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STATUTORY INSTRUMENTS

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**2010 No. 992**

**CUSTOMS**

**INTELLECTUAL PROPERTY**

**The Goods Infringing Intellectual Property Rights  
(Customs) (Amendment) (No. 2) Regulations 2010**

<i>Made</i>	- - - -	<i>25th March 2010</i>
<i>Laid before Parliament</i>		<i>26th March 2010</i>
<i>Coming into force</i>	- -	<i>16th April 2010</i>

The Commissioners for Her Majesty's Revenue and Customs<sup>(1)</sup> make the following Regulations in exercise of the powers conferred by section 2(2) of the European Communities Act 1972<sup>(2)</sup>.

The Commissioners have been designated<sup>(3)</sup> for the purposes of section 2(2) in relation to counterfeit and pirated goods, goods infringing a patent, goods infringing a supplementary protection certificate, goods infringing plant breeders' rights, designations of origin, geographical indications and geographical designations, and goods infringing Community plant variety rights.

**Citation and commencement**

1. These Regulations may be cited as the Goods Infringing Intellectual Property Rights (Customs) (Amendment) (No. 2) Regulations 2010 and come into force on 16th April 2010.

**Amendment of the Goods Infringing Intellectual Property Rights (Customs) Regulations 2004**

2. The Goods Infringing Intellectual Property Rights (Customs) Regulations 2004<sup>(4)</sup> are amended as follows.

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- (1) The functions of the Commissioners of Customs and Excise were transferred to the Commissioners for Her Majesty's Revenue and Customs by section 5 of the Commissioners for Revenue and Customs Act 2005 (c. 11). Section 50(1) of that Act provides that a reference to the Commissioners of Customs and Excise shall be taken as a reference to the Commissioners for Her Majesty's Revenue and Customs.
- (2) 1972 c. 68. Section 2(2) has been amended by section 27(1)(a) of the [Legislative and Regulatory Reform Act 2006](#) (c. 51) and by section 3(3) of the European Union (Amendment) Act 2008 (c. 7).
- (3) [S.I. 1995/751](#) (in relation to counterfeit and pirated goods), [S.I. 1999/654](#) (in relation to goods infringing a patent and goods infringing a supplementary protection certificate), and [S.I. 2004/706](#) (in relation to goods infringing plant breeders' rights, designations of origin, geographical indications and geographical designations, and goods infringing Community plant variety rights).
- (4) [S.I. 2004/1473](#), amended by [S.I. 2010/324](#).

3. In regulation 2(1), omit the definitions of—
  - (a) “Community design”;
  - (b) “Community plant variety right”;
  - (c) “design right”;
  - (d) “designation of origin”;
  - (e) “European patent (UK)”;
  - (f) “geographical designation”;
  - (g) “geographical indication”;
  - (h) “patent”;
  - (i) “plant breeders’ right”;
  - (j) “registered design”; and
  - (k) “supplementary protection certificate”.
4. In regulation 2(3), for “Article 2(3)”, substitute “Article 2” and, for “Article 3(1)”, substitute “Article 3”.
5. Omit regulations 4 and 6.
6. In regulation 7(1)(5)—
  - (a) for “regulation 4(1)(c)”, substitute “Article 9 of the Council Regulation”; and
  - (b) in paragraph (a), insert “be” between “may” and “destroyed”.
7. In regulation 7(5), for “regulation 4(1)(b)”, substitute “Article 9 of the Council Regulation”.

25th March 2010

*Dave Hartnett*  
*Melanie Dawes*  
Two of the Commissioners for Her Majesty’s  
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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations amend the Goods Infringing Intellectual Property Rights (Customs) Regulations 2004 (the 2004 Regulations).

Regulation 3 removes definitions of terms which do not, or no longer, appear in the 2004 Regulations.

Regulation 4 corrects regulation 2(3) of the 2004 Regulations so that it refers to the entirety of the relevant articles in Council Regulation (EC) No 1383/2003 (O.J. L 196/7 2.8.2003) (“the Council Regulation”).

Regulation 5 revokes regulations 4 and 6 of the 2004 Regulations, because they unnecessarily reproduce the provisions of articles 4 and 9.3 of the Council Regulation, which is directly applicable.

Regulation 6 corrects regulation 7(1) of the 2004 Regulations (as amended by [S.I. 2010/324](#)), to remove the reference to “regulation 4(1)(c)”, since regulation 4 of the 2004 Regulations is revoked by regulation 5 of these Regulations. Further, the consequence of framing regulation 7(1) of the 2004 Regulations by reference to “regulation 4(1)(c)” was to render the simplified procedure applicable solely in circumstances where goods had been detained in advance of the grant to the right-holder of an application for action, rather than in all circumstances where goods have been detained by the Commissioners under the Council Regulation. Regulation 6 also inserts the missing word ‘be’.

Regulation 7 corrects regulation 7(5) of the 2004 Regulations (as amended by [S.I. 2010/324](#)) to remove the reference to “regulation 4(1)(b)”, for the same reasons as those given above, in relation to regulation 6 of these Regulations.

A full Impact Assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.