
STATUTORY INSTRUMENTS

2004 No. 1473

**The Goods Infringing Intellectual Property
Rights (Customs) Regulations 2004**

Detention and seizure of goods infringing specified intellectual property rights

8.—(1) Regulation 7 shall not apply in relation to goods as regards which the decision specifies as subsisting in those goods any one or more of the following intellectual property rights (whether or not they also appear to infringe any other intellectual property right)—

- (a) a patent;
- (b) a supplementary protection certificate;
- (c) a registered design;
- (d) a design right;
- (e) a Community design;
- (f) a plant breeders' right;
- (g) a Community plant variety right;
- (h) a designation of origin;
- (i) a geographical indication; or
- (j) a geographical designation.

(2) A right-holder may, within 10 working days of his having been notified by the Commissioners of the suspension of release of such goods, or of such goods being detained, give notice in writing to the Commissioners waiving, for the purpose of both the Council Regulation and these Regulations, any intellectual property right of his in the goods, being a right mentioned in sub-paragraphs (a) to (j) in paragraph (1).

(3) The period referred to in paragraph (2) shall be 3 working days in cases where the Commissioners have suspended the release of, or detained, perishable goods.

(4) Where notice has been given in accordance with paragraph (2)—

- (a) any right so waived shall be disregarded, as regards that right-holder, in determining whether the goods fall within paragraph (1); and
- (b) the goods shall be treated for the purposes of these Regulations as if that person did not have the right concerned in those goods.

(5) The following provisions of the 1979 Act shall apply to any goods falling within paragraph (1) as they apply in respect of goods liable to forfeiture under the customs and excise Acts—

- (a) section 139, except subsections (5) and (6) (things seized or detained to be dealt with or disposed of as Commissioners direct; Schedule 3 to have effect); and
- (b) section 144.

(6) Any thing seized or detained by virtue of this regulation shall be dealt with in such manner as the Commissioners may direct; but this paragraph shall apply subject to section 139(3) and (4) of the 1979 Act (detention or seizure by a constable; things retained in the custody of the police) in the cases there mentioned.