
STATUTORY INSTRUMENTS

2018 No. 230

The Public Regulated Service (Galileo) Regulations 2018

PART 4

Investigatory and Enforcement Powers

Power to require the production of information

15. Where an officer of the compliance authority reasonably considers that a breach of regulation 4 or a licence condition is taking place or has taken place, he may serve notice on a person requiring the person to provide the compliance authority or an officer of the compliance authority with the information specified in the notice for the purpose of ascertaining compliance with these Regulations.

Notice under regulation 15

16.—(1) A notice under regulation 15 must be in writing and specify the purpose for which the information is required.

(2) The notice may specify—

- (a) the time within which and the manner in which the person on whom it is served must comply with it, and
- (b) the form in which information must be provided.

(3) The person on whom the notice is served must provide the compliance authority or an officer of the compliance authority with the information specified in the notice under regulation 15 in accordance with what is specified under paragraph (2).

(4) A requirement to provide information is to do so in legible form.

(5) A notice under regulation 15 does not require a person to provide any information which the person would be entitled to refuse to produce in civil proceedings in a court—

- (a) in England and Wales or Northern Ireland, on the grounds of legal professional privilege, or
- (b) in Scotland, on the grounds of confidentiality of communications.

(6) In paragraph (5) “communications” means—

- (a) communications between a professional legal adviser and the adviser’s client, or
- (b) communications made in connection with or in contemplation of legal proceedings or for the purpose of those proceedings.

(7) A notice under regulation 15 does not require a person to provide any information if to do so might incriminate that person.

Enforcement of notice under regulation 15

17.—(1) If a person fails to comply with regulation 16(3), the compliance authority may make an application to the court for an order under this regulation.

(2) If it appears to the court that the person has failed to comply with regulation 16(3), it may make an order requiring the person to do anything that the court thinks it is reasonable for the person to do, for any of the purposes for which the notice was given, to ensure that the notice is complied with.

(3) An order under paragraph (2) may require the person to meet the costs or expenses of the application by the compliance authority.

(4) If the person is a company, partnership, limited liability partnership or unincorporated association, the court in acting under paragraph (3) may require any official of that body who is responsible for the failure to meet the costs or expenses of the application by the compliance authority.

(5) In this regulation “court” means—

- (a) in England and Wales or Northern Ireland, the county court, or
- (b) in Scotland, the sheriff or summary sheriff.

Exercise of powers under regulations 19 to 30

18.—(1) An officer of the compliance authority may exercise a power in regulations 19 to 30 for the purpose of ascertaining compliance with these Regulations.

(2) The powers conferred by regulations 21 and 22 are not exercisable in relation to premises occupied by the Crown.

(3) In regulations 19 to 30, “officer” means an officer of the compliance authority.

Power to purchase products

19.—(1) An officer may—

- (a) make a purchase of a product, or
- (b) enter into an agreement to secure the provision of a product.

(2) For the purposes of exercising the power in paragraph (1) an officer may—

- (a) at any reasonable time, enter premises to which the public has access, and
- (b) inspect any product on the premises which the public may inspect.

(3) The power of entry in paragraph (2) may be exercised without first giving notice or obtaining a warrant.

Power to observe carrying on of business

20.—(1) An officer may at any reasonable time enter premises to which the public has access in order to observe the carrying on of a business on those premises.

(2) The power of entry in paragraph (1) may be exercised without first giving notice or obtaining a warrant.

Power to enter premises without warrant

21.—(1) An officer may enter premises at any reasonable time.

(2) Paragraph (1) does not authorise the entry into premises used wholly or mainly as a dwelling.

(3) In the case of a routine inspection, the power of entry in paragraph (1) may only be exercised if a notice has been served on the occupier of the premises in accordance with the requirements in paragraph (4), unless paragraph (5) applies.

(4) Those requirements are that—

- (a) the notice is in writing and is given by an officer,
- (b) the notice sets out why the entry is necessary, and
- (c) there are at least two working days between the date of receipt of the notice and the date of entry.

(5) A notice need not be served if the occupier has waived the requirement to give notice.

(6) In this regulation—

(a) “routine inspection” means an exercise of the power in paragraph (1) other than where—

- (i) the officer reasonably considers a breach of regulation 4 or a licence condition is about to take place, is taking place or has taken place on the premises,
- (ii) the officer reasonably considers that to serve notice in accordance with that paragraph would defeat the purpose of the entry, or
- (iii) it is not reasonably practicable in all the circumstances to serve notice in accordance with that paragraph, in particular because the officer reasonably considers that there is an imminent risk to public safety;

(b) “working day” means a day other than—

- (i) Saturday or Sunday,
- (ii) Christmas Day or Good Friday, or
- (iii) a day which is a bank holiday under the Banking and Financial Dealings Act 1971 in the part of the United Kingdom in which the premises are situated.

(7) If an officer enters premises under paragraph (1) otherwise than in the course of a routine inspection, and finds one or more occupiers on the premises, the officer must provide to that occupier or (if there is more than one) to at least one of them a document that sets out why the entry is necessary.

(8) If an officer enters premises under paragraph (1) and finds one or more occupiers on the premises, the officer must produce evidence of the officer’s identity and authority to that occupier or (if there is more than one) to at least one of them.

(9) An officer need not comply with paragraph (7) or (8) if it is not reasonably practicable to do so.

(10) Proceedings resulting from the exercise of the power under paragraph (1) are not invalid merely because of a failure to comply with paragraph (7) or (8).

(11) An officer entering premises under paragraph (1) may be accompanied by such persons, and may take onto the premises such equipment as the officer thinks necessary.

Power to enter premises with warrant

22.—(1) On an application by the compliance authority, a court may issue a warrant, in accordance with regulation 23(1), if it is satisfied that there are reasonable grounds for considering that—

- (a) condition A or B is met, and
- (b) condition C, D or E is met.

(2) Condition A is that on the premises there is—

- (a) a PRS product or document which the officer has power to inspect under regulation 26, or

- (b) a document which the officer could require a person to produce under regulation 27.
- (3) Condition B is that a breach of regulation 4 or a licence condition is about to take place, is taking place or has taken place on the premises.
- (4) Condition C is that—
 - (a) access to the premises or the exercise of any of the powers conferred under regulation 24 has been or is likely to be refused, and
 - (b) notice of the compliance authority's intention to apply for a warrant under this regulation has been served on the occupier of the premises.
- (5) Condition D is that it is likely that the PRS product or document on the premises would be concealed or interfered with if notice of entry on the premises were given to the occupier of the premises.
- (6) Condition E is that—
 - (a) the premises are unoccupied, or
 - (b) the occupier of the premises is absent, and it might defeat the purpose of the entry to wait for the occupier's return.
- (7) In paragraph (1) "court" means—
 - (a) in England and Wales or Northern Ireland, the county court or the High Court, or
 - (b) in Scotland—
 - (i) the sheriff or summary sheriff, or
 - (ii) the Court of Session but only in proceedings under regulation 12.

Entry to premises under warrant

23.—(1) A warrant issued under regulation 22—

- (a) authorises an officer—
 - (i) to enter the premises at any reasonable time, using reasonable force if necessary, and
 - (ii) to exercise any power in regulations 25 to 30;
 - (b) ceases to have effect at the end of the period of one month beginning with the day it is issued.
- (2) An officer entering premises under a warrant issued under regulation 22 may be accompanied by such persons, and may take onto the premises such equipment, as the officer thinks necessary.
- (3) If the premises are occupied when an officer enters them, the officer must produce the warrant for inspection to an occupier of the premises.
- (4) Paragraph (5) applies if the premises are unoccupied or if the occupier is temporarily absent.
- (5) On leaving the premises an officer must—
 - (a) leave a notice on the premises stating that the premises have been entered under a warrant issued under regulation 22, and
 - (b) leave the premises as effectively secured against trespassers as the officer found them.

Application of regulations 25 to 30

24. Regulations 25 to 30 apply if an officer has entered any premises under the power in regulation 21 or a warrant issued under regulation 22.

Power to require assistance from person on premises

25. An officer may require any person on the premises to provide such assistance as the officer reasonably considers necessary.

Power to inspect

26.—(1) An officer may inspect any PRS product on the premises.

(2) An officer may inspect and take copies of any document related to classified PRS information on the premises.

(3) An officer may examine any procedure (including any arrangement for carrying out a test) connected with the production of a PRS product.

Power to require the production of documents

27.—(1) An officer may exercise the power in paragraph (2) for either of the following purposes—

- (a) subject to paragraph (3), to ascertain compliance with these Regulations;
- (b) to ascertain whether a document may be required as evidence in proceedings in relation to a breach of regulation 4 or a breach of a licence condition.

(2) An officer may at any reasonable time—

- (a) require a person occupying the premises in the conduct of business to produce any document relating to the business to which that person has access and, subject to paragraph (4), to give an explanation of the document, and
- (b) take copies of, or of any entry in, any such document.

(3) An officer may exercise the power in paragraph (2) for the purpose mentioned in paragraph (1) (a) only if the officer reasonably considers a breach of regulation 4 or a breach of a licence condition is taking place or has taken place.

(4) An officer may not require a person to provide an explanation of a document if to do so might incriminate that person.

(5) Where a document required to be produced under paragraph (2) contains information recorded electronically, the power in that paragraph includes power to require the production of a copy of the document in a form in which it can easily be taken away and in which it is visible and legible.

(6) This regulation does not permit an officer to require a person to create a document other than as described in paragraph (5).

(7) This regulation does not permit an officer to require a person to produce any document which the person would be entitled to refuse to produce in civil proceedings in a court—

- (a) in England and Wales or Northern Ireland, on the grounds of legal professional privilege, or
- (b) in Scotland, on the grounds of confidentiality of communications.

(8) In paragraph (7) “communications” means—

- (a) communications between a professional legal adviser and the adviser’s client, or
- (b) communications made in connection with or in contemplation of legal proceedings or for the purpose of those proceedings.

Power to seize and detain products

28.—(1) An officer may exercise the power in paragraph (2) only in relation to a PRS product which the officer reasonably considers—

- (a) is being used in breach of regulation 4 or a licence condition,
- (b) is liable to forfeiture under regulation 13, and
- (c) may be required as evidence in proceedings under these Regulations.

(2) An officer may seize and detain any PRS product.

(3) An officer seizing a product under this regulation from premises which are occupied must produce evidence of the officer's identity and authority to an occupier of the premises before seizing them.

(4) An officer need not comply with paragraph (3) if it is not reasonably practicable to do so.

(5) An officer seizing a product under this regulation must take reasonable steps to—

- (a) inform the person from whom they are seized that they have been seized, and
- (b) provide that person with a written record of what has been seized.

(6) In determining the steps to be taken under paragraph (5), an officer exercising a power under this regulation in England and Wales or Northern Ireland must have regard to any relevant provision about the seizure of property made by—

- (a) a code of practice under section 66 of the Police and Criminal Evidence Act 1984⁽¹⁾, or
- (b) a code of practice under article 65 of the Police and Criminal Evidence (Northern Ireland) Order 1989⁽²⁾ (as the case may be).

(7) A product seized under this regulation may not be detained—

- (a) for a period of more than three months beginning with the date on which they were seized, or
- (b) where the product is reasonably required to be detained for a longer period by the compliance authority for a purpose for which it was seized, for longer than it is required for that purpose.

Power to seize documents required as evidence

29.—(1) An officer may exercise the power in paragraph (2) only in relation to a document containing classified PRS information which the officer reasonably considers may be required as evidence in proceedings under these Regulations.

(2) An officer may seize and detain a document containing classified PRS information.

(3) An officer seizing a document under this regulation from premises which are occupied must produce evidence of the officer's identity and authority to an occupier of the premises before seizing them.

(4) An officer need not comply with paragraph (3) if it is not reasonably practicable to do so.

(5) An officer seizing a document under this regulation must take reasonable steps to—

- (a) inform the person from whom they are seized that they have been seized, and
- (b) provide that person with a written record of what has been seized.

(1) 1984 c.60; section 66 was amended by the Criminal Justice and Court Services Act 2000 (c.43), section 57(4), the Serious Organised Crime Act 2005 (c.15), section 110(3) and Schedule 17, Part 2, and the Protection of Freedoms Act 2012 (c.9), Schedule 9, paragraph 21.

(2) S.I. 1989/1341 (N.I. 12); relevant amendments are S.I. 2007/288 (N.I. 2), the Protection of Freedoms Act 2012 (c.9), Schedule 9, paragraph 22.

(6) In determining the steps to be taken under paragraph (5), an officer exercising a power under this regulation in England and Wales or Northern Ireland must have regard to any relevant provision about the seizure of property made by—

- (a) a code of practice under section 66 of the Police and Criminal Evidence Act 1984, or
- (b) a code of practice under article 65 of the Police and Criminal Evidence (Northern Ireland) Order 1989 (as the case may be).

(7) This regulation does not permit an officer to seize any document which the person would be entitled to refuse to produce in civil proceedings in a court—

- (a) in England and Wales or Northern Ireland, on the grounds of legal professional privilege, or
- (b) in Scotland, on the grounds of confidentiality of communications.

(8) In paragraph (7) “communications” means—

- (a) communications between a professional legal adviser and the adviser’s client, or
- (b) communications made in connection with or in contemplation of legal proceedings or for the purpose of those proceedings.

(9) A document seized under this regulation may not be detained—

- (a) for a period of more than three months beginning with the date on which they were seized, or
- (b) where the document is reasonably required to be detained for a longer period by the compliance authority for a purpose for which it was seized, for longer than it is required for that purpose.

Power to break open container

30.—(1) An officer may, for the purpose of exercising any of the powers in regulations 28 and 29, require a person with authority to do so to—

- (a) break open any container, or
- (b) access any electronic device in which information may be stored or from which it may be accessed.

(2) Where a requirement under paragraph (1) has not been complied with, or if there is no person on the premises with authority to carry out the actions in paragraph (1), the officer may, for the purpose of exercising any of the powers in regulations 28 and 29—

- (a) break open the container, or
- (b) access the electronic device.

(3) Paragraph (1) or (2) applies if and to the extent that the exercise of the power in that paragraph is reasonably necessary for the purposes of ascertaining compliance with these Regulations.

(4) In this regulation “container” means anything in which a product or document may be stored.

Application for release from detention of a product or document

31.—(1) This regulation applies where a product or document is being detained as the result of the exercise of a power under regulation 28 or 29.

(2) A person with an interest in the product or document may apply for an order requiring them to be released to that or another person.

(3) An application under this regulation may be made to any court in which proceedings have been brought in accordance with regulation 13 for the forfeiture of the product or document or (in the case of a seized document) any product to which the document relates.

(4) In Scotland an application under this regulation may be made, where proceedings have been brought in accordance with regulation 13 and those proceedings—

- (a) have not been concluded, by way of motion, or
- (b) have been concluded, by minute or note in the original process—
 - (i) in the sheriff court, or
 - (ii) in the Court of Session (as the case may be).

(5) If no proceedings have been brought in accordance with regulation 13, an application may be made under this regulation—

- (a) in England and Wales or Northern Ireland, to the county court;
- (b) in Scotland, to the sheriff or summary sheriff.

(6) On an application under this regulation, the court may make an order requiring a product or document to be released only if satisfied that condition A or B is met.

(7) Condition A is that—

- (a) no proceedings have been brought for the forfeiture of the product or document, and
- (b) the period of six months beginning with the date of seizure of the product or document has expired.

(8) Condition B is that—

- (a) proceedings of a kind mentioned in paragraph (7)(a) have been brought, and
- (b) those proceedings have been concluded without the product or document being forfeited.

Review

32.—(1) The Secretary of State must from time to time—

- (a) carry out a review of these Regulations,
- (b) set out the conclusions of the review in a report, and
- (c) publish the report.

(2) In carrying out the review the Secretary of State must, so far as is reasonable, have regard to how the PRS Decision, implemented by these Regulations, is implemented in other member States.

(3) The report must in particular—

- (a) set out the objectives intended to be achieved by the regulatory system established by these Regulations,
- (b) assess the extent to which those objectives are achieved, and
- (c) assess whether those objectives remain appropriate and, if so, the extent to which they could be achieved with a system that imposes less regulation.

(4) The first report under this regulation must be published before the end of the period of five years beginning with the day on which these Regulations come into force.

(5) Reports under this regulation are afterwards to be published at intervals not exceeding five years.