

---

STATUTORY INSTRUMENTS

---

**2005 No. 281**

**The Electromagnetic Compatibility Regulations 2005**

**PART VII**

**ENFORCEMENT**

*Enforcement authorities and powers*

**Appeals against detention of apparatus**

**79.**—(1) Any person having an interest in any apparatus, document, record, information or other thing which is for the time being detained under any provision of this Part by an enforcement authority or by an officer of such an authority may apply for an order requiring the apparatus 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 85, 86 or 88 below; or
  - (ii) for the forfeiture of the apparatus under regulation 97 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 apparatus to be released shall be made only if the court or sheriff is satisfied—

- (a) that proceedings—
  - (i) for an offence under regulation 85, 86 or 88 below in respect of the apparatus; or
  - (ii) for the forfeiture of the apparatus under regulation 97 or 98 below,have not been brought or, having been brought, have been concluded without the apparatus being forfeited; and
- (b) where no such proceedings have been brought, that more than six months have elapsed since the apparatus 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 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 (1) or article 146 of the Magistrates' Courts (Northern Ireland) Order 1981(2) (statement of case)).

---

(1) 1980 c. 43.  
(2) S.I. 1981/1675 (N.I.26).