

**PART VIA – INFRINGEMENT OF PATENT, INDUSTRIAL DESIGN,
COLLECTIVE MARK, MARK OR COPYRIGHT**

66A. Application for suspension of clearance of goods

- (1) Any owner or authorised user of a patent, industrial design, collective mark or mark or copyright may apply in writing to the Director-General to suspend the clearance of any goods imported or being exported on the grounds that his patent, industrial design, collective mark or mark or copyright is being or is likely to be infringed.
- (1A) (a) Notwithstanding subsection (1), where the Director-General has reason to believe that the right of the owner or authorised user of a patent, industrial design, collective mark or mark or copyright has been infringed or is likely to be infringed, he may, on his own initiative -
 - (i) suspend the clearance of the goods for 21 working days;
 - (ii) at the same time, give notice, electronically or otherwise, to the owner or authorised user, of the suspension and invite the owner or the authorised user, as the case may be, to lodge, within 21 working days, an application under subsection (1).
- (b) Where an application is not lodged within 21 working days, the Director-General shall immediately waive the suspension and clear the goods.
- (2) An application made under subsection (1) shall specify a period not exceeding 2 years during which the Director-General may suspend the clearance of such goods.
- (3) An application under subsection (1) shall be accompanied by -
 - (a) any evidence that the applicant is the owner or the authorised user of the patent, industrial design, collective mark or mark, or of the copyright;
 - (b) a statement of the grounds for the application, and in particular, the *prima facie* evidence showing that his right has been or is likely to be infringed; and
 - (c) particulars relating to the description of the goods making them readily recognisable by Customs, and the place where such goods are to be found.
- (4) The applicant shall furnish adequate security to protect the Director-General for any loss or damage that may result from the suspension of the clearance of the goods and to cover any reasonable expenses likely to be incurred as a result of such suspension.
- (5) This section shall not apply to small quantities of goods of a non-commercial nature, intended for personal use, sent in small consignments or contained in the luggage of a passenger, master or crew.

66B. Decision in respect of application

- (1) On receipt of an application under section 66A, the Director-General shall within 7 days

of the date of receipt of the application –

- (a) grant or reject the application; and
 - (b) notify the applicant in writing of his decision.
- (3) The Director-General shall reject an application where the applicant fails to comply with section 66A
- (4) Where the application is granted, the Director-General shall notify in writing the applicant, importer, exporter or his agent of the suspension of the clearance of the goods.

66C. Duration of suspension

- (1) Where, within a period of not more than 10 working days after the applicant has been served notice of the suspension under section 66B (3), the Director-General has not been informed in writing that legal proceedings have been initiated by the applicant, the goods shall be released, provided that all other conditions for importation or exportation have been complied with.
- (1A) Notwithstanding subsection (1), where the suspension relates to refrigerated goods, the period to release the goods shall be 3 working days
- (2) The Director-General may, in appropriate cases and on the applicant's request, extend the time limit referred to in subsection (1) by another period of not more than 10 working days.
- (3) The Director-General shall release the goods forthwith where he is informed by the registered owner or authorised user referred to in section 66A that the collective mark, mark or copyright registered in the name of the owner has ceased to be valid provided that all other conditions for importation or exportation have been complied with.

66D. Inspection and taking of samples

Without prejudice to the protection of confidential information, the Director-General may authorise the owner of a collective mark or mark, or copyright owner, or importer, exporter or agent, to -

- (a) inspect the goods of which the clearance has been suspended;
- (b) remove samples for examination, testing and analysis.

66E. Interpretation of this Part

In this Part –

—owner means the registered owner of a collective mark or mark under the Patents, Industrial Designs and Trademarks Act or the copyright owner under the Copyright Act and includes the owner of a collective mark or mark or copyright, registered with a competent authority outside Mauritius as approved by the Director-General.