

## SCHEDULE 3

### Construction products enforcement rules – Northern Ireland

## PART 3

### Enforcement of Part 2 and market surveillance

#### Appeals against detention of products

**22.**—(1) Any person having an interest in any construction products which are for the time being detained under any provision of this Part of this Schedule by an enforcement authority or by an officer of such an authority may apply for an order requiring the products to be released to that person or to another person.

(2) An application under this paragraph may be made—

- (a) to any magistrates' court in which proceedings have been brought in Northern Ireland—
  - (i) for an offence in relation to the products under any provision of Part 2 of this Schedule, or
  - (ii) for the forfeiture of the products under paragraph 9;
- (b) where no such proceedings have been so brought, by way of complaint to a magistrates' court.

(3) On an application under this paragraph to a magistrates' court, an order requiring products to be released may be made only if the court is satisfied—

- (a) that proceedings—
  - (i) for an offence in relation to the products under any provision of Part 2 of this Schedule, or
  - (ii) for the forfeiture of the products under paragraph 9,have not been brought or, having been brought, have been concluded without the products being forfeited;
- (b) that no procedures are pending in relation to the products involving Member States or the Commission under Article 56 (procedure to deal at national level with construction products presenting a risk), 57 (Union safeguard procedure) or 58 (complying construction products which nevertheless present a risk to health and safety) of the EU Construction Products Regulation; and
- (c) where no proceedings under paragraph (a) have been brought, that more than six months have elapsed since the products were seized.

(4) Any person aggrieved by an order made under this paragraph by a magistrates' court, or by a decision of such a court not to make such an order, may appeal against that order or decision to the county court, and an order so made may contain such provision as appears to the court to be appropriate for delaying the coming into force of the order pending the making and determination of any appeal (including any application under Article 146 of the Magistrates' Courts (Northern Ireland) Order 1981).