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STATUTORY INSTRUMENTS

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**2018 No. 389**

**The Gas Appliances (Enforcement) and  
Miscellaneous Amendments Regulations 2018**

**PART 2**

**Market Surveillance and Enforcement**

**Defence of due diligence**

**9.**—(1) In proceedings for an offence under these Regulations, it is a defence for a person (“P”) to show that P took all reasonable steps and exercised all due diligence to avoid committing the offence.

(2) P may not rely on a defence under paragraph (1) which involves a third party allegation unless P has—

- (a) served notice in accordance with paragraph (3); or
- (b) obtained leave of the court.

(3) The notice must—

- (a) give any information in the possession of P which identifies or assists in identifying the person who—
  - (i) is alleged to have committed the act or default; or
  - (ii) supplied the information on which P relies; and
- (b) be served on the person bringing the proceedings not less than seven clear days before—
  - (i) the hearing of the proceedings in England, Wales and Northern Ireland;
  - (ii) the trial date in Scotland.

(4) P may not rely on a defence under paragraph (1) which involves an allegation that the commission of the offence was due to reliance on information supplied by another person unless it was reasonable in all the circumstances to have relied on the information, having regard in particular to—

- (a) the steps that P took, and those which might reasonably have been taken, for the purpose of verifying the information; and
- (b) whether P had any reason to disbelieve the information.

(5) In this regulation, “third party allegation” means an allegation that the commission of the offence was due to—

- (a) the act or default of another person; or
- (b) reliance on information supplied by another person.