



STATUTORY INSTRUMENTS.

S.I. No. 309 of 2013

EUROPEAN COMMUNITIES (CUSTOMS ACTION AGAINST GOODS
SUSPECTED OF INFRINGING CERTAIN INTELLECTUAL PROPERTY
RIGHTS) (AMENDMENT) REGULATIONS 2013

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SUSPECTED OF INFRINGING CERTAIN INTELLECTUAL PROPERTY
RIGHTS) (AMENDMENT) REGULATIONS 2013

I, MICHAEL NOONAN, Minister for Finance, in exercise of the powers conferred on me by section 3 of the European Communities Act 1972 (No. 27 of 1972), and for the purposes of giving full effect to Council Regulation (EC) No. 1383/2003 of 22 July 2003¹ and Commission Regulation (EC) No. 1891/2004 of 21 October 2004², hereby make the following regulations:

1. These Regulations may be cited as the European Communities (Customs Action against Goods suspected of Infringing certain Intellectual Property Rights) (Amendment) Regulations 2013.

2. The European Communities (Customs Action against Goods suspected of Infringing certain Intellectual Property Rights) Regulations 2005 (S.I. No. 344 of 2005) are amended by substituting for Regulation 7(2) the following:

“(2) The Revenue Commissioners may treat as abandoned for destruction goods which have been suspended from release or detained, by virtue of Article 9 of the Council Regulation, where the right holder has informed the Revenue Commissioners in writing, within the period specified in Article 11 of the Council Regulation, that those goods infringe an intellectual property right and either of the following conditions applies:

- (a) the right holder has provided the Revenue Commissioners with the written agreement of the declarant, the holder or the owner of the goods (“the interested parties”) that the goods may be destroyed;
- (b) none of the interested parties has specifically opposed the destruction of the goods to the Revenue Commissioners within the period specified in Article 11 of the Council Regulation.

(3) The Revenue Commissioners may not treat goods as abandoned for destruction where one interested party has given its written agreement that the goods may be destroyed and either or both of other interested parties has specifically opposed the destruction of the goods to the Revenue Commissioners within the period specified in Article 11 of the Council Regulation.

¹OJ No. L 196, 02.08.2003, p.7

²OJ No. L 328, 30.10.2004, p.16

(4) The Revenue Commissioners may, at their discretion, accept the written agreement mentioned in subparagraph (a) of paragraph (2) directly from an interested party.

(5) Where goods are treated as abandoned for destruction by virtue of paragraph (2)—

- (a) the right holder shall bear the expense and the responsibility for the destruction of the goods, unless otherwise specified by the Revenue Commissioners, and
- (b) the Revenue Commissioners shall retain a sample of the goods to be used where required as evidence in legal proceedings.”.



GIVEN under my Official Seal,
6 August 2013.

MICHAEL NOONAN,
Minister for Finance.

EXPLANATORY NOTE

(This note is not part of the Instrument and does not purport to be a legal interpretation.)

The purpose of these Regulations is to amend the European Communities (Customs Action against Goods Suspected of Infringing certain Intellectual Property Rights) Regulations 2005 (S.I. No. 344 of 2005), concerning Customs action against goods suspected of infringing certain intellectual property rights and the measures to be taken against goods found to have infringed such rights.

Regulation 2(2) gives effect to Article 11 of Council Regulation (EC) No. 1383/2003 (OJ L 196, 02.08.2003, p.7). It inserts a simplified procedure to enable the Revenue Commissioners to treat as abandoned for destruction, goods suspected of infringing an intellectual property right. The agreement of those parties to the destruction of the goods will be presumed where they fail to specifically oppose such destruction within the period prescribed in Article 11 of the Council Regulation. In all other cases, the terms of Article 13 of the Council Regulation apply.

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