
STATUTORY INSTRUMENTS

2018 No. 597

The Trade Secrets (Enforcement, etc.) Regulations 2018

Compensation instead of order under regulation 14

16.—(1) A person liable to the imposition of an order under regulation 14 may apply for, and a court may make, an order for compensation to be paid to the injured party instead of an order under regulation 14—

- (a) if at the time of use or disclosure the person neither knew nor ought, under the circumstances, to have known that the trade secret was obtained from another person who was using or disclosing the trade secret unlawfully,
- (b) if the execution of the measures in question would cause disproportionate harm to the person liable to the measures, and
- (c) if it appears reasonably satisfactory to pay compensation to the injured party.

(2) Where a court makes an order for the payment of compensation instead of an order under regulation 14(1)(a) or (b), the compensation must not exceed the amount of royalties or fees which would have been due, had that person obtained a licence to use the trade secret in question, for the period for which use of the trade secret could have been prohibited.