
STATUTORY INSTRUMENTS

1995 No. 1430

CUSTOMS AND EXCISE

The Counterfeit and Pirated Goods (Customs) Regulations 1995

<i>Made</i>	- - - -	<i>6th June 1995</i>
<i>Laid before Parliament</i>		<i>6th June 1995</i>
<i>Coming into force</i>	- -	<i>1st July 1995</i>

The Commissioners of Customs and Excise, being a Department designated⁽¹⁾ for the purposes of section 2(2) of the European Communities Act 1972⁽²⁾ in relation to measures relating to counterfeit and pirated goods, in exercise of the powers conferred upon them by the said section 2(2) and of all other powers enabling them in that behalf, hereby make the following Regulations:

1.—(1) These Regulations may be cited as the Counterfeit and Pirated Goods (Customs) Regulations 1995 and shall come into force on 1 July 1995.

(2) In these Regulations—

“the Council Regulation” means Council Regulation (EC) No. 3295/94⁽³⁾ laying down measures to prohibit the release for free circulation, export, re-export or entry for a suspensive procedure of counterfeit and pirated goods;

“application” means an application under Article 3(1) of the Council Regulation and “applicant” shall be construed accordingly;

“counterfeit goods” and “pirated goods” have the same meanings as in the Council Regulation;

“offending goods” means counterfeit goods or pirated goods or goods which are to be treated as counterfeit goods or pirated goods by virtue of Article 1(3) of the Council Regulation;

“the Commissioners” means the Commissioners of Customs and Excise.

2. An application shall be made to the Commissioners in the form set out in the Schedule to these Regulations, or a form to the like effect approved by the Commissioners, containing full particulars of the matters specified therein.

3. The applicant shall give to the Commissioners such security or further security within such time and in such manner, whether by deposit of a sum of money or guarantee as the Commissioners may require, against all actions, proceedings, claims and demands whatsoever which may be taken or

(1) S.I.1995/751.

(2) 1972 c. 68.

(3) OJ No. L341, 30.12.94, p. 8.

made against, or costs and expenses which may be incurred by, them in consequence of the detention of any goods to which the application relates.

4. In every case, whether any security or further security is given or not, the applicant shall keep the Commissioners indemnified against all such liability and expense as is mentioned in regulation 3 above and in particular shall repay to them all expense which may be incurred by them in consequence of the detention of, or anything done in relation to, any goods to which the application relates.

5. In respect of the application, the applicant shall pay the Commissioners a fee of £185 plus VAT for the first month or part of a month and £165 plus VAT for each subsequent month of the period specified in any decision made by them under Article 3(5) of the Council Regulation granting the application.

6. The applicant shall pay the Commissioners a fee of £165 plus VAT for each additional month that the period is extended by them.

7. In the event that the Commissioners supply the applicant with a sample of detained goods which appears to them both to correspond to the description of goods contained in a decision under Article 3(5) of the Council Regulation granting his application and to be offending goods the applicant shall, within 10 days of being requested by the Commissioners, or within such further time as the Commissioners may allow, confirm to them in writing whether or not in his opinion the sample is comprised of offending goods, giving his reasons, by reference to characteristics of the sample or its packaging or otherwise.

8. An application shall have no effect or no further effect where—

- (a) the applicant has failed to comply with any of the requirements of these Regulations, or
- (b) any change, following the making of the application, which takes place in the ownership or authorised use of the trade mark or other right specified in the application, is not communicated in writing to the Commissioners, or
- (c) the trade mark or other right specified in the application expires.

9. The Counterfeit Goods (Customs) Regulations 1987(4) are hereby revoked.

New King's Beam House 22 Upper Ground
London SE1 9PJ
6th June 1995

Leonard Harris
Commissioner of Customs and Excise

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

SCHEDULE

Regulation 2

SCHEDULE

Regulation 2

C 1340



Intellectual Property Rights: Application Form

Please read Notice 34 and the Notes below before you complete this form.

NOTES

- 1** You may apply under this scheme if you are the holder or authorised user of a trade mark, copyright or rights in a performance, or a design right, or an authorised representative, and you wish Customs to intercept suspected counterfeit or pirated goods.
- 2** The proof which must accompany this application is detailed in paragraph 4 of Notice 34.
- 3** There are certain categories of goods against which Customs cannot take action under this scheme. These are listed in paragraph 3 of Notice 34.
- 4** If this application is lodged in response to an invitation from a customs officer, you are asked to complete part 4.
- 5** The more intelligence information you can provide, the greater chance Customs will have of intercepting offending goods.
- 6** Allow at least ten days for consideration and processing of your application, prior to its intended implementation.
- 7** If this application is accepted, you will be required to pay a fee and be legally obliged to indemnify the Commissioners of Customs and Excise against any liability or expense they may incur as a result of any action taken in relation to goods covered by the application. Further details are set out in paragraphs 5, 6 and 7 of Notice 34.
- 8** If this application is rejected, you will be advised of the reason and given the opportunity to appeal against the decision. Further details are given in Notice 990.
- 9** You may apply to extend the period for which Customs will take action by completing another copy of this form and sending it to us at least ten days before the expiry of the current period. You need not duplicate any details already provided unless they require amendment.
- 10** If there is insufficient space in any of the sections, or you wish to include any further pertinent details, continue on a separate sheet ensuring that the additional information is clearly marked with the relevant paragraph number.
- 11** The completion of parts 1, 2, 3 and 10 of the application, together with the declaration, is compulsory. If they are not completed, the application will be returned and consequently delayed.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.



Part 4 - Details of the customs officer inviting you to lodge this application

Name

Customs office

Telephone no.

I have been informed by the above named customs officer that suspect counterfeit or pirated goods have been discovered during the course of routine checks and I am lodging this application with your office accordingly.

Part 5 - Details of expected movements of suspected pirated goods (where known)

Place of customs declaration

Consignment details

Date of expected arrival/departure of goods

Means of transport

*Importer/Exporter details

Part 6 - Details of authorised traders in genuine product

The following persons or companies are **authorised** to trade in the genuine product within or outside the UK (these details are required to avoid disruption of trade by intercepting legitimate goods).

Name	Address	VAT Number
.....
.....
.....
.....
.....
.....
.....
.....
.....
.....

Part 7 - Details of suspected countries of origin and consignment (where known)

I have reason to believe that offending goods are being sent *from/to the following countries

.....

*Delete as necessary

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Part 8 - Details of suspected importers/exporters (where known)		
I have reason to believe that the following persons or companies are involved in the *importation/exportation of offending goods.		
Name	Address	VAT Number
.....
.....
.....
.....

Part 9 - Details of suspected suppliers (where known)		
I have reason to believe that the following persons or companies are supplying offending goods to *importers/exporters.		
Name	Address	VAT Number
.....
.....
.....
.....

Part 10 - Details of monitoring period	
Date of commencement
Period of monitoring month(s).

DECLARATION

I declare that:

- all the details given in this application are accurate to the best of my knowledge and belief,
- I have read and understood Notice 34,
- I will abide by the provisions of all the legal instruments mentioned in that Notice.

Signature

Name (print)

Status Date

Please send this form to: HM Customs and Excise
Prohibitions & Restrictions Division 3
First Floor Central
New King's Beam House
22 Upper Ground
LONDON SE1 9PJ

*Delete as necessary
C 1340 Page 2(R0595)

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision consequential upon Council Regulation (EC) No. 3295/94 laying down measures to prohibit the release for free circulation, export, re-export or entry for a suspensive procedure of counterfeit or pirated goods. They append the form of application to be completed by the holder or authorised user of a trade mark or other right, or a representative, and deal with certain other aspects of the procedure to be followed by the applicant.