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STATUTORY INSTRUMENTS

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**2013 No. 233**

**The Timber and Timber Products  
(Placing on the Market) Regulations 2013**

**PART 3**

**Enforcement**

**Powers of entry**

7.—(1) An inspector may, on serving reasonable notice, enter premises at any reasonable hour, except premises used wholly or mainly as a private dwelling house, for the purpose of enforcing the Timber Regulation and the Implementing Regulation.

(2) The requirement to serve notice does not apply—

- (a) where reasonable efforts to agree an appointment have failed;
- (b) where an inspector reasonably believes that serving a notice would defeat the object of the entry;
- (c) where an inspector has a reasonable suspicion that an offence has been committed under regulation 4; or
- (d) in an emergency.

(3) An inspector must, if requested, produce a duly authenticated authorisation document.

(4) Paragraph (1) does not affect any right of entry conferred by a warrant issued in accordance with paragraph (5).

(5) A justice of the peace may by signed warrant permit an inspector to enter premises, if necessary by reasonable force, if the justice, on sworn information in writing, is satisfied that—

- (a) there are reasonable grounds for an inspector to enter those premises for the purpose of enforcing the Timber Regulation and the Implementing Regulation; and
- (b) one of the conditions in paragraph (6) is met.

(6) The conditions are that—

- (a) entry to the premises has been refused, or is likely to be refused without a warrant, and notice of the intention to apply for a warrant has been served on the occupier;
- (b) asking for admission to the premises, or serving such a notice, would defeat the object of the entry;
- (c) entry is required urgently; or
- (d) the premises are unoccupied or the occupier is temporarily absent.

(7) But the power in paragraph (5) does not extend to premises used wholly or mainly as a private dwelling house.

(8) A warrant is valid for three months.

(9) An inspector entering premises under this regulation may—

- (a) be accompanied by—
  - (i) such other persons as the inspector considers necessary,
  - [<sup>F1</sup>(ii) any representative of the European Commission;] and
- (b) bring on to the premises such equipment as the inspector considers necessary.

(10) An inspector entering any premises which are unoccupied or from which the occupier is temporarily absent must leave them as effectively secured against unauthorised entry as they were before entry.

(11) An inspector may require a vehicle, vessel, aircraft or hovercraft that the inspector has reasonable grounds to believe is transporting timber to stop to allow the inspector to exercise the powers conferred by these Regulations.

(12) In this regulation—

- (a) in Scotland, a reference to a justice of the peace means a sheriff, and the reference to sworn information in writing is a reference to evidence on oath; and
- (b) in Northern Ireland, a reference to a justice of the peace is a reference to a lay magistrate, and the reference to sworn information in writing is a reference to a sworn complaint in writing.

**F1** Reg. 7(9)(a)(ii) omitted (E.W.S.) (31.12.2020) by virtue of [The Timber and Timber Products and FLEGT \(EU Exit\) Regulations 2018 \(S.I. 2018/1025\)](#), regs. 1(1), **3(3)** (as amended by [S.I. 2020/1315](#), regs. 1(2), 2(2)); 2020 c. 1, Sch. 5 para. 1(1)

#### Commencement Information

**II** Reg. 7 in force at 3.3.2013, see [reg. 1\(2\)](#)

### Powers of inspection

**8.—(1)** An inspector who has entered premises in exercise of a power under regulation 7 may—

- (a) inspect the premises and any of the following items found on the premises—
  - (i) plant, machinery or equipment,
  - (ii) containers,
  - (iii) timber;
- (b) search the premises;
- (c) have access to, inspect and copy documents, records or other information, in whatever form they are held, and remove them to enable them to be copied;
- (d) require the production of, and inspect and check the data on, and operation of, any computer and any associated apparatus used in connection with such documents, records or other information, and require computer records to be produced in a form in which they may be easily accessed and taken away by the inspector;
- (e) take samples of any timber;
- (f) carry out any examination, investigation or test; and
- (g) take photographs, measurements or recordings.

(2) An inspector may require any person to provide as may be necessary for the purpose of enforcing the Timber Regulation and the Implementing Regulation any—

- (a) assistance;
- (b) timber; and

- (c) documents, records or other information.

**Commencement Information**

**I2** Reg. 8 in force at 3.3.2013, see [reg. 1\(2\)](#)

**Powers of seizure**

**9.—(1)** An inspector may seize and remove any timber where the inspector has reasonable grounds for believing that an offence under regulation 4(a) has been committed.

(2) If the inspector is able to identify the person in possession of the seized timber, the inspector must serve on that person a notice (a “seizure notice”)—

- (a) giving the grounds for seizing the timber; and
- (b) informing that person of the rights under this regulation to appeal against the seizure, and the address for serving notice of an appeal under paragraph (5).

(3) If the inspector is unable to identify a person in possession but is able to identify the owner of the seized timber, the inspector must serve the seizure notice on the owner.

(4) An inspector who is unable immediately to remove the seized timber may mark it in any way, and serve a notice on the person on whom the inspector served the seizure notice identifying it and prohibiting its removal from the premises until it is collected by an inspector, or other arrangements are made with the inspector.

(5) The person on whom the inspector served the seizure notice may, within 28 days of service of the seizure notice, serve notice of an appeal against the seizure to the Secretary of State at the address specified in the seizure notice, setting out the grounds in full.

(6) If the Secretary of State receives a notice of an appeal in accordance with paragraph (5), then, unless the seized timber is being held for the purposes of a criminal investigation, the Secretary of State must—

- (a) withdraw the seizure notice and return the timber, if previously removed, to the place from which it was removed or such other place as is reasonable in the circumstances; or
- (b) take proceedings for a court order for—
  - (i) the confirmation of the seizure notice; and
  - (ii) the destruction or donation, sale or other disposal of the timber by the Secretary of State or the person on whom the inspector served the seizure notice.

(7) If one of the conditions in paragraph (8) is met, the Secretary of State may—

- (a) destroy the timber;
- (b) donate, sell or otherwise dispose of the timber; or
- (c) serve a further notice on the person (if any) on whom the inspector served the seizure notice requiring that person to destroy or otherwise dispose of the timber in the manner and within the period specified in the further notice.

(8) The conditions are that—

- (a) the inspector is unable to identify any person in possession or the owner of the seized timber within 28 days of seizing the timber; or
- (b) the Secretary of State does not receive a notification of an appeal in accordance with paragraph (5).

(9) The procedure in a magistrates’ court under this regulation is by way of complaint, and the Magistrates’ Courts Act 1980 applies to the proceedings.

(10) In proceedings in a magistrates' court in Northern Ireland under this regulation, the Magistrates' Courts (Northern Ireland) Order 1981 applies.

(11) In Scotland proceedings are by summary application before a sheriff.

**Commencement Information**

**I3** Reg. 9 in force at 3.3.2013, see [reg. 1\(2\)](#)

**Obstruction of an inspector**

**10.** Where an inspector exercises a power under these Regulations, no person may—

- (a) intentionally obstruct the inspector;
- (b) without reasonable excuse, fail to give to the inspector any information or assistance that the inspector may reasonably require;
- (c) knowingly give false or misleading information to the inspector;
- (d) without reasonable excuse, fail to produce a record or document when reasonably required to do so by the inspector; or
- (e) without reasonable excuse, fail to comply with—
  - (i) a requirement to stop under regulation 7(11), or
  - (ii) a notice under paragraph (4) or (7)(c), or order under paragraph (6)(b), of regulation 9.

**Commencement Information**

**I4** Reg. 10 in force at 3.3.2013, see [reg. 1\(2\)](#)

**Notice of remedial actions**

**11.** An inspector who has reasonable grounds for believing that any person has committed an offence under regulation 4(b) or (c) may serve a notice (a “notice of remedial actions”) on the person that—

- (a) states the inspector's grounds for believing this;
- (b) specifies the matters that constitute the alleged offence;
- (c) specifies the measures that, in the inspector's opinion, the person must take in order to secure compliance with Article 4(2) (obligation to exercise due diligence) or Article 4(3) (obligation to maintain and evaluate due diligence system) of the Timber Regulation; and
- (d) requires the person to take those measures, or measures at least equivalent to them, within the period (being not less than 14 days) specified in the notice.

**Commencement Information**

**I5** Reg. 11 in force at 3.3.2013, see [reg. 1\(2\)](#)

**Appeals against notice of remedial actions**

**12.—(1)** A person aggrieved by a notice of remedial actions may appeal to a magistrates' court or, in Scotland, to the sheriff.

(2) The procedure on an appeal to a magistrates' court under paragraph (1) is by way of complaint, and the Magistrates' Courts Act 1980 applies to the proceedings.

(3) An appeal to the sheriff under paragraph (1) is by summary application.

(4) The period within which an appeal may be brought is 28 days or the period specified in the notice of remedial actions, whichever ends earlier.

(5) A notice of remedial actions must state—

(a) the right of appeal to a magistrates' court or to the sheriff; and

(b) the period within which such an appeal may be brought.

(6) A court may suspend a notice of remedial actions pending an appeal.

(7) On an appeal against a notice of remedial actions, the court may either cancel the notice or confirm it, with or without modification.

#### Commencement Information

**16** Reg. 12 in force at 3.3.2013, see [reg. 1\(2\)](#)

#### Penalties

**13.—**(1) A person guilty of an offence under paragraph (a), (b) or (c) of regulation 4 is liable—

(a) on summary conviction to a fine not exceeding the statutory maximum or to a term of imprisonment not exceeding three months, or to both;

(b) on conviction on indictment, to a fine or to a term of imprisonment not exceeding two years, or to both.

(2) A person guilty of an offence under paragraph (d), (e), (f) or (g) of regulation 4 is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(3) For the purposes of paragraph (1), the reference to the statutory maximum in relation to a conviction in Scotland shall be read as meaning £5,000.

(4) Notwithstanding section 127 of the Magistrates' Courts Act 1980 (limitation of time) or article 19 of the Magistrates' Courts (Northern Ireland) Order 1981 (time within which complaint charging offence must be made to give jurisdiction), in England, Wales and Northern Ireland a magistrates' courts may—

(a) in the case of England and Wales, try an information, or

(b) in the case of Northern Ireland, try a complaint

in respect of an offence under regulation 4 if the relevant condition in paragraph (5) is met.

(5) The condition is that—

(a) in the case of England and Wales, the information is laid, or

(b) in the case of Northern Ireland, the complaint is made

within three years from the date of the offence or within one year from the discovery of the offence by the prosecutor, whichever is earlier.

(6) Notwithstanding section 136 of the Criminal Procedure (Scotland Act) 1995<sup>(1)</sup> (time limit for certain offences), in Scotland summary proceedings for an offence under regulation 4 may be commenced within three years from the date of the offence or within one year from the discovery of the offence by the prosecutor, whichever is earlier.

(1) 1995 c. 46.

(7) For the purposes of paragraph (6), section 136(3) of the Criminal Procedure (Scotland) Act 1995 shall apply as it applies for the purposes of that section.

(8) For the purposes of this regulation—

- (a) a certificate signed by or on behalf of the prosecutor and stating the date on which the prosecutor first knew of evidence sufficient to justify the proceedings is conclusive evidence of that fact; and
- (b) a certificate stating that matter and purporting to be so signed is deemed to be so signed unless the contrary is proved.

(9) In proceedings in a magistrates' court in Northern Ireland relating to a notice of remedial actions under regulation 11, the Magistrates' Courts (Northern Ireland) Order 1981 applies.

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**Commencement Information**

**17** Reg. 13 in force at 3.3.2013, see [reg. 1\(2\)](#)

**Recovery of expenses of enforcement**

**14.**—(1) This regulation applies where a court convicts a person of an offence under regulation 4.

(2) The court may (in addition to any other order it may make as to costs or expenses) order the person convicted to reimburse the Secretary of State for any expenditure which the Secretary of State or any inspector has reasonably incurred in investigating the offence, including expenditure incurred in the exercise of any power conferred by regulation 7, 8 or 9.

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**Commencement Information**

**18** Reg. 14 in force at 3.3.2013, see [reg. 1\(2\)](#)

**Changes to legislation:**

There are currently no known outstanding effects for the The Timber and Timber Products (Placing on the Market) Regulations 2013, PART 3.