
STATUTORY INSTRUMENTS

2013 No. 1894

The Taking Control of Goods Regulations 2013

PART 2

PROCEDURE FOR TAKING CONTROL OF GOODS

Taking control of goods

Time limit for taking control of goods

9.—(1) Subject to paragraphs (2) and (3), the enforcement agent may not take control of goods of the debtor after the expiry of a period of 12 months beginning with the date of notice of enforcement.

(2) Where—

- (a) after giving notice of enforcement the enforcement agent enters into an arrangement with the debtor for the repayment, by the debtor, of the sum outstanding by instalments (a repayment arrangement); and
- (b) the debtor breaches the terms of the repayment arrangement,

the period in paragraph (1) begins with the date of the debtor's breach of the repayment arrangement.

(3) The court may order that the period in paragraph (1) be extended by 12 months.

(4) The court may make an order under paragraph (3) only—

- (a) on application by the enforcement agent or the creditor;
- (b) on one occasion; and
- (c) if the court is satisfied that the applicant has reasonable grounds for not taking control of goods of the debtor during the period referred to under paragraph (1).

Circumstances in which the enforcement agent may not take control of goods

10.—(1) The enforcement agent may not take control of goods of the debtor where—

- (a) the debtor is a child;
- (b) a child or vulnerable person (whether more than one or a combination of both) is the only person present in the relevant or specified premises in which the goods are located; or
- (c) the goods are also premises in which a child or vulnerable person (whether more than one or a combination of both) is the only person present.

(2) Where an item which belongs to the debtor is in use by any person at the time at which the enforcement agent seeks to take control of it, the enforcement agent may not do so if such action is in all the circumstances likely to result in a breach of the peace.

(3) In paragraph (2), “in use” means that the item is in the hands of, or being operated by, the person.

Circumstances in which the enforcement agent may not take control of goods: highways

11.—(1) This regulation applies in relation to relevant goods which the enforcement officer finds on a highway (see paragraph 13(1)(b) of Schedule 12).

(2) In this regulation—

(a) “relevant goods” means—

(i) animals or livestock; or

(ii) any goods which the enforcement agent believes to be or to include—

(aa) hazardous goods or materials; or

(bb) perishable goods or materials;

(b) “hazardous goods or materials” includes—

(i) nuclear matter;

(ii) radioactive waste; and

(iii) any other article or substance that has been and remains contaminated (whether radioactively or chemically); and

(c) “livestock” includes cattle, sheep, pigs, horses and poultry.

(3) The enforcement agent may not take control of any relevant goods if—

(a) to do so would pose a risk to public health; and

(b) the enforcement agent is or ought to be aware of that risk.

(4) Where paragraph (1) applies the enforcement agent may not take control of a debtor’s vehicle in which such goods are contained.

Days for taking control of goods

12. The enforcement agent may take control of goods of the debtor on any day of the week.

Prohibited hours for taking control

13.—(1) Subject to paragraph (2), the enforcement agent may not take control of goods of the debtor before 6 a.m. or after 9 p.m. on any day.

(2) Paragraph (1) does not apply where—

(a) the court, on application by the enforcement agent, orders otherwise;

(b) goods are located on the debtor’s or another person’s premises which are used (whether wholly or partly) to carry on a trade or business and the premises (or part of the premises) are open for the conduct of that trade or business during hours that are prohibited under paragraph (1); or

(c) the enforcement agent has begun to take control of goods during hours that are not prohibited under paragraph (1), or during hours to which paragraph (1) does not apply by virtue of sub-paragraph (a) or (b), and to complete taking control of goods it is reasonably necessary for the enforcement agent to continue to do so during prohibited hours, provided the duration of time spent in taking control of goods is reasonable.

Who may enter into a controlled goods agreement

14.—(1) Subject to paragraph (2), a controlled goods agreement, as defined by paragraph 13(4) of Schedule 12, may only be entered into by an enforcement agent and—

(a) a debtor who is not a child;

- (b) a person, aged 18 or over, authorised by the debtor to enter into a controlled goods agreement on the debtor's behalf; or
- (c) a person in apparent authority who is on the premises, where those premises are used (whether wholly or partly) to carry on a trade or business.

(2) The enforcement agent may not enter into a controlled goods agreement with the debtor or another person who it appears (or ought to appear) to the enforcement agent does not understand the effect of, and would therefore not be capable of entering into, such an agreement.

Controlled goods agreements

15.—(1) This regulation applies where a controlled goods agreement is entered into under paragraph 13(1)(d) of Schedule 12.

- (2) The agreement must be in writing and signed by the enforcement agent and—
 - (a) the debtor;
 - (b) the person authorised by the debtor in accordance with regulation 14(1)(b); or
 - (c) the person in apparent authority in accordance with regulation 14(1)(c).
- (3) The agreement must contain the following information—
 - (a) the name and address of the debtor;
 - (b) the reference number or numbers and the date of the agreement;
 - (c) the names of the persons entering into the agreement;
 - (d) a contact telephone number and address at which, and the days on which and the hours between which the enforcement agent or the enforcement agent's office may be contacted;
 - (e) a list of the goods of which control has been taken with a description to enable the debtor 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; and
 - (f) the terms of the arrangement entered into between the enforcement agent and the debtor for the repayment, by the debtor, of the sum outstanding.
- (4) At the time of entering into the agreement, the enforcement agent must give a copy of the signed agreement to the person who signed it under paragraph (2).
- (5) Where the enforcement agent enters into the agreement with a person authorised by the debtor in accordance with regulation 14(1)(b) or with a person in apparent authority in accordance with regulation 14(1)(c), the enforcement agent must also provide the debtor with a copy of the signed agreement by—
 - (a) leaving it in a conspicuous place on the relevant or specified premises, where the enforcement agent has taken control of the goods on such premises; or
 - (b) delivering it to any relevant premises, in a sealed envelope addressed to the debtor, where the enforcement agent has taken control of the goods on a highway.
- (6) Where the enforcement agent leaves a copy of the agreement in a conspicuous place on the relevant or specified premises under paragraph (5)(a) and the enforcement agent knows that a person other than the debtor is on the premises or that there are other occupiers, the copy must be left in a sealed envelope addressed to the debtor.
- (7) Paragraph (3)(e) is complied with if—

- (a) the enforcement agent provides the debtor with a list of goods of which control has been taken under regulation 30(2)(f)(i) or regulation 33(1)(e) at the same time as entering into the controlled goods agreement; and
- (b) the goods of which control has been taken are the same as those referred to in the list mentioned in sub-paragraph (a).