STATUTORY INSTRUMENTS

2015 No. 426

ENVIRONMENTAL PROTECTION, ENGLAND AND WALES

The Control of Waste (Dealing with Seized Property) (England and Wales) Regulations 2015

Made - - - -	*3rd March 2015*
Laid before Parliament	*5th March 2015*
Laid before the National Assembly for Wales - -	*5th March 2015*
Coming into force - -	*6th April 2015*

The Secretary of State in relation to England, and the Welsh Ministers in relation to Wales, make these Regulations in exercise of the powers conferred by sections 5A(2) to (4), 6(1)(c) and (5) to (7) and 8(2) of the Control of Pollution (Amendment) Act 1989(**1**) and section 34C(2) to (4) of the Environmental Protection Act 1990(**2**).

(**1**) 1989 c. 14. In relation to Wales, the functions of the Secretary of State conferred by that Act were transferred to the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672), article 2 and Schedule 1. The functions of the National Assembly for Wales were transferred to the Welsh Ministers by the Government of Wales Act 2006 (c. 32), Schedule 11, paragraph 30. Section 5A was substituted (together with section 5) for section 5 as originally enacted, in relation to England and Wales, by the Clean Neighbourhoods and Environment Act 2005 (c. 16), section 37. Section 6 was amended by the 1990 Act, Schedule 15, paragraph 31 and the Environment Act 1995 (c. 25), Schedule 22, paragraph 37(4), and is repealed by S.I. 2015/425 on the same date as this instrument comes into force. Section 8(2) was amended by the Clean Neighbourhoods and Environment Act 2005, Schedule 4, paragraph 11(4). For the definition of "appropriate person", see section 9(1) of the 1989 Act.

(**2**) 1990 c. 43. In relation to Wales, the functions of the Secretary of State conferred by that Act were transferred to the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672), article 2 and Schedule 1. The functions of the National Assembly for Wales were transferred to the Welsh Ministers by the Government of Wales Act 2006 (c. 32), Schedule 11, paragraph 30. Section 34C was inserted, in relation to England and Wales, by the Clean Neighbourhoods and Environment Act 2005, section 46(1). For the definition of "appropriate person", see section 29(1A) of the 1990 Act.

PART 1

General

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Control of Waste (Dealing with Seized Property) (England and Wales) Regulations 2015 and come into force on 6th April 2015.

(2) These Regulations extend to England and Wales.

Interpretation

2. In these Regulations—

"the 1989 Act" means the Control of Pollution (Amendment) Act 1989;

"the 1990 Act" means the Environmental Protection Act 1990;

"claim period" means the period determined in accordance with regulation 10;

"date of seizure" means the date on which the property was seized under section 5 of the 1989 Act(**3**) (power to require production of authority, stop and search etc.) or section 34B of the 1990 Act(**4**) (power to search and seize vehicles etc.);

"date of the determination notice" means the date on which the determination notice is given in accordance with regulation 12(2)(b);

"date of the seizure notice" means the first working day on which the period for display of the seizure notice begins in accordance with regulation 7(1)(a)(i);

"determination notice" means the notice given in accordance with regulation 12(1)(c);

"entitled person" means a person determined under regulation 12(1)(a) as entitled to all or part of the seized property;

"forfeiture offence" means an offence specified in section 33C(1) of the 1990 Act (section 33 offences: forfeiture of vehicles), in respect of which an order for forfeiture can be made under subsection (2) of that section(**5**);

"relevant collection period" means the period determined in accordance with regulation 12(1)(b)(ii);

"seizure authority" means—

(a) a regulation authority(**6**) on whose behalf property is seized under section 5 of the 1989 Act; or

(b) an enforcement authority(**7**) on whose behalf property is seized under section 34B of the 1990 Act;

"seizure notice" means a notice given in accordance with regulation 7(1);

"working day" means any day other than a Saturday, a Sunday, Christmas Day, Good Friday or a day which is a bank holiday under the Banking and Financial Dealings Act 1971(**8**).

(**3**) Section 5 was substituted (together with section 5A), in relation to England and Wales, by the Clean Neighbourhoods and Environment Act 2005, section 37. It was amended by the 1990 Act, Schedule 15, paragraph 31.
(**4**) Section 34B was inserted, in relation to England and Wales, by the Clean Neighbourhoods and Environment Act 2005, section 46(1). It was amended by S.I. 2005/2900, 2007/3538, 2010/675 and 2013/755.
(**5**) Section 33C was inserted, in relation to England and Wales, by the Clean Neighbourhoods and Environment Act 2005, section 44(1). Section 33C(1) was substituted, in relation to England and Wales, by S.I. 2007/3538 and amended, in relation to England and Wales, by S.I. 2010/675.
(**6**) For the definition of "regulation authority", see section 9(1), (1A) and (1AA) of the 1989 Act.
(**7**) For the definition of "enforcement authority", see section 34B(11) of the 1990 Act.
(**8**) 1971 c. 80.

Notices

3.—(1) Any notice required by these Regulations to be served on or given to a person may be served or given by—

(a) personal delivery;

(b) leaving it at the person's proper address; or

(c) sending it by post or by electronic means to the person's proper address.

(2) Any such notice may—

(a) in the case of a body corporate, be served on or given to the secretary or clerk;

(b) in the case of a partnership, be served on or given to a partner or a person having control or management of the partnership business.

(3) For the purposes of this regulation, "proper address" means—

(a) in the case of a body corporate or its secretary or clerk—

(i) the registered or principal office of that body; or

(ii) the email address of the secretary or clerk;

(b) in the case of a partnership or a partner or person having control or management of the partnership business—

(i) the principal office of the partnership; or

(ii) the email address of a partner or a person having that control or management;

(c) in any other case, a person's last known address, including an email address.

(4) For the purposes of this regulation, the principal office of a company registered outside the United Kingdom or of a partnership established outside the United Kingdom is its principal office in the United Kingdom.

PART 2

General duties in relation to seized property

General duty in relation to seized property

4. Where any property is seized on behalf of a seizure authority under section 5 of the 1989 Act or section 34B of the 1990 Act, the seizure authority must deal with the seized property in accordance with these Regulations.

Duty of safe custody

5. A seizure authority must keep the seized property in safe custody until—

(a) any duty to return under regulation 14, 15(2)(b), 16(2)(b) or 17(2)(c) ceases in accordance with regulation 19(1); or

(b) where applicable, the ability to sell, destroy or otherwise dispose of the seized property arises in accordance with regulation 21 or 22.

Ascertainment of entitled person

6.—(1) Where the seized property is a vehicle, a seizure authority must, on the date of seizure or the first working day after that date—

(a) request information as to the registered keeper of the vehicle—

(i) where there is a Great Britain or Northern Ireland registration mark, from the Driver and Vehicle Licensing Agency;

(ii) where there is a foreign registration mark, from the relevant authority in the country of registration; and

(b) take reasonable steps to identify whether the vehicle is subject to a hire-purchase agreement and, if so, to identify the person entitled to possession of the vehicle under that agreement.

(2) In this regulation, "hire-purchase agreement" has the meaning given in section 189(1) of the Consumer Credit Act 1974(**9**) (definitions).

Notice of seizure

7.—(1) A seizure authority must give notice of the seizure of property under section 5 of the 1989 Act or under section 34B of the 1990 Act by—

(a) displaying a notice at the office of the seizure authority on whose behalf the seizure was made, for the period—

(i) beginning with the first working day after the date of seizure; and

(ii) ending 15 working days after that date; and

(b) publishing such notice in a newspaper or on the seizure authority's website in accordance with regulation 8.

(2) A seizure notice must contain the following information—

(a) a brief description of the seized property, including any registration mark;

(b) the time and place where the property was seized;

(c) the power under which the property was seized;

(d) the name and contact details, including the address, of the seizure authority;

(e) the address and contact details of where to claim entitlement to the property (if different from that given under sub-paragraph (d));

(f) the claim period;

(g) an explanation of the evidence that a claimant will need to provide to the seizure authority to establish entitlement to the seized property in accordance with regulation 11; and

(h) an explanation that the seized property can be sold, destroyed or otherwise disposed of in accordance with regulation 21 if it is not claimed within the claim period or if a claimant who brought a claim within such period is not determined as entitled.

Publication of seizure notice

8. The requirements in relation to publication in regulation 7(1)(b) are—

(a) where publication is in a newspaper—

(i) the newspaper must be a local newspaper, or, if there is none, a local newsletter, circular or similar document, circulating within the area of the office of the seizure authority on whose behalf the seizure was made; and

(ii) the seizure notice must be published on at least one occasion within the period beginning with the date of the seizure notice and ending 15 working days after that date;

(**9**) 1974 c. 39.

(b) where publication is on the seizure authority's website—

(i) the website must be its only website or, if not, the website that is wholly or mainly used by the authority to publicise matters relating to waste; and

(ii) the seizure notice must be published for the period beginning with the first working day after the date of the seizure notice and ending 15 working days after that date.

Service of seizure notice

9.—(1) A copy of the seizure notice must be served on—

(a) the chief officer of police for the police area in which the property was seized;

(b) the person (if any) identified as the registered keeper under regulation 6(1)(a); and

(c) the person (if any) identified as entitled to possession under regulation 6(1)(b).

(2) The copy of the seizure notice must be served—

(a) in the case of notice served under paragraph (1)(a) or (b), within the period beginning with the date of the seizure notice and ending 5 working days after that date;

(b) in the case of notice served under paragraph (1)(c), within the period beginning with the date on which the person entitled to possession was identified and ending 5 working days after that date.

(3) In this regulation, "chief officer of police" has the meaning given in section 101(1) of the Police Act 1996(**10**) (interpretation).

PART 3

Retention and return of seized property

Claim period

10. A person may make a claim of entitlement to seized property, accompanied by the evidence required by regulation 11, within the period—

(a) beginning with the date of seizure; and

(b) ending 15 working days after the date of the seizure notice.

Evidence for determination of entitlement

11.—(1) The evidence accompanying a claim under regulation 10 must be sufficient to enable the seizure authority to make a determination of entitlement to the seized property and must include—

(a) the claimant's name, address and proof of identity;

(b) where an agent makes the claim on behalf of their principal, the information in sub-paragraph (a) in respect of the agent and proof of authority to act as agent;

(c) where the seized property is a vehicle with a registration mark, and the person claiming entitlement purports to be the registered keeper of the vehicle, the registration document.

(2) Where the claimant does not provide sufficient information to satisfy the requirements of paragraph (1), the seizure authority must, within the period beginning with the date on which the claim is made under regulation 10 and ending 1 working day after that date, require the claimant to provide such information within 2 further working days.

(**10**) 1996 c. 16.