
STATUTORY INSTRUMENTS

1991 No. 1620

The Construction Products Regulations 1991

PART II

REQUIREMENTS RELATING TO CONSTRUCTION PRODUCTS

Forfeiture: England and Wales and Northern Ireland

12.—(1) An enforcement authority in England and Wales or Northern Ireland may apply under this regulation for an order for the forfeiture of any construction products on the grounds that there has been a contravention in relation to the products of a provision of regulation 5, 6, 7 or 8.

(2) An application under this regulation may be made—

- (a) where proceedings have been brought in a magistrates' court for an offence in relation to some or any of the products under any provision of this Part, to that court;
- (b) where an application with respect to some or all of the products has been made to a magistrates' court under regulation 11 or 21, to that court; and
- (c) where no application for the forfeiture of the products has been made under subparagraph (a) or (b) above, by way of complaint to a magistrates' court.

(3) On an application under this regulation the court shall make an order for the forfeiture of any products only if it is satisfied that there has been a contravention in relation to the products of a provision of regulation 5, 6, 7 or 8.

(4) For the avoidance of doubt it is declared that a court may infer for the purposes of this regulation that there has been a contravention in relation to any products of a provision of regulation 5, 6, 7 or 8 if it is satisfied that any such provision has been contravened in relation to products which are representative of those products (whether by reason or being of the same design or part of the same consignment or batch or otherwise).

(5) Any person aggrieved by an order made under this regulation by a magistrates' court, 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;

and an order so made may contain such provision as appears to the court to be appropriate for delaying the coming into force of the order pending the making and determination of any appeal (including any application under section 111 of the Magistrates' Court Act 1980 or Article 146 of the Magistrates' Courts (Northern Ireland) Order 1981 (statement of case)).

(6) Subject to paragraph (7) below, where any products are forfeited under this regulation they shall be destroyed in accordance with such directions as the court may give.

(7) On making an order under this regulation a magistrates' court may, if it considers it appropriate to do so, direct that the products to which the order relates shall (instead of being destroyed) be released, to such person as the court may specify, on condition that that person—

- (a) does not supply those products to any person otherwise than—

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- (i) to a person who carries on a business of buying products of the same description as those products and repairing or reconditioning them; or
 - (ii) as scrap (that is to say, for the value of materials included in the products rather than for the value of the products themselves); and
- (b) complies with any order to pay costs or expenses (including any order under regulation 23) which has been made against that person in the proceedings for the order for forfeiture.