



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.
- (3) This section does not apply to goods entered, or expected to be entered, for free circulation in respect of which the proprietor of the registered trade mark, or a licensee, is entitled to lodge an application under Article 3(1) of Council Regulation (EEC) No. 3842/86 laying down measures to prohibit the release for free circulation of counterfeit goods.

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.
- (5) Section 17 of the Customs and Excise Management Act 1979 (general provisions as to Commissioners' receipts) applies to fees paid in pursuance of regulations under this section as to receipts under the enactments relating to customs and excise.

91 Power of Commissioners of Customs and Excise to disclose information

Where information relating to infringing goods, material or articles has been obtained by the Commissioners of Customs and Excise for the purposes of, or in connection with, the exercise of their functions 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 Trade Descriptions Act 1968.