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STATUTORY INSTRUMENTS

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**2018 No. 597**

**INTELLECTUAL PROPERTY**

**The Trade Secrets (Enforcement, etc.) Regulations 2018**

*Made* - - - - *15th May 2018*  
*Laid before Parliament* *18th May 2018*  
*Coming into force* - - *9th June 2018*

The Secretary of State is a Minister designated for the purposes of section 2(2) of the European Communities Act 1972(1) in relation to intellectual property (including both registered and unregistered rights)(2).

The Secretary of State, in exercise of the powers conferred by section 2(2) of that Act, makes the following Regulations.

**Citation, commencement and extent**

1.—(1) These Regulations may be cited as the Trade Secrets (Enforcement, etc.) Regulations 2018 and come into force on 9th June 2018.

(2) These Regulations extend to England and Wales, Scotland and Northern Ireland.

**Interpretation**

2. For the purposes of these Regulations—

“court” means—

- (a) in England and Wales, a County Court hearing centre where there is also a Chancery District Registry or the High Court (as provided for in rule 63.13 of the Civil Procedure Rules 1998(3)),
- (b) in Scotland, the sheriff or the Court of Session, and
- (c) in Northern Ireland, a county court or the High Court;

“infringer” means a person who has unlawfully acquired, used or disclosed a trade secret;

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(1) 1972 c.68; section 2(2) was amended by the Legislative and Regulatory Reform Act 2006 (c.51), section 27(1)(a) and the European Union (Amendment) Act 2008 (c.7), section 3(3) and Schedule, Part I.  
(2) S.I. 2006/608.  
(3) S.I. 1998/3132; relevant amending instruments are S.I. 2009/2092, Schedule 1, S.I. 2009/3390, rule 38(a), S.I. 2013/1974, rule 26(g), and S.I. 2014/407, rule 27(a).

“infringing goods” means goods, the design, functioning, production process, marketing or a characteristic of which significantly benefits from a trade secret unlawfully acquired, used or disclosed;

“trade secret” means information which—

- (a) is secret in the sense that it is not, as a body or in the precise configuration and assembly of its components, generally known among, or readily accessible to, persons within the circles that normally deal with the kind of information in question,
- (b) has commercial value because it is secret, and
- (c) has been subject to reasonable steps under the circumstances, by the person lawfully in control of the information, to keep it secret;

“trade secret holder” means any person lawfully controlling a trade secret.

### **Wider protection**

3.—(1) The acquisition, use or disclosure of a trade secret is unlawful where the acquisition, use or disclosure constitutes a breach of confidence in confidential information.

(2) A trade secret holder may apply for and a court may grant measures, procedures, and remedies available in an action for breach of confidence where the measures, procedures and remedies—

- (a) provide wider protection to the trade secret holder than that provided under these Regulations in respect of the unlawful acquisition, use or disclosure of a trade secret, and
- (b) comply with the safeguards referred to in Article 1 of Directive (EU) 2016/943 of the European Parliament and of the Council of 8 June 2016 on the protection of undisclosed know-how and business information (trade secrets) against their unlawful acquisition, use and disclosure<sup>(4)</sup>.

(3) A trade secret holder may apply for and a court may grant the measures, procedures and remedies referred to in paragraph (2) in addition, or as an alternative, to the measures procedures and remedies provided for in these Regulations in respect of the unlawful acquisition, use or disclosure of a trade secret.

### **Time limits for bringing proceedings**

4.—(1) Proceedings may not be brought before a court in respect of a claim for the unlawful acquisition, use or disclosure of a trade secret and for the application of measures, procedures and remedies provided for under these Regulations—

- (a) in England and Wales and Northern Ireland, after the end of the limitation period for the claim, and
- (b) in Scotland, after the end of the prescriptive period for the claim, except where the subsistence of the obligation in relation to which the claim is made was relevantly acknowledged before the end of that period.

(2) The limitation period referred to in paragraph 1(a) is to be determined in accordance with this regulation and regulations 5 to 7 and 9.

(3) Section 36 of the Limitation Act 1980<sup>(5)</sup> (equitable jurisdiction and remedies) does not apply in relation to proceedings in respect of a claim for the unlawful acquisition, use or disclosure of a trade secret.

(4) The prescriptive period referred to in paragraph 1(b) is to be determined in accordance with this regulation and regulations 5, 6 and 8.

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(4) OJ L157, 15.6.2016, p1.

(5) 1980 c. 58.

(5) Section 6 of the Prescription and Limitation (Scotland) Act 1973(6) (extinction of obligations by prescriptive periods of five years) does not apply in relation to an obligation arising from a claim for the unlawful acquisition, use or disclosure of a trade secret.

(6) The following provisions of the Prescription and Limitation (Scotland) Act 1973 apply for the purposes of, or in relation to, paragraph (1)(b) as they apply for the purposes of, or in relation to, section 6 of that Act—

- (a) section 10 (relevant acknowledgment);
- (b) section 13 (prohibition of contracting out);
- (c) section 14(1)(c) and (d) (computation of prescriptive periods).

### **Length of limitation or prescriptive period**

- 5.—(1) The limitation period is six years.
- (2) The prescriptive period is five years.
- (3) The limitation or prescriptive period begins with the day specified in regulation 6.

### **Beginning of limitation or prescriptive period**

6.—(1) The limitation or prescriptive period for a claim for the unlawful acquisition, use or disclosure of a trade secret against an infringer begins with the later of—

- (a) the day on which the unlawful acquisition, use or disclosure that is the subject of the claim ceases, and
- (b) the day of knowledge of the trade secret holder.

(2) In paragraph (1)(b), “the day of knowledge of the trade secret holder” is the day on which the trade secret holder first knows or could reasonably be expected to know—

- (a) of the infringer’s activity,
- (b) that the activity constitutes an unlawful acquisition, use or disclosure of a trade secret, and
- (c) the identity of the infringer.

(3) The reference in paragraph (2) to the trade secret holder knowing something is to the trade secret holder having sufficient knowledge of it to bring a claim for the unlawful acquisition, use or disclosure of a trade secret.

(4) Where a person has acquired the liability of an infringer from another person (whether by operation of law or otherwise)—

- (a) the reference to an infringer in paragraph (1) is to be read as a reference to the person who has acquired the liability, but
- (b) the references to the infringer in paragraph (2) are to be read as references to the original infringer.

(5) This regulation has effect subject to—

- (a) regulation 7 in relation to the limitation period, and
- (b) regulation 8 in relation to the prescriptive period.

### **Effect of disability on limitation period**

7.—(1) If, in relation to a claim in England and Wales and Northern Ireland for the unlawful acquisition, use or disclosure of a trade secret, the trade secret holder is under a disability during

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(6) 1973 c. 52.

the whole or any part of the limitation period, the limitation period for the claim begins with the earlier of—

- (a) the day on which the trade secret holder ceases to be under a disability, and
- (b) the day on which the trade secret holder dies.

(2) In England and Wales, references in paragraph (1) to a person being “under a disability” have the same meaning as in section 38(2) of the Limitation Act 1980 (interpretation).

(3) In Northern Ireland, references in paragraph (1) to a person being “under a disability” have the same meaning as in article 47 of the Limitation (Northern Ireland) Order 1989(7) (persons under a disability).

### **Suspension of prescriptive period during period of disability**

**8.**—(1) If, in relation to a claim in Scotland for the unlawful acquisition, use or disclosure of a trade secret, the trade secret holder is under legal disability for a period at any time, the period during which the trade secret holder is under legal disability—

- (a) is not to be counted when calculating whether the prescriptive period for the claim has expired, and
- (b) is not to be regarded as separating the time immediately before it from the time immediately after it.

(2) In paragraph (1), “legal disability” has the same meaning as in section 15(1) of the Prescription and Limitation (Scotland) Act 1973 (interpretation).

### **New claims in pending actions: England and Wales and Northern Ireland**

**9.** For the purposes of regulations 4 to 7—

- (a) section 35 of the Limitation Act 1980 (new claims in pending action) applies in relation to a claim for the unlawful acquisition, use or disclosure of a trade secret that is a new claim and to proceedings for the unlawful acquisition, use or disclosure of a trade secret as it applies in relation to new claims and proceedings for the purposes of that Act; and
- (b) Article 73 of the Limitation (Northern Ireland) Order 1989 (new claims in pending actions) applies in relation to a claim for the unlawful acquisition, use or disclosure of a trade secret that is a new claim and to proceedings for the unlawful acquisition, use or disclosure of a trade secret as it applies in relation to new claims and proceedings for the purposes of that Order.

### **Preservation of confidentiality of trade secrets in the course of proceedings**

**10.**—(1) A participant, or a participant who has access to documents which form part of the proceedings, must not use or disclose any trade secret or alleged trade secret—

- (a) which, on a duly reasoned application by an interested party or on a court’s own initiative, a court by order identifies as confidential, and
- (b) of which a participant has become aware as a result of participation in the proceedings or the access.

(2) The obligation referred to in paragraph (1) remains in force after the proceedings have ended, subject to paragraph (3).

(3) The obligation in paragraph (1) ceases to exist—

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(7) [S.I. 1989/1339 \(N.I. 11\)](#).

- (a) where a court, by final decision, finds that the alleged trade secret does not meet the requirements of a trade secret, or
  - (b) where over time the information in question becomes generally known among, or readily accessible to, persons within the circles that normally deal with that kind of information.
- (4) On a duly reasoned application by a party or on a court's own initiative, a court may order any of the measures set out in paragraph (5) as may be necessary to preserve the confidentiality of any trade secret or alleged trade secret used or referred to in the course of proceedings.
- (5) A court may—
- (a) restrict access to any document containing a trade secret or alleged trade secret submitted by the parties or third parties, in whole or in part, to a limited number of persons,
  - (b) restrict access to hearings, when trade secrets or alleged trade secrets may be disclosed, and to the record or transcript of those hearings to a limited number of persons, and
  - (c) make available to a person, who is not one of the limited number of persons referred to in sub-paragraph (a) or (b), a non-confidential version of any judicial decision, in which the passages containing trade secrets have been removed or redacted.
- (6) The number of persons referred to in paragraph 5(a) or (b) must be no greater than necessary to ensure compliance with the right of the parties to the legal proceedings to an effective remedy and to a fair trial, and must include, at least, one individual from each party and the lawyers or other representatives of those parties to the proceedings.
- (7) In deciding whether or not to grant the measures in paragraph (5) in accordance with paragraphs (4) and (6) and which of the measures to order and in assessing the proportionality of the measures, a court must take into account—
- (a) the need to ensure the right to an effective remedy and to a fair trial,
  - (b) the legitimate interests of the parties, and
  - (c) any potential harm for the parties.
- (8) In this regulation—
- “participant” means a party, a lawyer or other representative of a party, a court official, a witness, an expert or any other person participating in proceedings;
  - “parties”, in paragraph (7), includes, where appropriate, third parties;
  - “proceedings” means legal proceedings relating to the unlawful acquisition, use or disclosure of a trade secret.

### **Interim measures**

- 11.—(1)** On the application of a trade secret holder, a court may order any of the following measures against the alleged infringer—
- (a) the cessation of, or (as the case may be) the prohibition of, the use or disclosure of the trade secret on a provisional basis;
  - (b) the prohibition of the production, offering, placing on the market or use of infringing goods, or the importation, export or storage of infringing goods for those purposes;
  - (c) the seizure or delivery up of the suspected infringing goods, including imported goods, so as to prevent the goods entering into, or circulating on, the market.
- (2) A person to whom the suspected infringing goods are delivered up under paragraph (1) (c) must retain the infringing goods pending a decision to make or not to make an order under regulation 14(2).

(3) A court making an order under paragraph (1) may set a reasonable period within which a trade secret holder must bring proceedings for a decision on the merits of the case before a court.

(4) Where no period is set under paragraph (3), a trade secret holder must bring proceedings before a court within a period not exceeding 20 working days or 31 calendar days after the day on which the order under paragraph (1) has been made, whichever is the longer.

(5) For the purposes of paragraph (4)—

(a) if the period of 20 working days ends on a day other than a working day, the proceedings are in time if they are brought on the next working day, and

(b) “working day” means any day except a Saturday or Sunday, Christmas Day, Good Friday or a day which is a bank holiday in any part of the United Kingdom under section 1 of the Banking and Financial Dealings Act 1971<sup>(8)</sup> (bank holidays).

(6) As an alternative to the measures referred to in paragraph (1), a court may make an order making the continuation of the alleged unlawful use conditional upon the lodging by the alleged infringer of guarantees intended to ensure the compensation of the trade secret holder.

(7) An order under paragraph (6) must not permit disclosure of a trade secret in return for the lodging of guarantees.

(8) A court may make an order under paragraph (1) or (6) conditional upon the lodging by the trade secret holder of adequate security or an equivalent assurance intended to ensure compensation for any prejudice suffered by the alleged infringer and, where appropriate, by any other person affected by the order.

### **Matters to be considered before making an order under regulation 11(1)**

**12.—**(1) Before making an order under regulation 11(1), a court may require the trade secret holder to provide evidence that may reasonably be considered available to satisfy the court with a sufficient degree of certainty that—

(a) a trade secret exists,

(b) the trade secret holder is making the application, and

(c) the alleged infringer—

(i) has acquired the trade secret unlawfully,

(ii) is unlawfully using or disclosing the trade secret, or

(iii) is about to unlawfully use or disclose the trade secret.

(2) In considering whether to make an order under regulation 11(1) and in assessing the proportionality of such an order, a court must take into account the specific circumstances of the case, including where appropriate—

(a) the value and other specific features of the trade secret,

(b) the measures taken to protect the trade secret,

(c) the conduct of the alleged infringer in acquiring, using or disclosing the trade secret,

(d) the impact of the unlawful use or disclosure of the trade secret,

(e) the legitimate interests of the parties and the impact which the granting or rejection of the measures could have on the parties,

(f) the legitimate interests of third parties,

(g) the public interest, and

(h) the safeguard of fundamental rights.

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(8) 1971 c.80.

### **Revocation of order under regulation 11(1)**

**13.**—(1) Where a court makes an order under regulation 11(1), the court may, on the application of the alleged infringer, revoke the order—

- (a) if the trade secret holder does not bring proceedings leading to a decision on the merits of the case before a court within the period set under regulation 11(3) or in regulation 11(4), or
- (b) if the information in question is no longer a trade secret for reasons that cannot be attributed to the alleged infringer.

(2) A court may, on the application of the alleged infringer or an injured third party, order the trade secret holder to provide the alleged infringer, or the injured third party, appropriate compensation for any injury caused by a measure ordered under regulation 11(1)—

- (a) where a court revokes an order under paragraph (1)(a),
- (b) where the measure lapses due to any act or omission by the trade secret holder, or
- (c) where it is subsequently found that there has been no unlawful acquisition, use or disclosure of a trade secret or threat of such conduct.

### **Injunctions or interdicts and corrective measures**

**14.**—(1) Where a court finds on the merits of the case that there has been an unlawful acquisition, use or disclosure of a trade secret, the court may, on application by the trade secret holder, order one or more of the following measures against the infringer—

- (a) the cessation of, or (as the case may be) the prohibition of, the use or disclosure of the trade secret;
- (b) the prohibition of the production, offering, placing on the market or use of infringing goods, or the importation, export or storage of infringing goods for those purposes;
- (c) the adoption of corrective measures with regard to the infringing goods, including where appropriate—
  - (i) recall of the infringing goods from the market;
  - (ii) depriving the infringing goods of their infringing quality;
  - (iii) destruction of the infringing goods or their withdrawal from the market, provided that the withdrawal does not undermine the protection of the trade secret in question;
- (d) the destruction of all or part of any document, object, material, substance or electronic file containing or embodying the trade secret, or where appropriate, the delivery up to the applicant of all or part of that document, object, material, substance or electronic file.

(2) Where a court orders that infringing goods be withdrawn from the market, the court may order, on the application of the trade secret holder, that the infringing goods be delivered up and forfeited to the trade secret holder together with all or part of any document, object, material, substance or electronic file containing or embodying the trade secret.

(3) Where a court makes an order for a measure under paragraph (1)(c) or (d) or paragraph (2), the court must—

- (a) order that the measure be carried out at the expense of the infringer, unless there are particular reasons for not doing so, and
- (b) ensure the measure is without prejudice to any damages that may be due to the trade secret holder by reason of the unlawful acquisition, use or disclosure of the trade secret.

**Matters to be considered when making an order under regulation 14**

15.—(1) In considering an application for an order under regulation 14 and assessing the proportionality of such an order, the court must take into account the specific circumstances of the case, including where appropriate—

- (a) the value or other specific features of the trade secret,
- (b) the measures taken to protect the trade secret,
- (c) the conduct of the infringer in acquiring, using or disclosing the trade secret,
- (d) the impact of the unlawful use or disclosure of the trade secret,
- (e) the legitimate interests of the parties and the impact which the granting or rejection of the measures could have on the parties,
- (f) the legitimate interests of third parties,
- (g) the public interest, and
- (h) the safeguard of fundamental rights.

(2) Where a court makes an order limiting the duration of a measure ordered under regulation 14(1)(a) or (b), the duration must be sufficient to eliminate any commercial or economic advantage that the infringer could have derived from the unlawful acquisition, use or disclosure of the trade secret.

(3) On the application of the defendant, the court must revoke a measure ordered under regulation 14(1)(a) or (b) if the information in question no longer constitutes a trade secret for reasons that cannot be attributed directly or indirectly to the defendant.

(4) In the application of paragraph (3) to Scotland, “defendant” means defender.

**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.

**Assessment of damages**

17.—(1) On the application of an injured party, a court must order an infringer, who knew or ought to have known that unlawful acquisition, use or disclosure of a trade secret was being engaged in, to pay the trade secret holder damages appropriate to the actual prejudice suffered as a result of the unlawful acquisition, use or disclosure of the trade secret.

(2) A court may award damages under paragraph (1) on the basis of either paragraph (3) or (4).

(3) When awarding damages under paragraph (1) on the basis of this paragraph, a court must take into account all appropriate factors, including in particular—



- (i) the negative economic consequences, including any lost profits, which the trade secret holder has suffered, and any unfair profits made by the infringer, and
- (ii) elements other than economic factors, including the moral prejudice caused to the trade secret holder by the unlawful acquisition, use or disclosure of the trade secret.

(4) When awarding damages under paragraph (1) on the basis of this paragraph, a court may, where appropriate, award damages on the basis of the royalties or fees which would have been due had the infringer obtained a licence to use the trade secret in question.

### **Publication of judicial decisions**

**18.**—(1) In proceedings for the unlawful acquisition, use or disclosure of a trade secret, a court may order, on the application of the trade secret holder and at the expense of the infringer, appropriate measures for the dissemination of information concerning the judgment, including its publication in whole or in part.

(2) Any measure a court may order under paragraph (1) must preserve the confidentiality of trade secrets as provided for in regulation 10.

(3) In deciding whether to order a measure under paragraph (1) and when assessing whether such measure is proportionate, the court must take into account where appropriate—

- (a) the value of the trade secret,
- (b) the conduct of the infringer in acquiring, using or disclosing the trade secret,
- (c) the impact of the unlawful use or disclosure of the trade secret,
- (d) the likelihood of further unlawful use, or disclosure of the trade secret by the infringer, and
- (e) whether the information on the infringer would be such as to allow an individual to be identified and, if so, whether publication of that information would be justified, in particular in the light of the possible harm that such measure may cause to the privacy and reputation of the infringer.

### **Proceedings to which these Regulations apply**

**19.** These Regulations apply only to proceedings—

- (a) brought before a court after the coming into force of these Regulations,
- (b) in respect a claim for the unlawful acquisition, use or disclosure of a trade secret, and
- (c) for the application of measures, procedures and remedies provided for under these Regulations.

15th May 2018

*Sam Gyimah*  
Minister of State  
Department for Business, Energy and Industrial  
Strategy

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations implement provisions of Directive (EU) 2016/943 of the European Parliament and of the Council of 8 June 2016 on the protection of undisclosed know-how and business information (trade secrets) against their unlawful acquisition, use and disclosure (OJ L157, 15.6.2017, p.1) (“the Directive”). A number of the provisions of the Directive, in particular the provisions in Chapter II and Articles 6, 7 and 16, have been implemented in the United Kingdom by the principles of common law and equity relating to breach of confidence in confidential information, and by statute and court rules. These Regulations address those areas where gaps occur or where the implementation of the provisions of the Directive in the United Kingdom, across its jurisdictions, may be made more transparent and coherent.

Regulation 2 defines the terms “infringer”, “infringing goods”, “trade secret” and “trade secret holder” in accordance with Article 2 of the Directive and adds a definition of “court”.

Regulation 3(1) makes clear that the issue of whether the acquisition, use or disclosure of a trade secret is unlawful is determined by reference to the principles of the law of confidence. Where the measures, procedures and remedies available in an action for breach of confidence offer wider protection to a trade secret holder than that offered under the Regulations, the trade secret holder may apply for, and a court may grant, them provided they comply with the safeguards referred to in Article 1 of the Directive (Regulation 3(2)). The measures, procedures and remedies referred to in regulation 3(2) are in addition, or an alternative, to the measures, procedures and remedies provided under these Regulations in respect of the unlawful acquisition, use or disclosure of a trade secret (Regulation 3(3)).

Regulations 4 to 9 make provision for limitation and prescriptive periods applicable to proceedings for claims for the unlawful acquisition, use or disclosure of a trade secret and for the application of measures, procedures and remedies under these Regulations. Regulations 4 to 9 implement Article 8 of the Directive. A limitation period of six years is set for England and Wales and Northern Ireland. A prescriptive period of five years is set for Scotland. Provision is made for determining when the limitation or prescriptive period begins to run and for suspending the limitation or prescriptive period on account of disability.

Regulation 10 provides for the preservation of confidentiality of trade secrets in the course of legal proceedings in implementation of Article 9(1) to (3) of the Directive.

Regulation 11 provides for interim measures against an alleged infringer in implementation of Article 10 of the Directive. Where an interim order for delivery up is made, a trade secret holder must retain the infringing goods until an order is made under regulation 14(2) that the goods be forfeited to the trade secret holder or destroyed. A time limit is set within which a claim must be brought after an interim order has been made. As an alternative to interim measures, a court may require guarantees to be lodged by the alleged infringer to compensate the trade secret holder. A court may also require a trade secret holder to provide adequate security to compensate an alleged infringer for any prejudice suffered.

Regulation 12 provides for the matters a court needs to consider before making an interim order under regulation 11(1). Regulation 12 implements Article 11(1) and (2) of the Directive.

Regulation 13 provides for revocation of an order made under regulation 11(1) where a trade secret holder does not bring proceedings before a court within the specified period or in certain other circumstances. Where a measure ordered is revoked, a court may order payment of appropriate

compensation to the alleged infringer or injured third party. Regulation 13 implements Article 11(3) and (5) of the Directive.

Regulation 14 provides for injunctions, or interdicts in Scotland, and corrective measures which may be imposed on an infringer. These measures include requiring an infringer, at his expense, to recall the infringing goods from the market, to deprive them of their infringing quality, to destroy the infringing goods or to withdraw them from the market. When ordering the withdrawal of the goods from the market, a court may require the goods to be delivered up and forfeited to the trade secret holder. Regulation 14 implements Article 12 of the Directive.

Regulation 15 sets out the matters to be considered when making an order under regulation 14 and implements Article 13(1) and (2) of the Directive.

Regulation 16 enables a court to order compensation instead of an order under regulation 14 under certain conditions. This implements Article 13(3) of the Directive.

Regulation 17 sets out the factors that need to be taken into account when making an award of damages for the unlawful acquisition, use or disclosure of a trade secret. This implements Article 14 of the Directive.

Regulation 18 makes provision for the publication of information relating to judicial decisions in proceedings for the unlawful acquisition, use or disclosure of a trade secret. This implements Article 15 of the Directive.

Regulation 19 makes clear that the Regulations apply only to proceedings brought before a court after the coming into force of these Regulations in respect of a claim for the unlawful acquisition, use or disclosure of a trade secret and for the application of measures, procedures and remedies provided for under these Regulations.

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sector is foreseen. A transposition note is available from the Intellectual Property Office, Concept House, Cardiff Road, Newport NP10 8QQ and is available with the explanatory memorandum alongside this instrument on the Legislation UK website at [www.legislation.gov.uk](http://www.legislation.gov.uk). Copies have also been placed in the libraries of both Houses of Parliament.