

2020 No. 451

ENFORCEMENT, ENGLAND AND WALES

The Taking Control of Goods and Certification of Enforcement Agents (Amendment) (Coronavirus) Regulations 2020

Made - - - - - *23rd April 2020*

Laid before Parliament *24th April 2020*

Coming into force in accordance with regulation 1(1)

The Lord Chancellor makes the following Regulations in exercise of the powers conferred by sections 64, 77(4) and 90 of, and paragraphs 8(1) and (2), 13(3), 14(3), 15(3), 24(1) and 31(2) and (4) of Schedule 12 to, the Tribunals, Courts and Enforcement Act 2007(a):

Citation, commencement and saving provision

1.—(1) These Regulations may be cited as the Taking Control of Goods and Certification of Enforcement Agents (Amendment) (Coronavirus) Regulations 2020 and come into force on the day following the day on which they are laid.

(2) Nothing in these Regulations affects any enforcement action taken prior to the coming into force of these Regulations.

Amendments to the Taking Control of Goods Regulations 2013

2.—(1) The Taking Control of Goods Regulations 2013(b) are amended as follows.

(2) In regulation 2 (general interpretation)—

(a) before the definition of “the Act” insert—

““the 2020 Regulations” means the Taking Control of Goods and Certification of Enforcement Agents (Amendment) (Coronavirus) Regulations 2020;”;

(b) after the definition of “disabled person” insert—

““emergency period” means, where the address contained in the notice of enforcement is in England, any time during which a restriction or requirement is in place under regulation 6(1) of the Health Protection (Coronavirus, Restrictions) (England) Regulations 2020(c) or, where the address contained in the notice of enforcement is in Wales, any time during which a restriction or requirement is in place under regulation 8(1) of the Health Protection (Coronavirus Restrictions) (Wales) Regulations 2020(d);”

(3) In regulation 9 (time limit for taking control of goods)—

(a) 2007 c. 15. Section 90 was amended by the Crime and Courts Act 2013, s 25(1), s8.

(b) S. I. 2013/1894.

(c) S.I. 2020/350, as amended by S.I. 2020/447.

(d) S.I. 2020/353 (W.80), as amended by S.I. 2020/399 (W.88).

- (a) in paragraph (1), for “and (3)” substitute “, (3) and (5)”;
- (b) after paragraph (4), insert—
 - “(5) Where the relevant day falls—
 - (a) during the emergency period; or
 - (b) on or after 26th February 2020 but before the beginning of the emergency period, the period referred to in paragraph (1) begins on the day that is one month after the relevant day.
 - (6) For the purposes of paragraph (5) the relevant day is the day one calendar month before the expiry of either —
 - (a) the period referred to in paragraph (1); or
 - (b) the period referred to in paragraph (1) as extended in accordance with paragraph (3).”.
- (4) In regulation 10(1) (circumstances in which the enforcement agent may not take control of goods)—
 - (a) in sub-paragraph (b), after “located” omit “or”; and
 - (b) after sub-paragraph (c), insert—
 - “(d) during the emergency period, the goods are located at premises which include a dwelling-house; or
 - (e) during the emergency period, the goods are located on a highway.”.
- (5) In regulation 23(2) (restrictions on entry and re-entry to, and remaining on, premises)—
 - (a) in sub-paragraph (a), omit “or”; and
 - (b) after sub-paragraph (b), insert—
 - “; or
 - (c) during the emergency period, the premises do not include a dwelling-house.”.
- (6) In regulation 52 (minimum amount of net unpaid rent for CRAR to become exercisable)—
 - (a) at the beginning, insert—
 - “(1) Subject to paragraph (2),”; and
 - (b) at the end, insert—
 - “(2) Where the notice of enforcement is given after the coming into force of the 2020 Regulations and during the relevant period, the minimum amount of net unpaid rent for the purposes of section 77(3) of the Act is an amount equal to 90 days’ rent.
 - (3) In paragraph (2), “relevant period” has the same meaning as in section 82 of the Coronavirus Act 2020(a).”.

Amendments to the Certification of Enforcement Agents Regulations 2014

- 3.—**(1) The Certification of Enforcement Agents Regulations 2014(b) are amended as follows.
- (2) In regulation 2 (general interpretation), after the definition of “enforcement agent” insert—
 - ““emergency period” means any time during which a requirement or restriction is in place under regulation 6(1) of the Health Protection (Coronavirus, Restrictions) (England) Regulations 2020 or regulation 8(1) of the Health Protection (Coronavirus Restrictions) (Wales) Regulations 2020;”
 - (3) In regulation 7 (duration of certificates)—
 - (a) in paragraph (1), for “A” substitute “Subject to paragraph (3), a”;

(a) 2020 c. 7
 (b) S.I. 2014/421.

- (b) in paragraph (2), for “Every” substitute “Subject to paragraph (3), every”; and
- (c) after paragraph (2) insert—
 - “(3) If the relevant day falls —
 - (a) during the emergency period; or
 - (b) on or after 26th December 2019 but before the beginning of the emergency period, the certificate will continue to have effect date for a period of 9 months beginning with the relevant day.
 - (4) For the purposes of paragraph (3), the relevant day is the day 3 months before the expiry of the period referred to in paragraph (1).”

Alex Chalk
Parliamentary Under Secretary of State
Ministry of Justice

23rd April 2020

EXPLANATORY NOTE

(This note is not part of the Regulations)

The Regulations are made in response to the serious and imminent threat to public health which is posed by the incidence and spread of severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2) in England and Wales.

On 26th March 2020, the Health Protection (Coronavirus, Restrictions) (England) Regulations 2020 (S.I. 2020/350) (the “English Regulations”) and the Health Protection (Coronavirus Restrictions) (Wales) Regulations 2020 (S.I. 2020/353) (W.80) (the “Welsh Regulations”) came into force, imposing restrictions preventing a person from leaving the place in which they usually live without reasonable excuse.

Regulation 2(4) amends regulation 10 of the Taking Control of Goods Regulations 2013 (S.I. 2013/1894) (the “2013 Regulations”) to prevent an enforcement agent taking control of goods on the highway or at premises which include a dwelling-house at a time when a person living at the address contained in the notice of enforcement would be prevented from leaving the place in which they usually live without a reasonable excuse.

Regulation 2(5) amends regulation 23 of the 2013 Regulations to prevent an enforcement agent entering or re-entering premises which include a dwelling-house at a time when a person living at the address contained in the notice of enforcement would be prevented from leaving the place in which they usually live without a reasonable excuse.

Regulation 2(3) amends regulation 9 of the 2013 Regulations to provide that where, on 26th March 2020, there was less than one month remaining before the expiry of the time limit for the taking control of goods provided for in regulation 9(1) of the 2013 Regulations (if relevant, as extended by the court under regulation 9(3) of the 2013 Regulations), this time limit will be extended by a period of 12 months. Regulation 2(3) further provides for the time limit to be so extended where this circumstance arose or will arise at any time when restrictions are in place that would prevent a person living in the address contained within the enforcement notice from leaving the place in which they usually live without a reasonable excuse.

Regulation 2(6) amends section 52 of the 2013 Regulations to provide that, where the notice of enforcement is given after the coming into force of these Regulations and during a period in which protections from forfeiture for business tenancies are in place in England and Wales under section 82 of the Coronavirus Act 2020 (c.7), the minimum amount of net unpaid rent that may be outstanding before commercial rent arrears recovery may take place is an amount equivalent to 90 days’ rent.

Regulation 3 amends regulation 7 of the Certification of Enforcement Agents Regulations 2014 (S.I.2014/421) (the “2014 Regulations”) to provide that where, on 26th March 2020, there were less than three months remaining before the expiry of a certificate granted under the 2014 Regulations, the certificate would remain valid for a period of six months beyond its original expiry date. Regulation 3 further provides for the validity of certificates to be so extended if this circumstance arises at a time when restrictions that would prevent a person leaving the place in which they usually live without a reasonable excuse are in place in any area of England or Wales.

Nothing in these Regulations affects any enforcement action taken prior to these Regulations coming into force.

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