



STATUTORY INSTRUMENTS.

S.I. No. 562 of 2013



EUROPEAN UNION (CUSTOMS ENFORCEMENT OF INTELLECTUAL
PROPERTY RIGHTS) REGULATIONS 2013

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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 purpose of giving full effect to Regulation (EU) No. 608/2013 of the European Parliament and of the Council of 12 June 2013¹, hereby make the following regulations:

1. (1) These Regulations may be cited as the European Union (Customs enforcement of Intellectual Property Rights) Regulations 2013.

(2) These Regulations come into operation on 1 January 2014.

2. (1) In these Regulations “Council Regulation” means Regulation (EU) No. 608/2013 of the European Parliament and of the Council of 12 June 2013¹.

(2) A word or expression which is used in these Regulations and which is also used in the Council Regulation has, unless the context requires otherwise, the same meaning in these Regulations as it has in the Council Regulation.

(3) A reference in these Regulations to an Article is to an Article of the Council Regulation unless it is indicated that reference to some other instrument is intended.

3. The Revenue Commissioners are designated as the competent customs department to receive and process applications for the purposes of the Council Regulation.

4. A person who gives, in an application under Article 5(2), information that he or she knows to be misleading, commits an offence and is liable on summary conviction to a class A fine.

5. A holder of a decision who contravenes Article 21 commits an offence and is liable on summary conviction to a class E fine.

6. (1) Where an application is rejected, the applicant may, within 7 days from the date of service of the rejection, appeal to the Judge of the District Court having jurisdiction in the District Court District where the person bringing the appeal ordinarily resides or carries on business, on the grounds that the rejection is unreasonable having regard to the Council Regulation (in this Regulation referred to as "an appeal").

¹OJ No. L181, 29.06.2013, p.15

(2) An appeal shall contain a statement of the grounds upon which it is alleged that the rejection is unreasonable.

(3) A copy of the appeal shall be served on the Revenue Commissioners at least 48 hours prior to the hearing of the appeal.

(4) An appeal may be heard at any sitting of the District Court within the appropriate District Court District.

(5) On the hearing of an appeal a Judge of the District Court may confirm, modify, or annul a rejection.

7. The destruction of goods under Article 23(1) may be carried out without the responsibility of the holder of a decision and the costs incurred may be recoverable by the Revenue Commissioners as a simple contract debt in any court of competent jurisdiction.

8. (1) Where an offence under these Regulations is committed by a body corporate and it is proved that the offence was committed with the consent or connivance, or was attributable to any wilful neglect, of a person who was a director, manager, secretary or other officer of the body corporate, or a person purporting to act in that capacity, that person, as well as the body corporate, commits an offence and is liable to be proceeded against and punished as if he or she were guilty of the first- mentioned offence.

(2) Where the affairs of a body corporate are managed by its members, paragraph (1) applies in relation to the acts and defaults of a member in connection with his or her functions of management as if he or she were a director or manager of the body corporate.

9. An offence under these Regulations may be prosecuted summarily by the Revenue Commissioners.

10. The following are revoked—

- (a) European Communities (Customs Action against Goods Suspected of Infringing Certain Intellectual Property Rights) Regulations 2005 (S.I. No. 344 of 2005),
- (b) European Communities (Customs Action against Goods suspected of Infringing certain Intellectual Property Rights (Amendment) Regulations 2013 (S.I. No. 309 of 2013).



GIVEN under my Official Seal,
18 December 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 implement Council Regulation (EU) 608 of 2013 concerning customs enforcement of Intellectual Property Rights. This Council Regulation repeals Council Regulation (EC) No. 1383 of 2003. Therefore the two previous Statutory Instruments that were made on foot of that Regulation will be revoked. These are:

- the European Communities (Customs Action against Goods suspected of infringing certain Intellectual Property Rights) Regulations 2005 (S.I. No. 344/2005)
- the European Communities (Customs Action against Goods suspected of infringing certain Intellectual Property Rights)(Amendment) Regulations 2013 (S.I. No. 309/2013).

These Regulations designate the Revenue Commissioners as the competent department to receive and process applications in respect of requests for customs action to be taken to enforce intellectual property rights. As the Council Regulation has direct effect, most of the articles do not require to be transposed apart from the articles mentioned. A number of minor offences and related penalties have been provided for.

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