
STATUTORY INSTRUMENTS

2005 No. 1803

The General Product Safety Regulations 2005

PART 3

ENFORCEMENT

Forfeiture: Scotland

19.—(1) In Scotland a sheriff may make an order for forfeiture of a product on the grounds that the product is a dangerous product—

- (a) on an application by a procurator-fiscal made in the manner specified in section 134 of the Criminal Procedure (Scotland) Act 1995(1), or
- (b) where a person is convicted of any offence in respect of a contravention in relation to the product of a requirement imposed by or under these Regulations, in addition to any other penalty which the sheriff may impose.

(2) The procurator-fiscal making an application under paragraph (1)(a) shall serve on any person appearing to him to be the owner of, or otherwise to have an interest in, the product to which the application relates a copy of the application, together with a notice giving him the opportunity to appear at the hearing of the application to show cause why the product should not be forfeited.

(3) Service under paragraph (2) shall be carried out, and such service may be proved, in the manner specified for citation of an accused in summary proceedings under the Criminal Procedure (Scotland) Act 1995.

(4) A person upon whom notice is served under paragraph (2) and any other person claiming to be the owner of, or otherwise to have an interest in, the product to which the application relates shall be entitled to appear at the hearing of the application to show cause why the product should not be forfeited.

(5) The sheriff shall not make an order following an application under paragraph (1)(a)—

- (a) if any person on whom notice is served under paragraph (2) does not appear, unless service of the notice on that person is proved; or
- (b) if no notice under paragraph (2) has been served, unless the sheriff is satisfied that in the circumstances it was reasonable not to serve notice on any person.

(6) The sheriff may make an order under this regulation only if he is satisfied that the product is a dangerous product.

(7) Where an order for the forfeiture of a product is made following an application by the procurator-fiscal under paragraph (1)(a), any person who appeared, or was entitled to appear to show cause why the product should not be forfeited may, within twenty-one days of the making of the order, appeal to the High Court by Bill of Suspension on the ground of an alleged miscarriage of justice; and section 182(5)(a) to (e) of the Criminal Procedure (Scotland) Act 1995 shall apply to an appeal under this paragraph as it applies to a stated case under Part X of that Act.

(1) 1995 c. 46.

- (8) An order following an application under paragraph (1)(a) shall not take effect—
- (a) until the end of the period of twenty-one days beginning with the day after the day on which the order is made; or
 - (b) if an appeal is made under paragraph (7) within that period, until the appeal is determined or abandoned.
- (9) An order under paragraph (1)(b) shall not take effect—
- (a) until the end of the period within which an appeal against the order could be brought under the Criminal Procedure (Scotland) Act 1995; or
 - (b) if an appeal is made within that period, until the appeal is determined or abandoned.
- (10) Subject to paragraph (11), a product forfeited under this regulation shall be destroyed in accordance with such directions as the sheriff may give.
- (11) If he thinks fit, the sheriff may direct that the product be released to such person as he may specify, on condition that that person does not supply the product to any other person otherwise than as mentioned in paragraph (11) of regulation 18.