
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which come into force on 1st July 2004, revoke and replace the Goods Infringing Intellectual Property Rights (Customs) Regulations 1999 (S.I. 1999/1601, amended by S.I. 2003/2316) and the Goods Infringing Intellectual Property Rights (Consequential Provisions) Regulations 1999 (S.I. 1999/1618). Those Regulations made provisions consequential upon Council Regulation (EC) No 3295/1994 (OJ No L 341, 30.12.94, p 8), as amended by Council Regulation (EC) No 241/1999 (OJ No L 27, 2.2.99, p 1), which laid down measures concerning the entry into the Community, and the export and re-export from the Community, of goods infringing certain intellectual property rights.

Council Regulation (EC) No 1383/2003 (OJ No L 196, 2.8.03, p 7), which replaces Regulation 3295/1994 with effect from 1st July 2004, introduces the following principal changes:

- (a) the use of a standard application form, containing a declaration by the right-holder;
- (b) the abolition of application fees;
- (c) the provision of additional information to the right-holder at an earlier stage;
- (d) the introduction of sanctions if a right-holder misuses information supplied to him; and
- (e) the extension to goods infringing a national plant variety right, a Community plant variety right, a designation of origin, a geographical indication, or a geographical designation.

These Regulations re-enact regulations 2 to 8 of S.I. 1999/1618 amended to reflect Regulation 1383/2003, make new provisions consequential upon Regulation 1383/2003 and re-enact paragraphs 8(b) and (c) of S.I. 1999/1601. The other provisions of S.I. 1999/1601, relating to the application form, the provision of security by the applicant and the application fee, are rendered otiose by the changes introduced by Regulation 1383/2003.

These Regulations revoke and replace the Trade Marks (EC Measures Relating to Counterfeit Goods) Regulations 1995 (S.I. 1995/1444) which excluded goods covered by Regulation 3295/1994 from the operation of section 89 of the Trade Marks Act 1994. These Regulations also amend section 111(3B) of the Copyright, Designs and Patents Act 1988.

These Regulations revoke the Goods Infringing Intellectual Property Rights (Customs) Regulations 2003 (S.I. 2003/2316), which abolished fees for applications to the Commissioners with effect from 1st October 2003 and which are now otiose.

Regulations 2, 3, 7, 9 and 10 re-enact regulations 2, 3, 5, 7 and 8 of S.I. 1999/1618, amended to reflect the provisions of Regulation 1383/2003.

Regulation 4 re-enacts regulation 4 of S.I. 1999/1618, with the addition of paragraph (1)(a) and of the reference to the declarant in paragraph (1)(b).

Regulation 5 re-enacts paragraphs 8(b) and (c) of S.I. 1999/1601.

Regulation 6 is a new provision setting out circumstances in which samples of suspected infringing goods may be provided to the right-holder.

Regulation 8 re-enacts regulation 6 of S.I. 1999/1618, amended to reflect the extended scope of Regulation 1383/2003 and to provide for a 3 day period where perishable goods are involved.

Regulation 11 is a new provision setting out the sanctions which the Commissioners may impose if there has been a misuse of information by a right-holder. In all cases the Commissioners may suspend the decision in relation to a relevant intellectual property right for the remainder of its period

Status: *This is the original version (as it was originally made).*

of validity (the maximum period of validity is one year). If the right-holder has misused information within the previous three years the Commissioners may also refuse to renew the decision, or to accept an application, in relation to a relevant intellectual property right for a period of up to one year from the date of its expiry.

Regulations 12 and 13 amend section 111(3B) of the Copyright, Designs and Patents Act 1988 and section 89(3) of the Trade Marks Act 1994 to refer to Regulation 1383/2003.

Regulation 14 revokes the four Regulations referred to above and listed in the Schedule.

A full regulatory impact assessment has not been produced for this instrument as it has no impact on the costs of business, charities or voluntary bodies.