



# Trade Marks Act 1994

## 1994 CHAPTER 26

### PART III

#### ADMINISTRATIVE AND OTHER SUPPLEMENTARY PROVISIONS

##### *Importation of infringing goods, material or articles*

#### **89 Infringing goods, material or articles may be treated as prohibited goods.**

- (1) The proprietor of a registered trade mark, or a licensee, may give notice in writing to the Commissioners of Customs and Excise—
  - (a) that he is the proprietor or, as the case may be, a licensee of the registered trade mark,
  - (b) that, at a time and place specified in the notice, goods which are, in relation to that registered trade mark, infringing goods, material or articles are expected to arrive in the United Kingdom—
    - (i) from outside the European Economic Area, or
    - (ii) from within that Area but not having been entered for free circulation, and
  - (c) that he requests the Commissioners to treat them as prohibited goods.
- (2) When a notice is in force under this section the importation of the goods to which the notice relates, otherwise than by a person for his private and domestic use, is prohibited; but a person is not by reason of the prohibition liable to any penalty other than forfeiture of the goods.
- [<sup>F1</sup>(3) This section does not apply to goods placed in, or expected to be placed in, one of the situations referred to in Article 1(1), in respect of which an application may be made under Article 5(1), of Council Regulation (EC) No 1383/2003 concerning customs action against goods suspected of infringing certain intellectual property rights and the measures to be taken against goods found to have infringed such rights.]

*Status: Point in time view as at 29/04/2006.*

*Changes to legislation: Trade Marks Act 1994, Cross Heading: Importation of infringing goods, material or articles is up to date with all changes known to be in force on or before 23 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

#### Textual Amendments

- F1** S. 89(3) substituted (1.7.2004) by [Goods Infringing Intellectual Property Rights \(Customs\) Regulations 2004 \(S.I. 2004/1473\)](#), regs. 1, **13** (with reg. 2(3))

#### Modifications etc. (not altering text)

- C1** S. 89 applied (with modifications) (1.4.1996) by [S.I. 1996/714](#), **art. 16**  
S. 89 applied (with modifications) (14.8.1996) by [S.I. 1996/1908](#), **reg. 6**
- C2** S. 89 applied (29.4.2006) by [Community Trade Mark Regulations 2006 \(S.I. 2006/1027\)](#), regs. 1(1), **7(1)**

### 90 Power of Commissioners of Customs and Excise to make regulations.

- (1) The Commissioners of Customs and Excise may make regulations prescribing the form in which notice is to be given under section 89 and requiring a person giving notice—
- (a) to furnish the Commissioners with such evidence as may be specified in the regulations, either on giving notice or when the goods are imported, or at both those times, and
  - (b) to comply with such other conditions as may be specified in the regulations.
- (2) The regulations may, in particular, require a person giving such a notice—
- (a) to pay such fees in respect of the notice as may be specified by the regulations;
  - (b) to give such security as may be so specified in respect of any liability or expense which the Commissioners may incur in consequence of the notice by reason of the detention of any goods or anything done to goods detained;
  - (c) to indemnify the Commissioners against any such liability or expense, whether security has been given or not.
- (3) The regulations may make different provision as respects different classes of case to which they apply and may include such incidental and supplementary provisions as the Commissioners consider expedient.
- (4) Regulations under this section shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

<sup>F2</sup>(5) . . . . .

#### Textual Amendments

- F2** S. 90(5) repealed (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#), s. 53(1), [Sch. 4 para. 57](#), **Sch. 5**; [S.I. 2005/1126](#), art. 2(2)(h)(i)

#### Modifications etc. (not altering text)

- C3** S. 90 applied (with modifications) (1.4.1996) by [S.I. 1996/714](#), **art. 16**  
S. 90 applied (with modifications) (14.8.1996) by [S.I. 1996/1908](#), **reg. 6**
- C4** S. 90 applied (29.4.2006) by [Community Trade Mark Regulations 2006 \(S.I. 2006/1027\)](#), regs. 1(1), **7(2)**

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## 91 <sup>[F3]</sup> **Power of Commissioners for Revenue and Customs to disclose information.**

Where information relating to infringing goods, material or articles has been obtained <sup>[F4]</sup>or is held] by <sup>[F5]</sup>the Commissioners for her Majesty's Revenue and Customs] for the purposes of, or in connection with, the exercise of <sup>[F6]</sup> functions of Her Majesty's Revenue and Customs] in relation to imported goods, the Commissioners may authorise the disclosure of that information for the purpose of facilitating the exercise by any person of any function in connection with the investigation or prosecution of an offence under section 92 below (unauthorised use of trade mark, &c. in relation to goods) or under the <sup>M1</sup>Trade Descriptions Act 1968.

### Textual Amendments

- F3** S. 91 heading substituted (18.4.2005) by Commissioners for Revenue and Customs Act 2005 (c. 11), s. 53(1), **Sch. 4 para. 58(2)**; S.I. 2005/1126, art. 2(2)(h)
- F4** Words in s. 91 inserted (18.4.2005) by Commissioners for Revenue and Customs Act 2005 (c. 11), s. 53(1), **Sch. 4 para. 58(1)(b)**; S.I. 2005/1126, art. 2(2)(h)
- F5** Words in s. 91 substituted (18.4.2005) by Commissioners for Revenue and Customs Act 2005 (c. 11), s. 53(1), **Sch. 4 para. 58(1)(a)**; S.I. 2005/1126, art. 2(2)(h)
- F6** Words in s. 91 substituted (18.4.2005) by Commissioners for Revenue and Customs Act 2005 (c. 11), s. 53(1), **Sch. 4 para. 58(1)(c)**; S.I. 2005/1126, art. 2(2)(h)

### Modifications etc. (not altering text)

- C5** S. 91 applied (with modifications) (1.4.1996) by S.I. 1996/714, **art. 16**  
S. 91 applied (with modifications) (14.8.1996) by S.I. 1996/1908, **reg. 6**
- C6** S. 91 applied (29.4.2006) by Community Trade Mark Regulations 2006 (S.I. 2006/1027), regs. 1(1), 7(2)

### Marginal Citations

- M1** 1968 c. 29

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