



# UK Borders Act 2007

## 2007 CHAPTER 30

### *Enforcement*

#### **26 Disposal of property**

- (1) In this section “property” means property which—
  - (a) has come into the possession of an immigration officer, or
  - (b) has come into the possession of the Secretary of State in the course of, or in connection with, a function under the Immigration Acts.
- (2) A magistrates' court may, on the application of the Secretary of State or a claimant of property—
  - (a) order the delivery of property to the person appearing to the court to be its owner, or
  - (b) if its owner cannot be ascertained, make any other order about property.
- (3) An order shall not affect the right of any person to take legal proceedings for the recovery of the property, provided that the proceedings are instituted within the period of six months beginning with the date of the order.
- (4) An order may be made in respect of property forfeited under section 25, or under section 25C of the Immigration Act 1971 (c. 77) (vehicles, &c.), only if—
  - (a) the application under subsection (2) above is made within the period of six months beginning with the date of the forfeiture order, and
  - (b) the applicant (if not the Secretary of State) satisfies the court—
    - (i) that the applicant did not consent to the offender's possession of the property, or
    - (ii) that the applicant did not know and had no reason to suspect that the property was likely to be used, or was intended to be used, in connection with an offence.
- (5) The Secretary of State may make regulations for the disposal of property—
  - (a) where the owner has not been ascertained,

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*Changes to legislation: There are currently no known outstanding effects for the UK Borders Act 2007, Section 26. (See end of Document for details)*

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- (b) where an order under subsection (2) cannot be made because of subsection (4) (a), or
  - (c) where a court has declined to make an order under subsection (2) on the grounds that the court is not satisfied of the matters specified in subsection (4) (b).
- (6) The regulations may make provision that is the same as or similar to provision that may be made by regulations under section 2 of the Police (Property) Act 1897 (c. 30) (or any similar enactment applying in relation to Scotland or Northern Ireland); and the regulations—
- (a) may apply, with or without modifications, regulations under that Act,
  - (b) may, in particular, provide for property to vest in the Secretary of State,
  - (c) may make provision about the timing of disposal (which, in particular, may differ from provision made by or under the Police (Property) Act 1897),
  - (d) shall have effect only in so far as not inconsistent with an order of a court (whether or not under subsection (2) above),
  - (e) shall be made by statutory instrument, and
  - (f) shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (7) For the purposes of subsection (1) it is immaterial whether property is acquired as a result of forfeiture or seizure or in any other way.
- (8) In the application of this section to Scotland a reference to a magistrates' court is a reference to the sheriff.

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**Modifications etc. (not altering text)**

- C1** S. 26 modified (E.W.) (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), **ss. 156(3)**, 416(1) (with [ss. 2](#), [398\(1\)](#), [406](#), [Sch. 27](#)); [S.I. 2020/1236](#), [reg. 2](#)
- C2** S. 26 excluded (28.6.2022) by 1971 c. 77, s. 28PA(6)(a) (as inserted by [Nationality and Borders Act 2022 \(c. 36\)](#), [s. 87\(1\)](#), **Sch. 7 para. 7**; [S.I. 2022/590](#), [regs. 1\(2\)](#), [2](#), [Sch. 1 para. 22](#) (with [Sch. 2 para. 8](#)))
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**Commencement Information**

- I1** S. 26 in force at 31.1.2008 for specified purposes by [S.I. 2008/99](#), **art. 2(k)** (with [art. 4](#))
- I2** S. 26 in force at 1.4.2008 in so far as not already in force by [S.I. 2008/309](#), **art. 4(a)** (with [art. 7](#))

**Changes to legislation:**

There are currently no known outstanding effects for the UK Borders Act 2007, Section 26.