
STATUTORY INSTRUMENTS

2013 No. 1894

The Taking Control of Goods Regulations 2013

PART 3

SALE OF CONTROLLED GOODS

Part 3 not to apply to securities

36. This Part does not apply to controlled goods which are securities.

Notice of sale

Minimum period before sale

37.—(1) Subject to paragraph (2), the minimum period before sale required by paragraph 39 of Schedule 12 is 7 clear days from removing controlled goods for sale.

(2) Sale may take place on the day after removing controlled goods for sale where, if the sale were to take place after the expiry of the period of time referred to in paragraph (1), the goods would become unsaleable, or their sale value would be extinguished or substantially reduced due to the nature or any characteristic of those goods.

Minimum period of notice of sale

38.—(1) Subject to paragraph (2), the minimum period of notice of the date, time and place of sale required by paragraph 40 of Schedule 12 is 7 clear days before the sale of the goods.

(2) Notice may be given on the day before the sale of the goods where, if the sale were to take place after the expiry of the period of time referred to in paragraph (1), the goods would become unsaleable, or their sale value would be extinguished or substantially reduced due to the nature or any characteristic of those goods.

Form and contents of notice of sale

39.—(1) Notice of the date, time and place of the sale required by paragraph 40 of Schedule 12 must be in writing, be signed by the enforcement agent and contain the following information—

- (a) the name and address of the debtor;
- (b) the enforcement agent's name, the reference number or numbers and the date of the notice;
- (c) the name and address of the co-owner, if any;
- (d) that the controlled goods may be sold as the debtor has failed to pay the sum outstanding;
- (e) a list of the controlled goods that may be sold with a description to enable the debtor or the co-owner to identify the goods correctly, including, where applicable—
 - (i) the manufacturer, model and serial number of the goods;

- (ii) in the case of a vehicle, the manufacturer, model, colour and registration mark of the vehicle; and
 - (iii) the material, colour and usage and (where appropriate) any other identifying characteristic, of the goods;
- (f) that the sale of the controlled goods is conditional on—
- (i) an offer to purchase the goods being made; and
 - (ii) the reserve price, if any, on the controlled goods being met;
- (g) that if the conditions in paragraph (f) are not met the date, time and place of sale will be set out in a further notice;
- (h) the amount of the sum outstanding as at the date of the notice;
- (i) the date and time by which the sum outstanding must be paid to prevent the controlled goods being sold;
- (j) how and between which hours and on which days payment of the sum outstanding may be made; and
- (k) the procedure for collection by or on behalf of the debtor or co-owner of goods of which control has been taken on payment of the sum outstanding or on part payment of the sum outstanding where an agreement is made between the enforcement agent and the debtor.
- (2) Where the conditions in paragraph (1)(f) are not met and a further notice is given to the debtor and any co-owner by virtue of paragraph (1)(g), the notice must—
- (a) comply with the requirements of regulation 38;
 - (b) provide the information required by paragraph (1); and
 - (c) state that it is a further notice.
- (3) The enforcement agent may replace the notice with a new notice, in accordance with paragraph 40(3) of Schedule 12, only if—
- (a) the date, time or location of the sale has had to be re-arranged;
 - (b) the minimum period of notice of the date, time and place of sale in the new notice is of the same period as in the notice which is to be replaced; and
 - (c) the new notice sets out—
 - (i) the information required by paragraph (1);
 - (ii) that it is a new notice;
 - (iii) that it replaces the last notice given to the debtor or co-owner; and
 - (iv) the date of the notice which it replaces.

Method of giving notice of sale

40.—(1) The method of giving the notice of the date, time and place of sale required by paragraph 40 of Schedule 12 is the method required under regulation 8(1) (method of giving notice).

(2) For the purposes of this regulation, references in regulation 8(1) to a debtor include a co-owner.

Sale

Methods of sale

41.—(1) Where an enforcement agent applies to the court under paragraph 41(2) of Schedule 12 for an order that the sale be by a method other than public auction, the types of sale the court may order include sale by—

- (a) private contract;
- (b) sealed bids;
- (c) advertisement; and
- (d) such other method as the court considers appropriate.

(2) Where the enforcement agent has stated to the court (as required by paragraph 41(4) of Schedule 12) that the enforcement agent has reason to believe that an enforcement power has become exercisable by another creditor against the debtor or a co-owner, the notice of application required by paragraph 41(5) of that Schedule must—

- (a) be in writing, signed by the enforcement agent and set out—
 - (i) the name and address of the debtor; and
 - (ii) the enforcement agent's name, the reference number or numbers and the date of the notice;
- (b) attach a copy of the enforcement agent's application to the court; and
- (c) be given to that other creditor—
 - (i) by the enforcement agent; and
 - (ii) by a method required under regulation 8(1) (method of giving notice).

(3) For the purposes of paragraph (2)(c)(ii), references in regulation 8(1) to a debtor are to be read as a reference to the other creditor.

Place of sale

42.—(1) Subject to paragraph (2), a sale of controlled goods by public auction may only be held in a public auction house or on an online or internet auction site.

(2) The sale may be held on premises where goods were found by the enforcement agent where those premises are occupied solely for the purposes of a trade or business.

Conduct of sale

43. Where controlled goods are sold by public auction, the auction must be conducted by—

- (a) a qualified auctioneer; or
- (b) where the auction takes place online or on an internet auction site, an auction provider independent of the enforcement agent.