

# Customs Ordinance [New Version]

## [Excerpts]

[Prepared by WIPO, 2014]

[Hebrew version is controlling]

[Section 200A: Delay of Infringing Goods](#)

[Section 200B: Release of Guarantees](#)

### **Delay of Infringing Goods**

200A. (a) Where the Director-General found, via notification pursuant to section 65 of the Copyright Law, 5768-2007 (Hereinafter - Copyright Law), or Section 69A of the Trademarks Ordinance [New Version], 5732-1972 (Hereinafter - Trademarks Ordinance), or in any other way, that an infringement of copyright or trademark has occurred, allegedly, then he shall take the following steps:

- (1) Order to hold the release of copies or goods, subject of claims of infringement (hereinafter - Infringing goods) for 3 work days; the Director-General may, in light of special justifications, extend the aforementioned delay period by an additional time which may not exceed 3 days;
- (2) Inform, by writing, whoever he believes to be the proprietor of the alleged infringing goods to the fact of delay of release, with an attachment of a copy of the notification, if given, and a copy of the self guarantee;
- (3) Inform the proprietor of copyright or trade mark (Hereinafter - Proprietor of right), that the infringing goods had been delayed, and set the amount of bank guarantee to be deposited under subsection (c), in addition to the self guarantee under section 65 of the Copyright Law, or section 69A of the Trademarks Ordinance, where notification was provided;
- (4) Notify the proprietor of right as to the delay of release of infringing goods, and that the delay shall be cancelled upon 3 work days from the day of delay unless the guarantee or guarantees required to be deposited is deposited, and upon 10 work days from the day of delivery of notification of delay where he chooses not to file action in court.

(b) The Director-General may, due to special justifications, extend the period for filing claim as aforementioned under subsection (a)(4) for 10 more additional days.

(c) within 3 work days from the day of delay, the proprietor of rights shall deliver to the Director-General a bank guarantee in the amount set by the thereto under subsection (a)(3), which can cover any expense related to the delay or to compensate any damage sustained by the

delay.

(d) Upon the deposit of guarantee under subsection (c), the Director-General shall furnish, at the request of the proprietor of right, samples of the allegedly infringing goods, as said, for the purpose of examining them as well as the name and address of the importer of the infringing goods'; the proprietor of rights shall bear the cost of examination, including the expenses of transferring the samples to the place of examination.

(e) The Director-General shall cancel the delay of infringing goods if the proprietor of right has not taken action thereto before the end of the enumerated periods under subsections (a) to (c).

(f) The Minister of Finance may enact regulations for the execution of this section including with regards to any fees the applicant must pay.

### **Release of Guarantees**

200B. The Director-General shall return to the depositor any guarantees deposited as detailed hereafter and in accordance with the circumstances:

- (1) If he has declined the application to delay, as specified in the notification, as said under section 200A(a) – within three months from the date of dismissal where no legal claim is submitted by the importer for damages sustained as a result of the delay before the end the aforesaid period;
- (2) Where the release of the goods has been delayed, as said under section 200A and the delay has been canceled – within three months from the day of release of infringing goods, where no legal claim had been submitted by the importer for damages sustained as a result of the delay before the end of the aforementioned period;
- (3) Where a claim has been dismissed as said under section 200A(a)(4) by a court in a final judgement, and the importer or his representative has approved by writing that he does not have, nor will he have, any argument or claim with regards to the delay of infringing goods, or with regards to the damage sustained – within three months from the day the claim has been dismissed;
- (4) In accordance with the provisions of the court