



Product Security and Telecommunications Infrastructure Act 2022

2022 CHAPTER 46

PART 1

PRODUCT SECURITY

CHAPTER 3

ENFORCEMENT

Forfeiture

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- (1) In this section “forfeitable products” means—
- (a) any relevant connectable products that—
 - (i) are in the possession or control of any manufacturer, importer or distributor of the products,
 - (ii) are in the possession or control of an authorised representative of a manufacturer of the products, or
 - (iii) are detained under paragraph 28 of Schedule 5 to the Consumer Rights Act 2015;
 - (b) any relevant connectable products that have been returned to any of the following persons as a result of a compliance failure, or suspected compliance failure, relating to the products—
 - (i) any manufacturer, importer or distributor of the products;
 - (ii) an authorised representative of a manufacturer of the products;
 - (iii) a person acting on behalf of a person within sub-paragraph (i) or (ii);
 - (iv) a person specified in a recall notice under section 30.

Status: This is the original version (as it was originally enacted).

- (2) If the Secretary of State has reasonable grounds to believe that—
- (a) there is a compliance failure relating to any forfeitable products, and
 - (b) the products are, or (if no order is made for their forfeiture) will be, UK consumer connectable products,
- the Secretary of State may apply to the appropriate court (see subsection (11)(a)) for an order for the forfeiture of the products.
- (3) The court may, on an application under this section, make an order for the forfeiture of any forfeitable products if the court is satisfied on the balance of probabilities—
- (a) that the products are, or (if no order is made for their forfeiture) will be, UK consumer connectable products,
 - (b) that there is a compliance failure in relation to the products,
 - (c) that it is unlikely that the security requirement in respect of which the compliance failure exists will be complied with, and
 - (d) that it is proportionate to make the order.
- (4) For the purposes of this section the court may determine that there is a compliance failure in relation to any forfeitable products if it is satisfied that there is a compliance failure in relation to products that are representative of those products (whether by reason of being of the same model or design or otherwise).
- (5) If the court makes an order for the forfeiture of any forfeitable products, it may also order the forfeiture of any other property if it is satisfied on the balance of probabilities that the property is not readily separable from the forfeitable products.
- (6) An order under this section for the forfeiture of any property—
- (a) may require the property to be delivered up to—
 - (i) the Secretary of State, or
 - (ii) such other person as the court may direct;
 - (b) may permit the Secretary of State, or such other person as the court may direct, to destroy or otherwise dispose of the property in whatever way the Secretary of State or other person considers appropriate;
 - (c) may require the property to be destroyed or otherwise disposed of in accordance with any directions of the court.
- (7) Subsections (8) and (9) apply in a case where the products to which the application relates have been detained under paragraph 28 of Schedule 5 to the Consumer Rights Act 2015.
- (8) If the court is not satisfied on the balance of probabilities—
- (a) that the products are, or (if no order is made for their forfeiture) will be, UK consumer connectable products,
 - (b) that there is a compliance failure in relation to the products,
 - (c) that it is unlikely that the security requirement in respect of which the compliance failure exists will be complied with, or
 - (d) that it is proportionate to make an order for the forfeiture of the products,
- the court must order the products to be returned to a person entitled to them.
- (9) Where an order for the return of any products is made under subsection (8), the products (and any other property that is not readily separable from the products) may nevertheless be detained—

- (a) until the end of the period within which an appeal under section 44 may be made against the order, or
- (b) if such an appeal is made, until the time when it is determined or withdrawn.

But if the Secretary of State decides before the end of the period mentioned in paragraph (a) that there is to be no appeal, the products must be returned as soon as possible after that decision is made.

- (10) For the purposes of this section, property is not readily separable from any forfeitable products if, in all the circumstances, it is not reasonably practicable to separate the property from the forfeitable products.

Those circumstances include the time and costs involved in separating the property.

- (11) For the purposes of this section—

- (a) “the appropriate court” means—
 - (i) in England and Wales, a magistrates’ court;
 - (ii) in Scotland, a sheriff;
 - (iii) in Northern Ireland, a court of summary jurisdiction;
- (b) “compliance failure”, in relation to a product, means a failure by a relevant person to comply with a relevant security requirement in relation to the product;
- (c) the reference to delivery up of products is, in Scotland, a reference to delivery;
- (d) the persons “entitled” to any products are—
 - (i) any person to whom they belong, and
 - (ii) in the case of products detained under paragraph 28 of Schedule 5 to the Consumer Rights Act 2015, the person from whom they were seized.