
STATUTORY INSTRUMENTS

2015 No. 426

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

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 subparagraph (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.

Determination of entitlement

12.—(1) Where a claim is made which satisfies the requirements of regulation 10, a seizure authority must—

- (a) determine entitlement in respect of a claim;
- (b) where a claimant is determined as entitled, determine—
 - (i) whether a duty to retain arises under regulation 15(2)(a) or 16(2)(a); and
 - (ii) where such a duty does not arise, the period for collection, which is the period beginning with the date of the determination notice and ending 10 working days after that date; and
- (c) give notice of such determination.

(2) The notice under paragraph (1) must—

- (a) meet the requirements of regulation 13; and
- (b) be given within the period—
 - (i) beginning with the date on which the claim was made and ending 3 working days after that date; or
 - (ii) where applicable, beginning with the date on which evidence was provided in accordance with regulation 11(2) and ending 3 working days after that date.
- (3) Where there is more than one claim to the seized property or any part of the seized property, a seizure authority must determine under paragraph (1) which person is entitled to such property (including any part of that property) on the basis of the evidence provided to the authority.

Content of determination notice

13. The determination notice must state—

- (a) where the determination is of entitlement to all or part of the seized property—
 - (i) the determination of entitlement;
 - (ii) the property to which the determination relates; and
 - (iii) whether the property is to be—
 - (aa) collected, where regulation 12(1)(b)(ii) applies, and accordingly the relevant collection period and details to enable collection by the claimant including contact details, the place and any times for collection;
 - (bb) retained in accordance with regulation 15, and accordingly the determination as to retention and an explanation of the ability to retain in accordance with that regulation; or
 - (cc) retained in accordance with regulation 16, and accordingly the determination as to retention, and the periods for retention and return as determined in accordance with that regulation;
- (b) where the determination is that a person is not entitled to all or part of the seized property—
 - (i) the determination that the claimant is not entitled;
 - (ii) the property to which the determination relates; and
 - (iii) an explanation that the seized property can be sold, destroyed or otherwise disposed of in accordance with regulation 21.

Return of seized property

14. Where a seizure authority has made a determination in accordance with regulation 12(1)(b)(ii), it is under a duty to return the seized property by enabling the entitled person to collect the seized property to which that person is entitled within the relevant collection period.

Retention and return when court proceedings have been commenced

15.—(1) A seizure authority must deal with seized property in accordance with paragraph (2) where—

- (a) before the date of the determination notice, the authority has commenced proceedings in respect of the offence, or one of the offences, in relation to which the property was seized;
- (b) such an offence is a forfeiture offence; and
- (c) the authority is of the opinion that it is necessary to retain the seized property in respect of such proceedings.

- (2) The duty in relation to the seized property is to—
 - (a) retain it during the continuance of such proceedings while the seizure authority is of the opinion in paragraph (1)(c); and
 - (b) return it in accordance with regulation 18.

Retention and return when an offence is being investigated

16.—(1) A seizure authority must deal with seized property in accordance with paragraph (2) where—

- (a) before the date of the determination notice, the authority is investigating an offence in respect of which the property was seized; and
 - (b) the authority is of the opinion that it is necessary to retain the property in order to investigate the offence.
- (2) The duty in relation to the seized property is to—
 - (a) retain it during the continuance of the period determined in accordance with paragraph (3) while the seizure authority is of the opinion in paragraph (1)(b); and
 - (b) return it during the period determined in accordance with paragraph (4), in accordance with regulation 18.
 - (3) The period for retention is the period which—
 - (a) begins with the date of the determination notice; and
 - (b) ends no later than—
 - (i) 15 working days after that date; or
 - (ii) 30 working days after that date, where the seizure authority is the Environment Agency or the Natural Resources Body for Wales and the offence, or one of the offences, in respect of which the property was seized is a forfeiture offence.
 - (4) The period for return is the period which—
 - (a) begins with the last day of the period in paragraph (3); and
 - (b) ends 10 working days after that date.

Retention and return when court proceedings are commenced during the retention period

17.—(1) A seizure authority must deal with seized property in accordance with paragraph (2) where—

- (a) during the period for retention (determined in accordance with regulation 16(3)) the seizure authority has commenced court proceedings in respect of the offence, or one of the offences, in respect of which the property was seized;
 - (b) such an offence is a forfeiture offence; and
 - (c) the authority is of the opinion that it is necessary to retain the seized property in respect of such proceedings.
- (2) The duty is to—
 - (a) retain the seized property during the continuance of proceedings while the seizure authority is of the opinion in paragraph (1)(c);
 - (b) notify the entitled person of the commencement of such proceedings and of the effect of this regulation; and
 - (c) return the property in accordance with regulation 18.

Duty to return arising during the retention period

18.—(1) Where a seizure authority retains property in accordance with regulation 15(2)(a), 16(2)(a) or 17(2)(a), it must return the seized property to the entitled person and, unless a court order provides for the return of the seized property, it must give notice of the return of the seized property in accordance with paragraph (2), where—

- (a) the authority is no longer of the opinion that it is necessary to retain such property in accordance with the appropriate regulation; or
- (b) proceedings have been discontinued or have ended.

(2) A notice under paragraph (1) must be given within the period beginning with the date on which paragraph (1)(a) or (1)(b) applies and ending 1 working day after that date, and must state that the seized property may be—

- (a) collected within the period beginning with the date of the notice under this regulation and ending 10 working days after that date; and
- (b) sold, destroyed or otherwise disposed of in accordance with regulation 21, if it is not collected within that period.

Ending of duty to return

19.—(1) Where a duty to return has arisen under regulation 14, 15(2)(b), 16(2)(b) or 17(2)(c), the duty ceases—

- (a) on the return of the seized property;
- (b) where the court makes an order for forfeiture of the seized property; or
- (c) where the entitled person has not collected the seized property by the end of—
 - (i) the period determined in accordance with regulation 16(4) or, if applicable, 18(2)(a); or
 - (ii) otherwise, the relevant collection period.

(2) Where the duty to return ceases, any duties of the seizure authority applicable at that date in relation to the seized property under Part 2 or this Part cease to apply.