

2018 No. 230

ELECTRONIC COMMUNICATIONS

The Public Regulated Service (Galileo) Regulations 2018

Made - - - - 20th February 2018

Laid before Parliament 27th February 2018

Coming into force - - 1st October 2018

CONTENTS

PART 1

Introductory

1. Citation, commencement and extent
2. Interpretation

PART 2

Licensing

3. Competent authority
4. Prohibition of unlicensed activities
5. Grant of licence
6. Conditions of licence

PART 3

Enforcement

7. Enforcement action
8. Compliance notice
9. Enforcement notice
10. Power of directions
11. Enforcing compliance
12. Court order
13. Forfeiture
14. Service of documents

PART 4

Investigatory and Enforcement Powers

15. Power to require the production of information

16. Notice under regulation 15
17. Enforcement of notice under regulation 15
18. Exercise of powers under regulations 19 to 30
19. Power to purchase products
20. Power to observe carrying on of business
21. Power to enter premises without warrant
22. Power to enter premises with warrant
23. Entry to premises under warrant
24. Application of regulations 25 to 30
25. Power to require assistance from person on premises
26. Power to inspect
27. Power to require the production of documents
28. Power to seize and detain products
29. Power to seize documents required as evidence
30. Power to break open container
31. Application for release from detention of a product or document
32. Review

The Secretary of State is a Minister designated(a) for the purposes of section 2(2) of the European Communities Act 1972(b) in relation to measures relating to electronic communications.

The Secretary of State makes these Regulations in exercise of the powers conferred by section 2(2) of the European Communities Act 1972.

PART 1

Introductory

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Public Regulated Service (Galileo) Regulations 2018.

(2) These Regulations come into force on 1st October 2018.

(3) These Regulations extend to England and Wales, Scotland and Northern Ireland.

Interpretation

2. In these Regulations—

“Annex” means Annex to the PRS Decision;

“classified PRS information” means information related to the public regulated service which is—

- (a) contained in a document which is protectively marked, or
- (b) otherwise communicated,

in such manner as to indicate the appropriate level of confidentiality with which the information must be handled;

“compliance authority” means the Secretary of State;

(a) S.I. 2001/3495, to which there are amendments not relevant to these Regulations.

(b) 1972 c.68; section 2(2) was amended by the Legislative and Regulatory Reform Act 2006 (c.51), section 27(1)(a) and the European Union (Amendment) Act 2008 (c.7), section 3(3) and Schedule, Part I.

“develop” includes research activity carried out for the purposes of development;

“document” includes information recorded in any form;

“Galileo programme” means the programme to establish and operate a global satellite navigation and positioning infrastructure specifically designed for civilian purposes as provided for in Regulation (EU) No 1285/2013 of the European Parliament and of the Council of 11 December 2013(a);

“licence” means a licence granted under regulation 5;

“licence condition” means a condition under regulation 6 relating to a licence;

“occupier”, in relation to premises, means any person considered by an officer of the compliance authority to be the occupier of the premises;

“officer of the compliance authority” means a person authorised by the compliance authority under regulation 3(3);

“official” means—

- (a) in the case of a company, a director or a company secretary,
- (b) in the case of a partnership, a partner or a person having control or management of the partnership business,
- (c) in the case of a limited liability partnership, a member, or in Scotland, a person appointed in relation to the limited liability partnership as a judicial factor, and
- (d) in the case of an unincorporated association, a person who is concerned in the management or control of its affairs;

“premises” includes a vehicle;

“product” means any tangible moveable item or data produced and supplied in digital form, including software;

“PRS Decision” means Decision (EU) No 1104/2011 of the European Parliament and of the Council on the rules for access to the public regulated service provided by the global navigation satellite system established under the Galileo programme(b);

“PRS product” means any product which is related to the public regulated service;

“public regulated service” means the service which is—

- (a) provided by the global navigation satellite system established under the Galileo programme, and
- (b) restricted to a use authorised by government; and

“use” includes access and operation.

PART 2

Licensing

Competent authority

3.—(1) The compliance authority is designated as the competent authority for the purposes of managing and supervising the use of the public regulated service in accordance with the provisions of these Regulations and the PRS Decision.

(2) It is the duty of the compliance authority to monitor compliance with these Regulations in accordance with the requirements of the PRS Decision.

(3) The compliance authority may enforce these Regulations or authorise a person to enforce these Regulations on its behalf.

(a) OJ L 347, 20.12.2013, p1.

(b) OJ L 287, 4.11.2011, p1.

Prohibition of unlicensed activities

4.—(1) A person must not—

- (a) use the public regulated service or any PRS product,
- (b) develop or manufacture any PRS product,
- (c) own or distribute any PRS product,
- (d) export from the United Kingdom any PRS product,
- (e) transfer from the United Kingdom to another member State^(a) any PRS product, or
- (f) handle classified PRS information,

except under the authority of a licence granted by the compliance authority under these Regulations or with the written consent of the compliance authority.

(2) In paragraph (1)(d) “export” means export in accordance with article 2(2) of Council Regulation (EC) No 428/2009 of 5 May 2009 setting up a Community regime for the control of exports, transfer, brokering and transit of dual-use items^(b).

Grant of licence

5. The compliance authority may grant a licence to a person if the authority is satisfied that it is appropriate to do so having regard to the requirements of the PRS Decision, in particular Articles 3 to 5, 7 to 9, and 14 and the Annex.

Conditions of licence

6.—(1) The compliance authority may grant a licence for such period and subject to such conditions as it thinks fit and must specify in the licence the activity authorised by it.

(2) A licence may in particular contain conditions—

- (a) requiring compliance with relevant common minimum standards covering the areas set out in the Annex,
- (b) requiring the licensee to act in such a way as to preserve national security,
- (c) requiring the licensee to protect classified PRS information in such manner as to ensure the information is kept securely and handled with the appropriate level of confidentiality,
- (d) in relation to the use of the public regulated service, a PRS product or classified PRS information,
- (e) in relation to the type of technology that may be used to develop or manufacture a PRS product,
- (f) permitting inspection by the compliance authority of the licensee’s premises, and inspection and testing by the authority of a PRS product in the possession of the licensee,
- (g) requiring the licensee to provide the compliance authority with such information, and within such period of time, as the compliance authority thinks fit concerning the licensee’s activity in relation to a PRS product or classified PRS information,
- (h) permitting the compliance authority to inspect and take copies of documents relating to the information required to be given to the authority,
- (i) imposing restrictions on the licensee’s activity in relation to the public regulated service, a PRS product or classified PRS information,
- (j) relating to the transfer of a licence, and
- (k) providing for termination or revocation of the licence in specified circumstances.

(3) The licensee must comply with any licence condition.

(a) “member State” is defined in Part 2 of Schedule 1 to the European Communities Act 1972.

(b) OJ L 134, 29.5.2009, p1.

(4) The revocation, suspension or expiry of a licence does not affect the obligations of the licensee under the conditions of licence, including any obligations of confidence in relation to classified PRS information or other information obtained from the compliance authority under the licence.

PART 3

Enforcement

Enforcement action

7.—(1) If the compliance authority considers that a person is in breach of regulation 4 or a licence condition, the compliance authority may serve—

- (a) a compliance notice on that person in accordance with regulation 8, or
- (b) directions on that person in accordance with regulation 10(1).

(2) If the compliance authority is satisfied that a person is in breach of regulation 4 or a licence condition, the compliance authority may do one or more of the following—

- (a) apply for an order against that person in accordance with regulation 12;
- (b) apply for an order for forfeiture in accordance with regulation 13;
- (c) revoke, suspend or vary any licence held by that person.

Compliance notice

8. A compliance notice—

- (a) must state that the compliance authority considers that the person is in breach of regulation 4 or a licence condition,
- (b) must set out the reasons why the compliance authority is of that view, and
- (c) must state that the person may make representations in writing to the compliance authority on the matters set out in the notice within a period of 14 days beginning with the date on which the notice was served.

Enforcement notice

9.—(1) If written representations are made within the period specified under regulation 8(c), the compliance authority must consider the representations and may decide—

- (a) to revoke the compliance notice and serve notice of such revocation on the person on whom the compliance notice has been served, or
- (b) to serve an enforcement notice on such person.

(2) The enforcement notice must set out the reasons why the compliance authority considers the person is in breach of regulation 4 or a licence condition.

(3) The enforcement notice must specify a date by which the person to whom the notice is given must—

- (a) cease any activity in breach of regulation 4,
- (b) comply with a licence condition, or
- (c) submit a proposal to ensure compliance with these Regulations.

(4) Where a person submits a proposal in accordance with paragraph (3)(c), the compliance authority must consider the proposal and, if the authority agrees with the proposal, the authority may set a date by which the proposal is to be implemented.

(5) If the compliance authority disagrees with the proposal, it must set out the measures or any additional measures required for compliance and set a date by which the measures must be implemented.

(6) If the compliance authority is satisfied that compliance measures have been implemented and the enforcement notice has been complied with, it may—

- (a) revoke the enforcement notice and give notice of the revocation to the person on whom the enforcement notice was served, or
- (b) specify additional requirements to ensure continued compliance.

Power of directions

10.—(1) The compliance authority may serve on a person such directions as appear to the compliance authority necessary to secure one or more of the following—

- (a) the cessation of any activity in breach of regulation 4;
- (b) compliance with a licence condition;
- (c) compliance with these Regulations.

(2) A person on whom directions are served must comply with the directions.

(3) The compliance authority may revoke directions served under paragraph (1) by serving a notice of the revocation on the person.

Enforcing compliance

11. If the compliance authority is satisfied that a person—

- (a) has not made any written representations, within the period set out in regulation 8(c), in response to a compliance notice served under regulation 7(1)(a),
- (b) continues to be in breach of regulation 4 after the date set in an enforcement notice issued in accordance with regulation 9(3)(a),
- (c) continues to be in breach of a licence condition after the date set in an enforcement notice issued in accordance with regulation 9(3)(b),
- (d) has not submitted a proposal in response to an enforcement notice issued under regulation 9(3)(c),
- (e) has not implemented a proposal with which the compliance authority has agreed under regulation 9(4),
- (f) has not complied with the measures set out under regulation 9(5) or additional requirements specified under regulation 9(6)(b), or
- (g) has not complied with a direction given by the compliance authority under regulation 10(1),

the compliance authority may take any action as set out in regulation 7(2).

Court order

12.—(1) In England and Wales or Northern Ireland, the compliance authority may apply for specific performance, an injunction, an interim injunction or other interim remedy—

- (a) in the county court, or
- (b) in the High Court.

(2) In Scotland, the compliance authority may apply for specific implement, an interdict, an interim interdict or other interim order—

- (a) to the sheriff, or
- (b) in the Court of Session.

Forfeiture

13.—(1) The compliance authority may apply for an order for forfeiture of a PRS product or document containing classified PRS information if it is satisfied that a breach of regulation 4 or a licence condition is taking place in relation to such product or document.

(2) An application may be made—

(a) in England and Wales or Northern Ireland—

(i) in the county court, or

(ii) in the High Court;

(b) in Scotland, to the sheriff or summary sheriff.

(3) Where the compliance authority applies for a court order under regulation 12, the compliance authority may, in the same proceedings, make an application in accordance with this regulation to the court in which application is made under regulation 12.

(4) On an application in accordance with this regulation, the court may make an order for the forfeiture of any PRS product or document containing classified PRS information if it is satisfied that there has been a breach of regulation 4 or a licence condition in relation to such product or information.

(5) Where a PRS product or document containing classified PRS information is forfeited in accordance with this regulation, it may be destroyed in accordance with such directions as the court may give or dealt with in such other way as the court considers appropriate.

Service of documents

14.—(1) Any document required to be served on a person by virtue of these Regulations may be so served—

(a) by delivering it to that person or leaving it at the proper address of that person, by sending it by post to that person at that address, or by sending it to that person by fax or other electronic means, or

(b) if the person is a company, partnership, limited liability partnership or unincorporated association, by serving it in accordance with sub-paragraph (a) above on an official of that body.

(2) For the purposes of paragraph (1), and for the purposes of section 7 of the Interpretation Act 1978^(a) (which relates to the service of documents by post) in its application to that paragraph, the proper address of any person on whom a document is to be served is the person's last known address except that in the case of service on—

(a) a company, it is the address of the registered or principal office of the company, or any place of business of the company,

(b) a partnership, it is the principal office of the partnership, or any place of business of the partnership,

(c) a limited liability partnership, it is the registered office of the limited liability partnership, and

(d) an unincorporated association, it is the principal office of the association, or any place where the association carries out its activities.

(3) For the purposes of paragraph (2), the principal office of a company registered outside the United Kingdom or of a partnership or unincorporated association carrying on business outside the United Kingdom is its principal office within the United Kingdom.

(4) Where a document is to be served by the compliance authority on a person by fax or other electronic means, the person must previously have indicated in writing to the compliance authority—

(a) 1978 c.30.

- (a) that the person is willing to accept service by fax or other electronic means, and
- (b) the fax number, email address or other electronic identification to which the document must be sent.

(5) Where a document is served by electronic means, the party serving the document need not in addition send or deliver a hard copy.

(6) A document sent to a person by electronic means is, unless the contrary is proved, to be treated as having been given at 9 am on the working day immediately following the day on which it was sent.

(7) In this regulation—

- (a) “fax” means the making of a facsimile copy of a document by the transmission of electronic signals;
- (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(a) in any part of the United Kingdom.

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) 1971 c.80.

- (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(a), or
 - (b) a code of practice under article 65 of the Police and Criminal Evidence (Northern Ireland) Order 1989(b) (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.
- (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) 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.

(b) 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.

- (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.

Sam Gyimah
Minister of State

20th February 2018

Department for Business, Energy and Industrial Strategy

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations implement Decision No 1104/2011/EU of the European Parliament and of the Council of 25 October 2011 on the rules for access to the public regulated service provided by the global navigation satellite system established under the Galileo programme (“the PRS Decision”) (OJ L 287, 4.11.2011, p1). The public regulated service is restricted to government authorised users.

Part 2 of these Regulations deals with aspects relating to the licensing of the public regulated service. Regulation 3(1) designates the Secretary of State as a competent authority for the purposes of managing and supervising the use of the public regulated service. The Secretary of State is referred to as “the compliance authority” (regulation 2(1)). Regulation 3(2) imposes a duty on the compliance authority to monitor compliance with these Regulations in accordance with the

requirements of the PRS Decision. Regulation 3(3) enables the compliance authority to enforce these Regulations or authorise a person to enforce these Regulations on its behalf.

Regulation 4 sets out the activities which are prohibited without a licence granted by the compliance authority or without the written consent of the compliance authority. The activities are:

- using the public regulated service or any PRS product,
- developing or manufacturing any PRS product,
- owning or distributing any PRS product,
- exporting from the United Kingdom any PRS product,
- transferring from the United Kingdom to another member State any PRS product,
- handling classified PRS information.

Regulation 5 empowers the compliance authority to grant a licence to a person if the authority is satisfied that it is appropriate to do so having regard to the requirements of the PRS Decision. Regulation 6 sets out a non-exhaustive list of the conditions a licence may contain.

Part 3 of these Regulations deals with the civil enforcement measures the compliance authority may take. If the compliance authority considers that a person is in breach of regulation 4 or a licence condition, the authority may serve a compliance notice or directions on that person (regulation 7(1)). If the compliance authority is satisfied that a breach of regulation 4 or a licence condition is taking place, it may apply to a court in civil proceedings for an appropriate order in accordance with regulation 12, apply for an order for forfeiture in accordance with regulation 13 or revoke, suspend or vary any licence (regulation 7(2)). Regulation 14 sets out how documents are to be served on a person.

Part 4 of these Regulations sets out the investigatory and enforcement powers the compliance authority and its officers have to investigate and establish whether a breach of these Regulations is taking place. These include powers to require the production of information and documents, to enter premises with or without a warrant, to inspect any PRS product or document containing classified PRS information on the premises, and to seize and detain PRS products and documents related to classified PRS information (regulations 15 to 30).

Where the compliance authority seizes or detains any PRS product or document containing classified PRS information, an application may be made to a court for release from detention of such product or document (regulation 31).

Regulation 32 requires the Secretary of State to review the operation and effect of these Regulations and publish a report within five years after they come into force and within every five years after that. Following a review it will fall to the Secretary of State to consider whether the Regulations should remain as they are, or be revoked or be amended. A further instrument would be needed to revoke the Regulations or to amend them.

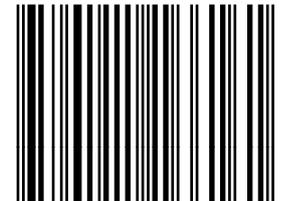
A full impact assessment of the effect that these Regulations will have on the costs to business and the voluntary sector and a transposition note are available from the United Kingdom Space Agency, Polaris House, North Star Avenue, Swindon, Wiltshire SNZ 1S2 and are available with the explanatory memorandum alongside this instrument on the Legislation UK website at www.legislation.gov.uk. Copies have also been placed in the libraries of both Houses of Parliament.

£6.00

UK201802221017 02/2018 19585

<http://www.legislation.gov.uk/id/uksi/2018/230>

ISBN 978-0-11-116616-1



9 780111 166161