
STATUTORY INSTRUMENTS

2018 No. 597

The Trade Secrets (Enforcement, etc.) Regulations 2018

Interim measures

11.—(1) On the application of a trade secret holder, a court may order any of the following measures against the alleged infringer—

- (a) the cessation of, or (as the case may be) the prohibition of, the use or disclosure of the trade secret on a provisional basis;
- (b) the prohibition of the production, offering, placing on the market or use of infringing goods, or the importation, export or storage of infringing goods for those purposes;
- (c) the seizure or delivery up of the suspected infringing goods, including imported goods, so as to prevent the goods entering into, or circulating on, the market.

(2) A person to whom the suspected infringing goods are delivered up under paragraph (1) (c) must retain the infringing goods pending a decision to make or not to make an order under regulation 14(2).

(3) A court making an order under paragraph (1) may set a reasonable period within which a trade secret holder must bring proceedings for a decision on the merits of the case before a court.

(4) Where no period is set under paragraph (3), a trade secret holder must bring proceedings before a court within a period not exceeding 20 working days or 31 calendar days after the day on which the order under paragraph (1) has been made, whichever is the longer.

(5) For the purposes of paragraph (4)—

- (a) if the period of 20 working days ends on a day other than a working day, the proceedings are in time if they are brought on the next working day, and
- (b) “working day” means any day except a Saturday or Sunday, Christmas Day, Good Friday or a day which is a bank holiday in any part of the United Kingdom under section 1 of the Banking and Financial Dealings Act 1971(1) (bank holidays).

(6) As an alternative to the measures referred to in paragraph (1), a court may make an order making the continuation of the alleged unlawful use conditional upon the lodging by the alleged infringer of guarantees intended to ensure the compensation of the trade secret holder.

(7) An order under paragraph (6) must not permit disclosure of a trade secret in return for the lodging of guarantees.

(8) A court may make an order under paragraph (1) or (6) conditional upon the lodging by the trade secret holder of adequate security or an equivalent assurance intended to ensure compensation for any prejudice suffered by the alleged infringer and, where appropriate, by any other person affected by the order.