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STATUTORY INSTRUMENTS

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**2013 No. 1387**

**The Construction Products Regulations 2013**

**PART 2**

**REQUIREMENTS RELATING TO CONSTRUCTION PRODUCTS**

**CHAPTER 2**

**Suspension notices and forfeiture**

**Forfeiture: England and Wales and Northern Ireland**

**8.—(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 any of the grounds on which the enforcement authority may serve a suspension notice under regulation 7(1) in relation to the products.

(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 Part 2 of Schedule 2 (appeals against suspension notices) or under regulation 19 (appeals against detention of products), to that court; and
- (c) in any other case by way of complaint to a magistrates' court.

(3) On an application under this regulation the court may make an order for the forfeiture of any products only if it is satisfied that one or more of the grounds described in paragraph (1) is made out in relation to the products.

(4) A court may infer for the purposes of this regulation that one or more of the grounds described in paragraph (1) is made out in relation to any products if it is satisfied that one or more of the those grounds is made out in relation to products which are representative of those products (whether by reason of 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 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 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' Courts Act 1980(1) (statement of

case) or Article 146 of the Magistrates' Courts (Northern Ireland) Order 1981<sup>(2)</sup> (cases stated by magistrates' courts)).

(6) Subject to paragraph (7), 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 the person—

- (a) does not supply those products to any person otherwise than—
  - (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 21) which has been made against that person in the proceedings for the order for forfeiture.

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