

## SCHEDULES

### SCHEDULE 4

Offences, penalties, enforcement and other matters

### PART 3

Enforcement and other matters

#### **Applications for the release of detained items**

**12.**—(1) Any person having an interest in any relevant products or records detained for the time being under paragraph 10 may apply for an order requiring any item so detained to be released to the applicant or another person.

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

- (a) to any magistrates' court in which proceedings have been brought in England and Wales or Northern Ireland for an offence in respect of a contravention of any provision of these Regulations in connection with the detained item,
- (b) where no such proceedings have been so brought, by way of complaint to a magistrates' court, or
- (c) in Scotland, by summary application to the sheriff.

(3) A magistrates' court or the sheriff must not make an order under sub-paragraph (1) unless the court or sheriff is satisfied that—

- (a) proceedings have not been brought for an offence in respect of a contravention of any provision of these Regulations in connection with the detained item or, having been brought, have been concluded, and
- (b) where no such proceedings have been brought, more than six months have elapsed since the seizure was carried out.

(4) Any person aggrieved by an order made under this paragraph by a magistrates' court or sheriff, or by a decision of such a court or sheriff not to make such an order, may appeal against that order or decision—

- (a) in England and Wales, to the Crown Court,
- (b) in Scotland, to the Sheriff Appeal Court as though it were an appeal under section 110(1) of the Courts Reform (Scotland) Act 2014<sup>(1)</sup>, or
- (c) in Northern Ireland, to a county court.

(5) In England and Wales or in Northern Ireland, 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 section 111 of the

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(1) 2014 asp 18.

**Status:** This is the original version (as it was originally made).

Magistrates' Courts Act 1980<sup>(2)</sup> or article 146 of the Magistrates' Courts (Northern Ireland) Order 1981<sup>(3)</sup> (statement of case)).

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<sup>(2)</sup> 1980 c.43.

<sup>(3)</sup> S.I. 1981/1675 (N.I. 26).