
STATUTORY INSTRUMENTS

2005 No. 1803

The General Product Safety Regulations 2005

PART 3

ENFORCEMENT

Forfeiture: England and Wales and Northern Ireland

18.—(1) An enforcement authority in England and Wales or Northern Ireland may apply for an order for the forfeiture of a product on the grounds that the product is a dangerous product.

(2) An application under paragraph (1) may be made—

- (a) where proceedings have been brought in a magistrates' court for an offence in respect of a contravention in relation to the product of a requirement imposed by or under these Regulations, to that court,
- (b) where an application with respect to the product has been made to a magistrates' court under regulation 17 (appeals against safety notices) or 25 (appeals against detention of products and records) to that court, and
- (c) otherwise, by way of complaint to a magistrates' court.

(3) An enforcement authority making an application under paragraph (1) shall serve a copy of the application on any person appearing to it to be the owner of, or otherwise to have an interest in, the product to which the application relates, together with a notice giving him the opportunity to appear at the hearing of the application to show cause why the product should not be forfeited.

(4) A person on whom notice is served under paragraph (3) and any other person claiming to be the owner of, or otherwise to have an interest in, the product to which the application relates shall be entitled to appear at the hearing of the application and show cause why the product should not be forfeited.

(5) The court shall not make an order for the forfeiture of a product—

- (a) if any person on whom notice is served under paragraph (3) does not appear, unless service of the notice on that person is proved, or
- (b) if no notice under paragraph (3) has been served, unless the court is satisfied that in the circumstances it was reasonable not to serve notice on any person.

(6) The court may make an order for the forfeiture of a product only if it is satisfied that the product is a dangerous product.

(7) Any person aggrieved by an order made by a magistrates' court for the forfeiture of a product, or by a decision of such a court not to make such an order, may appeal against that order or decision—

- (a) in England and Wales, to the Crown Court;
- (b) in Northern Ireland, to the county court.

(8) An order for the forfeiture of a product shall not take effect until the later of—

- (i) the end of the period within which an appeal under paragraph (7) may be brought or within which an application under section 111 of the Magistrates' Courts Act 1980⁽¹⁾ or article 146 of the Magistrates' Courts (Northern Ireland) Order 1981⁽²⁾ (statement of case) may be made, or
- (ii) if an appeal or an application is so made, when the appeal or application is determined or abandoned.

(9) Subject to the following paragraph, where a product is forfeited it shall be destroyed in accordance with such directions as the court may give.

(10) On making an order for forfeiture of a product a magistrates' court may, if it considers it appropriate to do so, direct that the product shall (instead of being destroyed) be delivered up to such person as the court may specify, on condition that the person—

- (a) does not supply the product to any person otherwise than as mentioned in paragraph (11), and
- (b) on condition, if the court considers it appropriate, that he complies with any order to pay costs or expenses (including any order under regulation 28) which has been made against him in the proceedings for the order for forfeiture.

(11) The supplies which may be permitted under the preceding paragraph are—

- (a) a supply to a person who carries on a business of buying products of the same description as the product concerned and repairing or reconditioning them,
- (b) a supply to a person as scrap (that is to say, for the value of materials included in the product rather than for the value of the product itself),
- (c) a supply to any person, provided that being so supplied the product is repaired by or on behalf of the person to whom the product was delivered up by direction of the court and that following such repair it is not a dangerous product.

(1) 1980 c. 43.

(2) SI 1675/1981 (N.I.26).