
STATUTORY INSTRUMENTS

2023 No. 1287

The Intellectual Property (Exhaustion of Rights) (Amendment) Regulations 2023

Amendment of the Trade Marks Act 1994

5.—(1) The Trade Marks Act 1994⁽¹⁾ is amended as follows.

(2) In section 12 (exhaustion of rights conferred by registered trade mark), for subsection (2) substitute—

“(2) Subsection (1) does not apply where—

- (a) there exist legitimate reasons for the proprietor to oppose further dealings in the goods for the purpose of protecting the proprietor’s property (in particular, where the condition of the goods has been changed or impaired after they have been put on the market), and
- (b) the opposition to those dealings interferes with the rights of any other person no more than is necessary to achieve that purpose.”.

(3) In section 17⁽²⁾ (meaning of “infringing goods, material or articles”)—

(a) in subsection (3), for the words from “may lawfully” to the end substitute—

- “(a) may lawfully be imported into the United Kingdom by virtue of anything which forms part of assimilated law as a result of section 3 of the European Union (Withdrawal) Act 2018, or
- (b) have been put on the market in the European Economic Area under the registered trade mark in question in accordance with section 12.”;

(b) after subsection (3) insert—

“(3A) In subsection (3)(a), the reference to assimilated law is to be read, until the coming into force of paragraph 2(6) of Schedule 2 to the Retained EU Law (Revocation and Reform) Act 2023, as a reference to retained EU law.”.

(1) 1994 c. 26.

(2) Section 17(3) was amended by S.I. 2011/1043 and S.I. 2019/265.