STATUTORY INSTRUMENTS

2022 No. 1071

CRIMINAL LAW, ENGLAND AND WALES

The Sentencing Act 2020 (Serious Violence Reduction Orders: Retention and Disposal of Seized Items) Regulations 2022

Made - - - -	*17th October 2022*
Laid before Parliament	*24th October 2022*
Coming into force - -	*17th January 2023*

The Secretary of State makes these Regulations in exercise of the power conferred by sections 342F(1) and (2) of the Sentencing Act 2020(**a**).

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Sentencing Act 2020 (Serious Violence Reduction Orders: Retention and Disposal of Seized Items) Regulations 2022 and come into force on 17th January 2023.

(2) These Regulations extend to England and Wales.

Interpretation

2. In these Regulations—

"owner" in relation to an item to which regulation 3 applies means the person who owns the item and can demonstrate their ownership of the item;

"relevant officer" means—

(a) where the constable who seized the item is a member of a police force, the chief officer of that police force;

(b) where the constable who seized the item is a member of a body of constables other than a police force, the person who has the direction and control of that body.

Retention and safe-keeping

3.—(1) This regulation applies to any item which has been seized by a constable under section 342E(4) of the Sentencing Act 2020 (power of constable to seize anything found in the course of a search if the constable reasonably suspects it to be a bladed article or an offensive weapon)(**b**), unless it is an item of property to which the Police (Property) Regulations 1997(**c**) apply.

(2) An item must be retained for 6 months beginning with the date on which it was seized unless, before the end of that period, a successful application has been made under regulation 4.

(**a**) 2020 c. 17. Section 342F was inserted by section 165(1) of the Police, Crime, Sentencing and Courts Act 2022 (c. 32).
(**b**) Section 342E was inserted by section 165(1) of the Police, Crime, Sentencing and Courts Act 2022 (c. 32).
(**c**) S.I. 1997/1908. Regulation 5 was amended by the Sentencing Act 2020 (c. 17), Schedule 24, paragraph 319.

(3) Any item which is for the time being retained under paragraph (2) must be kept safely and, so far as possible, in the same condition as when it was seized.

Disposal to the owner

4.—(1) The owner of an item to which regulation 3 applies may, at any time within the period set out in paragraph (2) of that regulation, apply to the relevant officer for the item to be released to that person.

(2) An application under this regulation may be made orally or in writing and must be accompanied by evidence of ownership by the applicant.

(3) Where the relevant officer is satisfied that the applicant is the owner of the item concerned and that further retention of the item is not necessary for the purposes of any criminal proceedings that officer must arrange for the item concerned to be returned to the applicant.

Disposal otherwise than to the owner and destruction

5.—(1) An item to which regulation 3 applies must, subject to paragraph (2), be destroyed or otherwise disposed of in accordance with the directions of the relevant officer by the later of:

(a) the expiration of the period set out in regulation 3(2); or

(b) the determination of an unsuccessful application under regulation 4.

(2) Where further retention of such an item is, in the opinion of the relevant officer, necessary for the purposes of criminal proceedings the item must be retained until that officer is satisfied that retention is no longer necessary.

(3) Where the relevant officer is satisfied that further retention of an item is no longer necessary the item must be destroyed or otherwise disposed of in accordance with that officer's direction.

Jeremy Quin
Minister of State
Home Office

17th October 2022

EXPLANATORY NOTE

(This note is not part of the Regulations)

Section 342E of the Sentencing Act 2020 (c. 17) ("the Sentencing Code") provides constables with a power to search a person subject to a Serious Violence Reduction Order to ascertain if they have a bladed article or offensive weapon with them. Section 342E(4) enables a constable to seize anything found in the course of the search which the constable reasonably suspects to be a bladed article or an offensive weapon.

These Regulations make provision for the retention, safe-keeping, disposal and destruction of items seized under section 342E(4) of the Sentencing Code. They do not apply to items to which the Police (Property) Regulations 1997 (S.I. 1997/1908) ("the 1997 Regulations") apply. The 1997 Regulations apply to property that is in the possession of the police in connection with their investigation of a suspected offence and in respect of which the owner has not been ascertained and no court order has been made. The 1997 Regulations also apply to items in the possession of the police by virtue of a deprivation order made under section 153 of the Sentencing Code and in respect of which no application by a claimant has been made within six months of the making of the order or no such application has succeeded.

Regulation 3 specifies the period for which items must be retained by the relevant officer.

Regulation 4 makes provision to enable the owner of an item to make an application to the relevant police officer to have that item released to him.

Regulation 5 makes provision for the retention and disposal of items after the expiration of the period specified in regulation 3, or following an unsuccessful application made under regulation 4.

An impact assessment has been prepared in relation to the Police, Crime, Sentencing and Courts Act 2022 (c. 32) which inserted sections 342A to 342L, providing for Serious Violence Reduction Orders, into the Sentencing Code. A copy of the impact assessment is available on legislation.gov.uk. A hard copy can be obtained by writing to the Home Office at 2 Marsham Street, London, SW1P 4DF.

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£4.90

http://www.legislation.gov.uk/id/uksi/2022/1071

ISBN 978-0-34-823995-9

