
STATUTORY INSTRUMENTS

1992 No. 2423

The Telecommunications Terminal Equipment Regulations 1992

PART VII

ENFORCEMENT

Enforcement authorities and powers

Enforcement authorities

61.—(1) It shall be the duty of the following authorities to enforce these Regulations—

- (a) in Great Britain, weights and measures authorities; and
- (b) in Northern Ireland, the Department of Economic Development.

(2) The Secretary of State may enforce these Regulations.

(3) Nothing in this regulation shall authorise a weights and measures authority to bring proceedings in Scotland for an offence.

(4) In these Regulations, “enforcement authority” means any person who is, pursuant to the provisions of this regulation, authorised to act as an enforcement authority.

Test purchases

62.—(1) The enforcement authority shall have power, for the purpose of ascertaining whether applicable terminal equipment complies with the requirements of regulation 8 or 12 above to make, or to authorise an officer of the authority to make, any purchase of terminal equipment, connection-capable equipment or radio connection-capable equipment.

(2) Where—

- (a) any equipment purchased under this regulation by or on behalf of the enforcement authority is submitted to a test; and
- (b) the test leads to—
 - (i) the bringing of proceedings for an offence under regulation 70, 71 or 73 below in relation to the equipment or the forfeiture of equipment of the same description under regulation 82 or 83 below; or
 - (ii) the serving of a suspension notice in respect of any equipment; and
- (c) the authority is requested to do so and it is practicable for the authority to comply with the request,

the authority shall allow the person from whom the equipment was purchased or any person who is a party to the proceedings or has an interest in any equipment to which the notice relates to have the equipment tested.

Powers of search etc

63.—(1) Subject to regulation 64 below, a duly authorised officer of the enforcement authority may at any reasonable hour and on production, if required, of his credentials exercise any of the powers conferred by the following provisions of this regulation.

(2) The officer may, for the purpose of ascertaining whether there has been a contravention of any of the requirements of Part II of these Regulations—

- (a) inspect any terminal equipment, connection-capable equipment or radio connection-capable equipment and enter any premises other than premises occupied only as a person's residence; or
- (b) examine any procedure (including any arrangements for carrying out a test) connected with the production of any such equipment.

(3) If the officer has reasonable grounds for suspecting that there has been a contravention of any of the requirements of Part II of these Regulations, he may for the purpose of ascertaining (by testing or otherwise) whether there has been any such contravention, seize and detain any terminal equipment, connection-capable equipment or radio connection-capable equipment.

(4) The officer may seize and detain—

- (a) any terminal equipment, connection-capable equipment, radio connection-capable equipment, document, record or information of which the officer may require production under regulation 69 below, or any other thing, which he has reasonable grounds for believing may be required as evidence in proceedings for an offence under these Regulations; or
- (b) any terminal equipment, connection-capable equipment or radio connection-capable equipment which he has reasonable grounds for suspecting may be liable to be forfeited under regulation 82 or 83 below.

(5) The officer may, for the purpose of the exercise of his powers under paragraph (3) or (4) above to seize any thing—

- (a) require any person having authority to do so to open any container; and
- (b) himself open or break open any such container where a requirement made under subparagraph (a) above in relation to the container has not been complied with.

Provisions supplemental to regulation 63

64.—(1) An officer seizing any equipment, records, documents, information or other thing under regulation 63 above shall inform the person from whom they are seized that such equipment, records or other thing have been so seized.

(2) If a justice of the peace—

- (a) is satisfied by any written information on oath that there are reasonable grounds for believing either—
 - (i) that any equipment, documents, records, information or other thing which any officer has power to inspect under regulation 63 above are on any premises (which may be premises occupied only as a person's residence) and that, if their inspection reveals that the equipment is applicable terminal equipment or connection-capable equipment or radio connection-capable equipment to which regulation 12(1) above applies or that the documents, records, information or other thing relates to such equipment, such inspection is likely to disclose evidence that there has been a contravention of any provision of Part II of these Regulations; or
 - (ii) that such a contravention has taken place, is taking place or is about to take place on any premises; and

(b) is also satisfied by any such information either—

(i) that admission to the premises has been or is likely to be refused and that notice of intention to apply for a warrant under this paragraph has been given to the occupier; or

(ii) that an application for admission, or the giving of such a notice, would defeat the object of the entry or that the premises are unoccupied or that the occupier is temporarily absent and it might defeat the object of the entry to await his return,

the justice may by warrant under his hand, which shall continue in force for one month, authorise any officer of the enforcement authority to enter the premises, if need be by force.

(3) An officer entering any premises by virtue of regulation 63 above or a warrant under paragraph (2) of this regulation may take with him such other persons and such equipment as may appear to him necessary.

(4) On leaving any premises which a person is authorised to enter by a warrant under paragraph (2) of this regulation, that person shall, if the premises are unoccupied or the occupier is temporarily absent, leave the premises as effectively secured against trespassers as he found them.

(5) Where any equipment seized by an officer under regulation 63 above is submitted to a test, the officer shall inform the person mentioned in paragraph (1) of this regulation of the result of the test and, if—

(a) proceedings are brought for an offence in respect of a contravention in relation to any equipment of any provision of these Regulations or for the forfeiture of any equipment under regulation 82 or 83 below, or a suspension notice is served in respect of any equipment; and

(b) the officer is requested to do so and it is practicable to comply with the request,

the officer shall allow any person who is party to the proceedings or, as the case may be, has an interest in the equipment to which the notice relates to have the equipment tested.

(6) In the application of this regulation to Scotland, the reference in paragraph (2) above to a justice of the peace shall include a reference to a sheriff and the references to written information on oath shall be construed as references to evidence on oath.

(7) In the application of this regulation to Northern Ireland, the references in paragraph (2) above to any information on oath shall be construed as references to any complaint on oath.

Appeals against detention of equipment

65.—(1) Any person having an interest in any equipment, document, record, information or other thing which is for the time being detained under any provision of this Part by the enforcement authority or by an officer of such authority may apply for an order requiring the equipment to be released to him or to another person.

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

(a) to any magistrates' court in which proceedings have been brought in England and Wales and Northern Ireland—

(i) for an offence under regulation 70, 71 or 73 below; or

(ii) for the forfeiture of the equipment under regulation 82 below;

(b) where no such proceedings have been so brought, by way of complaint to a magistrates' court; or

(c) in Scotland, by summary application to the sheriff.

(3) On an application under this regulation to a magistrates' court or to the sheriff, an order requiring equipment to be released shall be made only if the court or sheriff is satisfied—

- (a) that proceedings—
 - (i) for an offence under regulation 70, 71 or 73 below in respect of the equipment; or
 - (ii) for the forfeiture of the equipment under regulation 82 or 83 below,
 have not been brought or, having been brought, have been concluded without the equipment being forfeited; and
- (b) where no such proceedings have been brought, that more than six months have elapsed since the equipment was seized.

(4) Any person aggrieved by an order made under this regulation by a magistrates' court in England and Wales or Northern Ireland, 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 provisions as appears to the court 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' Courts Act 1980⁽¹⁾ or Article 146 of the Magistrates' Courts (Northern Ireland) Order 1981⁽²⁾ (statement of case)).

Prohibition notices

66.—(1) Where the Secretary of State considers that—

- (a) any applicable terminal equipment does not comply with the requirements of regulation 8 above; or
- (b) any connection-capable equipment or radio connection-capable equipment to which paragraph (1) of regulation 12 above applies does not comply with the requirements of that paragraph,

he may serve on the manufacturer, supplier or user of such equipment, or on the operator of any public telecommunication system to which such equipment is connected, a notice (“a prohibition notice”) prohibiting—

- (i) that manufacturer, supplier or user from manufacturing, supplying, putting into service, connecting or permitting to remain connected to any telecommunication system or using that equipment as the case may require; or
- (ii) that operator from permitting—
 - (aa) such equipment to remain connected to that system; or
 - (bb) the supply of telecommunication services by means of that system to a person using such equipment,

except with the consent of the Secretary of State.

(2) Schedule 7 hereto shall have effect with respect to prohibition notices.

(3) A consent given by the Secretary of State for the purposes of a prohibition notice may impose such conditions on the doing of anything for which the consent is required as the Secretary of State considers appropriate.

(1) 1980 c. 43.

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

Suspension notices

67.—(1) Where the enforcement authority has reasonable grounds for suspecting that regulation 8 or 12 above has been, is being or is likely to be contravened, the authority may serve a notice (“a suspension notice”) on the manufacturer, supplier, or user of the terminal equipment, connection-capable equipment or radio connection-capable equipment concerned or on the operator of any public telecommunication system to which such equipment is connected, prohibiting—

- (a) that manufacturer, supplier or user from manufacturing, supplying, putting into service, connecting or permitting to remain connected to any public telecommunication system or using the equipment concerned as the case may require; or
- (b) that operator from permitting—
 - (i) such equipment to remain connected to that system; or
 - (ii) the supply of telecommunication services by means of that system to a person using such equipment,

for such period ending not more than six months after the date of the notice as is specified therein, without the consent of that authority.

(2) A suspension notice served by the enforcement authority in respect of any such equipment shall—

- (a) describe the equipment to which it relates in a manner sufficient to identify it;
- (b) set out the grounds on which the authority suspects that regulation 8 or 12 above has been, is being or is likely to be contravened, as the case may be; and
- (c) state that, and the manner in which, the person on whom the notice is served may appeal against the notice under regulation 68 below.

(3) A consent given by the enforcement authority for the purposes of a suspension notice may impose such conditions on the doing of anything for which the consent is required as that authority considers appropriate.

(4) A suspension notice may require the person on whom it is served to keep the enforcement authority which served the notice informed of the whereabouts throughout the period during which the notice has effect of any of the equipment in which that person has an interest.

(5) Where a suspension notice has been served on any person in respect of equipment, no further such notice shall be served on that person in respect of the same equipment unless—

- (a) proceedings against that person for an offence under regulation 70, 71 or 73 below; or
- (b) proceedings for the forfeiture of the equipment under regulation 82 or 83 below,

are pending at the end of the period specified in the first-mentioned notice.

Appeals against suspension notices

68.—(1) Any person having an interest in any equipment in respect of which a suspension notice is for the time being in force may apply for an order setting aside the notice.

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

- (a) in England and Wales or Northern Ireland—
 - (i) to any magistrates' court in which proceedings have been brought—
 - (aa) for an offence under regulation 70, 71 or 73 below; or
 - (bb) for the forfeiture of the equipment under regulation 82 below; or
 - (ii) where no such proceedings have been so brought, by way of complaint to a magistrates' court; or

(b) in Scotland, by summary application to the sheriff.

(3) On an application under this regulation to a magistrates' court in England and Wales or Northern Ireland the court shall make an order setting aside the suspension notice only if the court is satisfied that there has been no contravention in relation to the equipment of regulation 8 or 12 above as the case may be.

(4) On an application under this regulation to the sheriff he shall make an order setting aside the suspension notice only if he is satisfied that at the date of making the order—

(a) proceedings for an offence under regulation 70, 71 or 73 below; or

(b) proceedings for the forfeiture of the equipment under regulation 83 below,

have not been brought or, having been brought, have been concluded.

(5) Any person aggrieved by an order made under this regulation by a magistrates' court in England and Wales or Northern Ireland, 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 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' Courts Act 1980 or Article 146 of the Magistrates' Courts (Northern Ireland) Order 1981 (statement of case)).

Power to require production of documents and information etc.

69. An officer of the enforcement authority may, for the purposes of exercising his functions under this Part, require—

(a) any person who is required by regulation 11 above to retain any document, to produce such document;

(b) any person who is in possession of any such document or a copy thereof at any time to produce it;

(c) a manufacturer or his authorised representative, supplier or user of terminal equipment, connection-capable equipment or radio connection-capable equipment to produce such documents or records relating to such equipment as are in his possession or under his control; or

(d) a manufacturer or his authorised representative, supplier or user of any such equipment to give him such information as he may reasonably require,

and such officer may inspect any thing which he may require to be produced under this regulation, and take a copy thereof or of any part thereof.