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STATUTORY INSTRUMENTS

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**2014 No. 421**

**The Certification of Enforcement Agents Regulations 2014**

**PART 1**

**INTRODUCTORY**

*Complaints and cancellation of certificates*

**Complaints as to fitness to hold a certificate**

**9.—(1)** Any person who considers that a certificated person is by reason of the certificated person's conduct in acting as an enforcement agent, or for any other reason, not a fit person to hold a certificate, may submit a complaint in writing to the court.

(2) No fee is payable for submitting a complaint under paragraph (1).

(3) A complaint submitted under paragraph (1) must provide details of the matters complained of and explain the reason or reasons why the certificated person is not a fit person to hold a certificate.

(4) No complaint submitted under paragraph (1) may be considered by the judge until the certificated person has been provided with a copy of the complaint and given an opportunity to respond to it in writing.

(5) If on considering the complaint and the certificated person's response the judge is satisfied that the certificated person remains a fit and proper person to hold a certificate, the complaint must be dismissed.

(6) If—

(a) the certificated person fails to respond; or

(b) on considering the complaint and the certificated person's response the judge is not satisfied that the certificated person remains a fit and proper person to hold a certificate,

the complaint must be considered at a hearing.

(7) If a complaint is to be considered at a hearing under paragraph (6)—

(a) the certificated person must attend for examination and may make representations; and

(b) the complainant may attend and make representations, or may make representations in writing.

(8) If after a hearing the judge is satisfied that the certificated person remains a fit and proper person to hold a certificate, the complaint must be dismissed.

(9) No appeal lies against the dismissal of a complaint under paragraph (5) or paragraph (8).

**Cancellation or suspension of certificates**

**10.—(1)** If, following consideration of a complaint at a hearing, the judge is satisfied that the certificated person is not a fit and proper person to hold a certificate, the judge may—

(a) cancel the certificate; or

(b) suspend the certificate.

(2) If the certificate is cancelled, the judge may order that the certificated person must, before making any further application to be issued with a certificate, have fulfilled such conditions as to training or any other conditions as the judge considers necessary for the certificated person to be a fit and proper person to hold a certificate.

(3) If the certificate is suspended the judge may order that the suspension is not to be lifted until the certificated person has fulfilled such conditions as to training or any other conditions as the judge considers necessary for the certificated person to be a fit and proper person to hold a certificate.

(4) The court must, whether the certificate is suspended or cancelled, consider whether to make an order under regulation 13(2).

### **Application of security after consideration of complaint at a hearing**

**11.**—(1) When a complaint has been considered at a hearing, the judge may, if satisfied that the complaint was well founded, order that the security be forfeited either wholly or in part, and that the forfeited amount be paid, in such proportions as the judge considers appropriate—

(a) to the complainant by way of compensation for failure in due performance of the certificated person's duties as an enforcement agent or for the complainant's costs or expenses in attending and making representations; and

(b) where costs or expenses have been incurred by the court in considering the complaint at a hearing, to Her Majesty's Paymaster General by way of reimbursement of those costs or expenses.

(2) The judge may make an order under paragraph (1) whether or not the certificate is cancelled or suspended.

(3) If an order is made under paragraph (1) but the certificate is not cancelled, regulation 6(4) applies.

(4) If the certificate is cancelled, the security must, subject to the making of an order under paragraph (1), be cancelled and the balance of any deposit, following payment of any amounts ordered to be forfeited, returned to the certificated person.

### **Surrender of certificate**

**12.**—(1) When a certificate is cancelled or expires, it must be surrendered to the court, unless the judge directs otherwise.

(2) If a certificated person ceases to carry on business as an enforcement agent, the certificated person must unless the judge orders otherwise surrender the certificate to the court, and the certificate will be treated as if it had expired on the date on which it was surrendered.

(3) The security must be cancelled and the balance of any deposit returned to the certificated person following surrender of a certificate.

### **Continuing effect of certificate in certain circumstances**

**13.**—(1) This regulation applies in any case where—

(a) a certificate is cancelled or has expired, or is suspended; and

(b) before the cancellation, expiry or suspension, the certificated person took control of goods (within the meaning given by paragraph 13(1) of Schedule 12 (ways of taking control)).

(2) In such a case, unless the court orders otherwise, the goods continue to be controlled goods and the certificate continues to have effect, for the purpose of any action which may be taken in

relation to the goods as controlled goods under Schedule 12, as if it had not been cancelled, or expired, or suspended as the case may be.

**Changes to legislation:**

There are currently no known outstanding effects for the The Certification of Enforcement Agents Regulations 2014, Cross Heading: Complaints and cancellation of certificates.