other than personal service or service as was otherwise prescribed by a statute or other legislative enactment, e.g. the Court may allow service upon a defendant by serving his wife.
Surrender	To turn over personal property seized from a debtor to a creditor.

W

Warrant	A legal document authorizing those to whom it is addressed to do an act in the administration of justice, for example, seize personal property.
Writ of Enforcement	A document issued by the Court authorizing civil enforcement proceedings.
Writ Proceedings	Any action, step or measure authorized by the Civil Enforcement Act to be taken for the purpose of enforcing a money judgment.