

SCHEDULE

ENFORCEMENT OF REGULATIONS 5, 6 AND 7

7.—(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 Schedule by an enforcement authority or by an officer of such an authority, may apply for an order requiring such item to be released to him or to another person.

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

- (a) to any magistrates' court in which proceedings for forfeiture have been brought in England and Wales or Northern Ireland; or
- (b) where no such proceedings have been brought, by way of complaint to a magistrates' court.

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

- (a) that proceedings for the forfeiture of the equipment under paragraph 8 or 9 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) Subparagraphs (1) to (3) apply to Scotland with the substitution for references to the magistrates' court of references to the sheriff; and application to the sheriff is by way of summary application.

(5) Any person aggrieved by an order made under this paragraph 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^{M1} or article 146 of the Magistrates' Courts (Northern Ireland) Order 1981^{M2}).

(6) In Scotland appeal shall lie—

- (a) to the sheriff principal from the decision of the sheriff; and
- (b) with leave of the sheriff principal, to the Court of Session from the decision of the sheriff principal.

Marginal Citations

M1 1980 c. 43.

M2 S.I. 1981/1675 (N.I. 26); article 22 was amended by the Criminal Justice and Police Act 2001 (c. 16), section 70 and Schedule 2, paragraph 13.

Changes to legislation:

There are currently no known outstanding effects for the The Advanced Television Services Regulations 2003, Paragraph 7.