
STATUTORY INSTRUMENTS

1999 No. 1618

**The Goods Infringing Intellectual Property Rights
(Consequential Provisions) Regulations 1999**

7.—(1) In the case of goods falling within paragraph (1) of regulation 6 above, the commencement of the proceedings described in paragraph (2) below, and only such proceedings, shall constitute a referral to the authority competent to take a substantive decision for the purposes of the Council Regulation.

(2) The proceedings mentioned in paragraph (1) above are proceedings commenced in the relevant court by a holder of a right alleging that the goods infringe an intellectual property right of his and seeking relief which that court has the power to grant after a finding of such infringement.

(3) Without prejudice to any provision of the Council Regulation, if at any time the Commissioners—

- (a) are not satisfied, or cease to be satisfied, that the proceedings described in paragraph (2) above have been commenced; or
- (b) are satisfied that such proceedings have been withdrawn or otherwise terminated without other such proceedings having been commenced, the suspension of the release of the goods or their detention shall cease.

(4) For the purposes of this regulation proceedings shall not be taken to have been commenced before—

- (a) an originating process has been issued or, in the case of the Court of Session, signeted by the relevant court;
- (b) that process has been served on the other party or, if more than one, all the other parties to the proceedings, in accordance with the rules of the court concerned.

(5) In paragraph (4) above, the reference to an originating process is a reference to—

- (a) in England and Wales, a claim form;
- (b) in Scotland, a summons; or
- (c) in Northern Ireland, a writ.

(6) For the purposes of this regulation the relevant court is—

- (a) in England and Wales, the High Court or any patents county court having jurisdiction by virtue of an order under section 287 of the Copyright, Designs and Patents Act 1988;
- (b) in Scotland, the Court of Session; or
- (c) in Northern Ireland, the High Court.