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WELSH STATUTORY INSTRUMENTS

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**2010 No. 1671**

**The Eggs and Chicks (Wales) Regulations 2010**

**PART 5**

Miscellaneous provisions

**Procedure on seizure**

**21.**—(1) An authorised officer (“O”) must follow the procedures set out in this regulation if they seize anything under regulation 20(7), (8) or (9).

(2) O must give to the person appearing to O to be in charge of the premises from which the seized item or computer equipment is seized (“the premises”) a notice that must state—

- (a) what O has seized;
- (b) when O seized it;
- (c) the grounds for the seizure of the item or equipment; and
- (d) the address to which, and the period during which, a claim may be made for the return of the item or equipment.

(3) But where the premises are unoccupied, or no-one appears to O to be in charge of the premises, O must attach a notice to a conspicuous part of the premises, or to some conspicuous object on the premises, containing the information mentioned in sub-paragraphs (a) to (d) of paragraph (2).

(4) A person having a proprietary interest in the seized item or computer equipment (including a creditor who has a debt secured on the item or computer equipment) may notify the enforcement authority of any claim that the seized item or equipment was not liable to seizure, setting out the grounds for the claim in full.

(5) The claim must be made within 28 days of the seizure, beginning on the day on which the seized item or computer equipment is seized, to the address specified in the seizure notice.

(6) If a notification of a claim is not received within 28 days in respect of an item seized under regulation 20(7), the enforcement authority may retain the seized item for as long as necessary while it is being held for the purpose of any criminal investigation or proceedings or for use as evidence at a trial.

(7) If a notification of a claim is received within 28 days in respect of an item seized under regulation 20(7), the enforcement authority must—

- (a) return the seized item within 14 days, beginning with the day on which the claim is received; or
- (b) retain the seized item for as long as necessary while it is being held for the purpose of any criminal investigation or proceedings, or for use as evidence at a trial, but it must notify the claimant that the seized item is being retained, and of the reason why it is being retained within 14 days, beginning with the day on which the claim is received.

(8) If a notification of a claim is not received within 28 days in respect of an item seized under regulation 20(8), the enforcement authority may—

- (a) if a decision is taken by the enforcement authority not to destroy the seized item but to retain it for the purpose of any criminal investigation or proceedings, or for use as evidence at a trial, retain the seized item for as long as necessary for one of those purposes, but the enforcement authority must—
  - (i) notify the relevant person that the seized item is being retained, and of the reason why it is being retained, within 14 days of the expiry of the claim period, beginning with the day after the claim period expires; or
  - (ii) where the enforcement authority does not know who the relevant person is, and this cannot be ascertained after reasonable enquiries have been made by the enforcement authority, attach a notice to a conspicuous part of the premises, or a conspicuous object on those premises, within 14 days of the expiry of the claim period, beginning with the day after the claim period expires, stating that the seized item is being retained, and the reason why it is being retained; or
- (b) destroy the seized item within 28 days, beginning with the day after the 28 day claim period expires, if it reasonably believes that the item contravenes these Regulations, and—
  - (i) notify the relevant person that the seized item has been destroyed within 14 days of its destruction, beginning with the day on which the item is destroyed (or the last day of its destruction where the destruction of the item takes place on more than one day); or
  - (ii) where the enforcement authority does not know who the relevant person is, and this cannot be ascertained after reasonable enquiries have been made by the enforcement authority, attach a notice to a conspicuous part of the premises, or to a conspicuous object on those premises, within 14 days of the destruction of the item, beginning with the day on which the item is destroyed (or the last day of its destruction where the destruction of the item takes place on more than one day) stating that the seized item has been destroyed.
- (9) In paragraph (8) the “relevant person” (“*person perthnasol*”) means—
  - (a) if the enforcement authority knows the identity of a person with a proprietary interest in the seized item, that person or (where they know the identity of more than one person with a proprietary interest in the seized item) each of those persons; or
  - (b) if the enforcement authority does not know the identity of a person with a proprietary interest in the seized item, the person appearing to them to be in charge of the premises.
- (10) In the case of any item destroyed under paragraph (8)(b), the enforcement authority may recover the following costs as a debt from any person who had a proprietary interest in the item immediately before its destruction (apart from a creditor who has a debt secured on the item)—
  - (a) the costs of the removal and transport of the item from the premises to the place at which it is stored;
  - (b) the costs of the storage of the item for up to 28 days;
  - (c) any costs for the removal and transport of the item if it is moved from one place of storage to another place of storage;
  - (d) the costs of the transport of the item from the place of storage to the place of destruction; and
  - (e) the costs of the destruction of the item.
- (11) If a notification of a claim is received within 28 days in respect of an item seized under regulation 20(8), the enforcement authority must—
  - (a) return the seized item within 14 days, beginning with the day on which the claim is received;

- (b) if a decision is taken by the enforcement authority not to destroy the seized item but to retain it for the purpose of any criminal investigation or proceedings or for use as evidence at a trial, retain the item for as long as necessary for one of those purposes but the enforcement authority must notify the claimant that the seized item is being retained, and of the reason why it is being retained, within 14 days of the claim, beginning with the day on which the claim is received; or
  - (c) within 14 days of the claim, beginning with the day on which the claim is received, take proceedings (“regulation 21(11)(c) proceedings”) in a magistrates' court for an order giving them authority to destroy the item.
- (12) In regulation 21(11)(c) proceedings the magistrates' court may—
- (a) authorise the enforcement authority to destroy the seized item;
  - (b) authorise the enforcement authority to retain the item for the purpose of any criminal investigation or proceedings, or for use as evidence at a trial, for as long as necessary for one of those purposes; or
  - (c) require the enforcement authority to return the item to the claimant and impose a deadline by which this must be done.
- (13) If, in regulation 21(11)(c) proceedings, the magistrates' court authorises the enforcement authority to destroy the seized item, the court may also make an order requiring the claimant (but not a claimant who is a creditor with a debt secured on the item) to pay such of the following costs as the court may specify—
- (a) the costs of the removal and transport of the item from the premises to the place at which it is stored;
  - (b) the costs of the storage of the item for up to 28 days;
  - (c) any costs for the removal and transport of the item if it is moved from one place of storage to another place of storage;
  - (d) the costs of the transport of the item from the place of storage to the place of destruction; and
  - (e) the costs of the destruction of the item.
- (14) If a notification of a claim is received within 28 days in the case of any computer equipment seized under regulation 20(9), the enforcement authority must—
- (a) return the seized computer equipment within seven days of the claim, beginning with the day on which the claim is received, or, if shorter, within the remainder of the maximum 28 day period provided for in regulation 20(9); or
  - (b) take proceedings in a magistrates' court within seven days of the claim, beginning with the day on which the claim is received unless there are seven days or less remaining before the expiry of the maximum 28 day period provided for in regulation 20(9), for an order authorising the enforcement authority to retain the seized computer equipment in accordance with the requirements laid down in regulation 20(9).
- (15) If, in the case of any computer equipment seized under regulation 20(9), the magistrates' court authorises the enforcement authority to retain the seized computer equipment, the court may impose conditions as to the basis on which the equipment may continue to be retained, including the imposition of a deadline by which the equipment must be returned that is shorter than the 28 day maximum period provided for in regulation 20(9).
- (16) The procedure in a magistrates' court under this regulation is by way of complaint and the Magistrates' Courts Act 1980<sup>MI</sup> applies to the proceedings.

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**Changes to legislation:** There are currently no known outstanding effects for the The Eggs and Chicks (Wales) Regulations 2010, Section 21. (See end of Document for details)

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**Marginal Citations**

**M1** 1980 c. 43.

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