

2008 No. 786

IMMIGRATION

The Immigration (Disposal of Property) Regulations 2008

Made - - - - *20th March 2008*

Laid before Parliament *26th March 2008*

Coming into force - - *17th April 2008*

The Secretary of State makes the following Regulations in exercise of the powers conferred by section 26(5) and section 26(6) of the UK Borders Act 2007(a).

Citation, commencement and interpretation

1. These Regulations may be cited as the Immigration (Disposal of Property) Regulations 2008 and shall come into force on 17th April 2008.

2. In these Regulations—

(a) “the 2007 Act” means the UK Borders Act 2007.

Property to which these Regulations apply

3. These Regulations apply to property where—

- (a) the owner has not been ascertained,
- (b) an order under section 26(2) of the 2007 Act (disposal of property: court order) cannot be made because of subsection (4)(a) of that section, or
- (c) a court has declined to make an order under section 26(2) of the 2007 Act on the grounds that the court is not satisfied of the matters specified in subsection (4)(b) of that section.

Restrictions on disposal of property

4.—(1) Subject to regulation 5(2), property to which these Regulations apply, other than money—

- (a) which has been the subject of a forfeiture order under section 25C of the Immigration Act 1971 (forfeiture of vehicle, ship or aircraft)(b) or section 25 of the 2007 Act (forfeiture of detained property) shall not be disposed of until it has remained in the possession of the Secretary of State for six months beginning with the date on which the forfeiture order was made; and

(a) 2007 c. 30.

(b) 1971 c. 77. Section 25C was inserted by section 143 of the Nationality, Immigration and Asylum Act 2002 (c. 41) and subsequently amended by section 1 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (c. 19).

(b) which has not been the subject of a forfeiture order under section 25C of the Immigration Act 1971 or section 25 of the 2007 Act shall not be disposed of until it has remained in the possession of the Secretary of State for a year.

(2) Money which is property to which these Regulations apply shall be paid into the Consolidated Fund as soon as is reasonably practicable.

Sale of property

5.—(1) Subject to paragraph (2), after the expiration of the relevant period referred to in regulation 4, property to which these Regulations apply other than money may be sold.

(2) Where the property is a perishable article or its custody involves unreasonable expense or inconvenience it may be sold at any time.

(3) Subject to paragraph (4), the proceeds of all sales under these Regulations shall be paid into the Consolidated Fund as soon as is reasonably practicable.

(4) The Secretary of State may apply the proceeds of all sales under these Regulations, and any money which is property to which these Regulations apply, to defray reasonable expenses incurred in the conveyance, storage, and safe custody of the property and in connection with its sale and otherwise in acting pursuant to these Regulations.

Retention of property

6. After the expiration of the relevant period referred to in regulation 4, if, in the opinion of the Secretary of State, property to which these Regulations apply (other than money) can be used in the course of, or in connection with, a function under the Immigration Acts, the Secretary of State may determine that the property is to be retained by her and the property shall vest in the Secretary of State on the making of the determination.

Other disposal of property in the public interest

7. If the Secretary of State is satisfied that the nature of any property to which these Regulations apply is such that it is not in the public interest that it should be sold or retained, it shall, after the expiration of the relevant period referred to in regulation 4, be destroyed or otherwise disposed of in accordance with the direction of the Secretary of State.

Home Office
20th March 2008

Liam Byrne
Minister of State

EXPLANATORY NOTE

(This note is not part of these Regulations)

These Regulations provide for the Secretary of State to dispose, sell or retain property.

Regulation 3 defines property to which these Regulations apply.

Regulation 4 (1) provides that the Secretary of State may not dispose of property for six months (in the case of property subject to a forfeiture order) and twelve months (in the case of other property). Under regulation 4(2) money which is property shall be paid into the consolidated fund as soon as is reasonably practicable.

Regulation 5 (1) and (2) provides for the sale of property other than money after the expiration of the relevant periods referred to in regulation 4. Under regulation 5(2) where the property is a perishable article or its custody involves unreasonable expense or inconvenience it may be sold at any time. Under regulation 5(3) the proceeds of all sales under these Regulations shall be paid into the Consolidated Fund. Regulation 4(4) provides that the Secretary of State may apply the moneys to defray reasonable expenses incurred in the conveyance, storage, and safe custody of the property and in connection with its sale and otherwise in executing these regulations.

Regulation 6 provides that if in the opinion of the Secretary of State property (other than money) can be used in the course of, or in connection with, a function under the Immigration Acts, the Secretary of State may determine that the property is to be retained by her and the property shall vest in the Secretary of State on the making of the determination. This is subject to the expiration of the relevant periods referred to in Regulation 4.

Regulation 7 provides that if the Secretary of State is satisfied that the nature of any property to which these regulations apply is such that it is not in the public interest that it should be sold or retained, it shall be destroyed or otherwise disposed of in accordance with the direction of the Secretary of State, after the expiration of the relevant periods referred to in regulation 4.

STATUTORY INSTRUMENTS

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