

Regulations Regarding Customs Control Measures to Ensure Protection of Intellectual Property

Issued in accordance with the third paragraph of Article 114 of the Customs law

I. General regulations

1. These Regulations prescribe the procedure of customs control measures which shall be performed to protect intellectual property, prohibiting counterfeit and pirated goods to be released for free circulation, to be exported, re-exported, subjected to customs warehousing, inward processing, inward processing under customs control and temporary importation procedures.

2. Release for free circulation, exportation, re-exportation, customs warehousing, inward processing, inward processing under customs control and temporary importation of goods which are suspected to be counterfeit or pirated goods shall be suspended until measures provided in [paragraphs 15, 16, 17, 18 and 20](#) of these Regulations are not performed.

II. Application for action by the customs authorities and examination of it

3. To execute and protect his rights, the holder (or a person authorised by him) of a copyright, related right, trade mark, industrial design or geographical indication protected in Latvia (hereinafter - the holder of the copyrights) may lodge an application in writing with the Customs Board of the State Revenue Service (hereinafter - the Customs Board) concerning the counterfeit or pirated goods (hereinafter - the application).

4. The application shall contain the following information (or the respective documents shall be attached to it):

- 4.1. a sufficiently detailed description of the original goods and the counterfeit or pirated goods to enable the customs authority to recognize them;
- 4.2. proof that the applicant is the holder of the copyrights for the goods in question.
- 4.3. time period within which the customs authority is requested to take action.

5. The application may be submitted *ad hoc* in relation to a specific shipment of goods or may contain a time period of its validity (in this case it relates to all shipments of the respective goods which are transferred across the state border within this time period).

6. The holder of rights shall submit to the Customs Board any other information at his disposal which is necessary to make decision in accordance with the procedure established by the State Revenue Service.

7. After examination of the application the Customs Board shall notify the holder of the copyrights in writing of its decision.

8. Where the Customs Board considers the application unfounded, it shall give to the applicant the reasons for refusal in writing. The holder of the rights shall have a right to judicial review of the decision of the Customs Board in accordance with the procedures laid down by normative acts.

9. Where the Customs Board considers the application well-founded, it shall specify the time period during which the necessary customs control procedures shall be carried out. The Customs Board may extend that period upon application by the holder of the copyrights.

10. The decision of the Customs Board accepting the application by the holder of a copyright shall be forwarded immediately to the customs office liable to be concerned with the goods alleged in the application to be counterfeit or pirated. The Customs Board shall also provide the respective customs office with a time period within which the customs control procedures shall be carried out.

11. Where the customs control procedures are carried out based on the application, and it appears evident that the goods in question are not counterfeit or pirated, the holder of the copyrights who had submitted information for identification of goods, shall cover the following:

11.1 losses occurred to the persons due to the measures taken by the customs office;

11.2 costs of storage of the goods under customs control.

12. Where, in course of checks made under the customs procedures referred to in [Paragraph 1](#) of these Regulations it appears evident to the customs office that the goods are counterfeit or pirated, but the application of the holder of the copyrights has not been lodged or approved, the customs office shall notify the Customs Board on an alleged infringement of copyrights. The Customs Board in its turn shall notify the holder of the copyright, if known, of an alleged infringement thereof.

13. In the case inscribed in [Paragraph 12](#), the customs office shall be authorised to suspend release of the goods for free circulation, and after giving the notification to the Customs Board, shall be authorised to detain them for a period maximum of 10 working days to enable the holder of the copyrights to lodge an application.

14. Where the holder of copyrights has not lodged an application within the time period specified in [Paragraph 13](#) of these Regulations, the State Revenue Service shall be authorised to take action in accordance with the requirements of the normative acts and take decision in relation to the goods, which according to the criterion inscribed in the instruction of the State Revenue Service, are alleged to be counterfeit or pirated.

III. Actions taken by the customs authorities

15. Customs office to which the decision of the Customs Board has been forwarded pursuant to [Paragraph 10](#) of these Regulations, in consultation with the holder of the copyrights shall clarify whether the goods correspond to the description of the counterfeit or pirated goods contained in that decision. Where the goods correspond to this description, the customs office in accordance with the procedure determined by the State Revenue Service shall prepare the document which shall be signed by the holder of the rights and the liable customs official, and shall suspend the release of the goods for free circulation.

16. The customs office shall immediately but not later than within two working days notify the Customs Board, the declarant of the goods and the holder of the copyrights on the action taken.

17. In accordance with the provisions of normative acts on the protection of personal data, commercial and industrial secrecy and professional and administrative confidentiality, the customs office or the Customs Board shall notify the holder of the copyright at his request of the name and address of the declarant and of those of the consignee so as to enable the holder of the copyrights to file a petition. The Customs Board shall notify the holder of the copyrights at his request of the name and address of the producer of the counterfeit or pirated goods, and of volumes of these goods.

18. The customs office shall afford the holder of the copyrights and the persons who had lodged an application to carry out customs procedures to inspect the goods whose release for free circulation has been suspended.

19. Where examining the goods the customs office may take samples.

20. If, within 3 working days after receipt of the notification of suspension of release for free circulation or of detention of the goods, the holder of the copyrights does not notify customs office referred to in [Paragraph 15](#) of these Regulations that he has filed a petition pursuant to the [Paragraph 17](#) of these Regulations, the goods shall be released for free circulation, provided that all the customs formalities have been complied with. Customs office may extend this time period by maximum of 10 working days if the holder of the copyrights lodges a founded application.

IV. Final provisions

21. Customs authorities or other competent authorities in accordance to the powers conferred on them by normative acts in regard to combating counterfeit or pirated goods shall not be liable for loss or damage as a result of their action.

22. These Regulations shall not apply to goods of a non-commercial nature contained in travellers' personal luggage within the limits laid down in respect of relief from customs duty.

23. These Regulations shall be effective as of 1 July 1999.

Prime minister

V. Kristopans

Finance minister

I. Godmanis
