

**BILLS
SUPPLEMENT No. 17**

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BILLS SUPPLEMENT

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Bill No. 30 *Anti - Counterfeiting Goods Bill* **2015**

THE ANTI – COUNTERFEITING GOODS BILL, 2015

MEMORANDUM

1. Policy and principles of the Bill

The policy behind the Bill is to prohibit the manufacture and trade in counterfeit goods that infringe upon protected intellectual property rights; to prohibit release of counterfeit goods into the channels of commerce; to create offences relating to trade in counterfeit goods; and to provide for related matters.

2. Defects in the existing law

At present there is no law prohibiting or controlling the manufacture or marketing of counterfeit goods. The phrase “counterfeit goods” is defined by clause 1 of the Bill as follows—

“counterfeit goods” means goods that are an imitation of something else with an intent to deceive, and includes any device used for the purposes of counterfeiting and goods which breach intellectual property rights and goods intended to gain unfair commercial advantage with goods of a similar nature”.

It has to be pointed out that the question of counterfeit goods is not a matter of production or marketing of substandard goods but rather the production or marketing of goods which are an imitation of goods of another person.

3. Remedies proposed in the Bill

The intention of the Bill therefore is to introduce punitive, deterrent and effective measures for combating the production or marketing of counterfeit goods, thus to protect the legitimate interests of persons who have expended energy, skills, initiative and financial resources to produce goods and promote thereby honest trading.

Provisions of the Bill

The Bill comprises seven Parts.

4. Part I of the Bill – Preliminary

Part I deals with interpretation and scope of the Bill. Clause 1 deals with interpretation of words and phrases used in the Bill. In clause 1 of the Bill the process of counterfeiting is defined as follows—

“**“counterfeiting”** means without the authority of the owner of any intellectual property right subsisting in Uganda in respect of protected goods-

- (a) the manufacturing, producing, packaging, re-packaging, labelling or making, whether in Uganda or outside Uganda, of any goods by which those protected goods are imitated in such manner and to such a degree that those other goods are identical to or substantially similar to protected goods;
- (b) the manufacturing, producing or making, whether in Uganda or outside Uganda, of the subject matter of that intellectual property, or a colourable imitation of it so that the other goods are likely to be confused with or to be taken as being the protected goods of the owner or any goods manufactured, produced or made under his or her licence;
- (c) the manufacturing, producing, or making of copies, in Uganda or outside Uganda, in violation of the author’s rights or related rights; and

- (d) in the case of medicines, includes the deliberate and fraudulent mislabeling of medicines with respect to identity or source, whether or not such products have correct ingredients, wrong ingredients, have sufficient active ingredients or have fake packaging.”

Clause 2 deals with the scope of the Bill. According to clause 2, the Bill applies only to counterfeit trademarks goods and pirated copyright goods.

5. Part II of the Bill – Powers of police officers and owners in relation to counterfeit goods

This Part deals with the powers of police officers and owners in the implementation of the provisions of the Bill. The Bill in clause 3 places the responsibility of enforcing the rights protected under the Bill on the owner of the right, who shall be assisted by the Police in enforcing his or her rights under the Bill. For instance, once the owner of a right has obtained a warrant from court against a person suspected to be counterfeiting goods, the person shall serve the warrant on a police officer who shall assist the owner to lawfully execute the warrant.

Clause 5 specifies the duties of an owner and a police officer following seizure of suspected counterfeit goods.

Clause 7 deals with the kind of evidence and presumptions that can be presented in a court in any civil or criminal proceeding concerning an act of dealing in counterfeit goods. In clause 7(2), for example, it is permissible to present evidence about a person’s conviction or convictions on account of an offence or offences founded on acts of dealing in counterfeit goods.

Under clause 7(9), where a person deals in protected goods i.e. genuine goods by way of trade and he or she has in his or her custody counterfeit goods, it is presumed that those counterfeit goods are kept by him or her for the purpose of trade.

Clause 8 of the Bill deals with the storage of seized goods and access to them until a court orders their return, release or destruction or makes any appropriate order.

10. Part III of the Bill – Offences and penalties

Clause 11 of this Part prescribes criminal penalties including fines and imprisonment for persons dealing in counterfeit goods by carrying on any of the activities listed in that clause e.g. exposing or exhibiting counterfeit goods for the purpose of trade. Clause 11, for example, prescribes criminal penalties for various offences committed under the Act ranging from five years to twenty years of imprisonment and fines ranging from five times the value of the market price of the genuine goods to thirty times the value of the market price of the genuine goods. Clause 11(6) provides for certain matters to be taken into account by a court in considering appropriate penalty after conviction e.g. to take into account any risk to human or animal life, health or safety or danger to property whether movable or immovable that may arise from the presence or use of the counterfeit goods in question.

13. Part IV of the Bill – Miscellaneous

This Part deals with immunity of officials, regulations, disposal of fines and power of Minister to amend the Schedule.

Clause 15 of the Bill confers immunity from prosecution or other legal proceedings upon persons who act in good faith while giving effect to this Bill.

Clause 16 empowers the Minister to make regulations for the carrying out of the provisions of the Bill.

Clause 17 prescribes a formula for distribution of fines imposed and recovered by the courts in respect of the contravention of the provisions of the Bill.

Clause 18 gives power to the Minister to amend the Schedule in relation to the value of a currency point.

AMELIA KYAMBADDE, (MP)
Minister of Tourism, Trade and Industry.

THE ANTI - COUNTERFEITING GOODS BILL, 2015

ARRANGEMENT OF CLAUSES

Part I—Preliminary

1. Interpretation.
2. Scope of Act.

PART II—POWERS OF POLICE OFFICERS AND OWNERS IN RELATION TO COUNTERFEIT GOODS

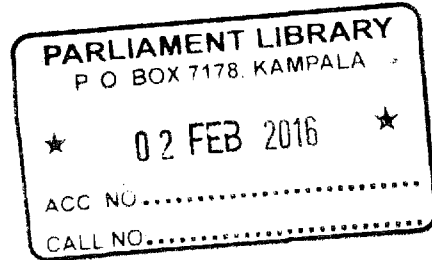
3. Powers of owners and police officers in relation to counterfeit goods.
4. Police to cooperate with other agencies.
5. Duties of owner following seizure of goods.
6. Obstruction and breaking the seal.
7. Evidence and presumptions.
8. Storage of seized goods and access to them.
9. Release of seized goods.
10. Counterfeit goods depot.

PART III—OFFENCES AND PENALTIES

11. Penalties for dealing in counterfeit goods.
12. Disclosure of information obtained under this Act.
13. Impersonation.
14. Complaints.

PART IV—MISCELLANEOUS

15. Immunity of officials.
16. Regulations.
17. Disposal of fines.
18. Power of Minister to amend Schedule.



A Bill for an Act

ENTITLED

THE ANTI - COUNTERFEITING GOODS BILL, 2015

An Act to prohibit trade in counterfeit goods that infringe upon protected intellectual property rights; to prohibit release of counterfeit goods into the channels of commerce; to create offences relating to trade in counterfeit goods; to empower the Police to seize and detain suspected counterfeit goods and to provide for incidental matters.

BE IT ENACTED by Parliament as follows:

PART I—PRELIMINARY

1. Interpretation

In this Act, unless the context otherwise requires—

“counterfeiting” means the process of producing counterfeit goods;

“counterfeit goods” means counterfeit trademark goods or pirated copyright goods;

“counterfeit trademarks goods” means any goods, including packaging, bearing without authorisation a trademark which is identical to the trademark validly registered in respect of such goods, or which cannot be distinguished in its essential aspects from such a trademark, and which thereby infringes the rights of the owner of the trademark in question under the laws of Uganda;

“currency point” has the value specified in the Schedule to this Act;

“depot” means a place designated as a counterfeit goods depot under section 10;

“exporter” includes any person who, at the relevant time -

- (a) is the owner or is in control or possession of any goods exported or to be exported from Uganda;
- (b) carries the risk for any goods exported or to be exported from Uganda;
- (c) represents that or acts as if he or she is the exporter or owner of any goods exported or to be exported;
- (d) takes or attempts to take any goods from Uganda;
- (e) has a beneficial interest, in any manner or of any nature, in any goods exported or to be exported from Uganda; or
- (f) acts on behalf of any person referred to in paragraphs (a), (b), (c), (d) or (e), and, in relation to imported goods destined for exportation from Uganda, includes the manufacturer, producer, maker, supplier or shipper of those goods or any person inside or outside Uganda representing or acting on behalf of that manufacturer, producer, maker, supplier or shipper;

“importer” includes any person who, at the relevant time—

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- (a) is the owner or is in control or in possession of any goods imported or to be imported into Uganda;
- (b) carries the risk for any goods imported or to be imported into Uganda;
- (c) represents that or acts as if he or she is the importer or owner of any goods imported into Uganda;
- (d) brings or attempts to bring any goods into Uganda;
- (e) has a beneficial interest, in any manner or of any nature, in any goods so imported or to be imported into Uganda;
- (f) acts on behalf of any person referred to in paragraph (a), (b), (c), (d) or (e);

“intellectual property right” means copyright or a trademark protected in Uganda under any enactment relating to copyright or trademark;

“market price” means the price at which a seller is ready and willing to sell and a buyer ready and willing to buy in the ordinary course of trade;

“Minister” means the Minister responsible for trade;

“owner” means a person who has a right in law to enforce the intellectual property right in his or her own name;

“package” or “packaging” means any container, wrapping or outer cover and contents of it, or any bundle or single piece in the case of unpacked goods;

“pirated copyright goods” means any goods which are copies made without the consent of the right holder or person duly authorized by the right holder in the country of production and which are made directly or indirectly from an article where the making of that copy would have constituted an infringement of a copyright or a related right under the law of Uganda;

“police officer” includes any member of a police force established under the Constitution or the Police Act;

“protected goods” means goods protected under any enactment relating to copyright or trademarks in Uganda;

“vehicle” includes any motor vehicle, van, truck, trailer, caravan, cart, barrow, train, aircraft, ship, boat or other vessel, and any craft or other means of conveyance whether or not similar to the foregoing.

2. Scope of Act.

(1) This Act applies to counterfeit trademarks goods and pirated copyright goods.

(2) Notwithstanding subsection (1), any matters of alleged counterfeiting of medicines and other pharmaceutical products shall be dealt with by the National Drug Authority under the National Drug Policy and Authority Act.

PART II—POWERS OF POLICE OFFICERS AND OWNERS IN RELATION TO COUNTERFEIT GOODS

3. Powers of owners and police officers in relation to counterfeit goods.

(1) An owner or his or her agent may at any reasonable time—

- (a) with the authority of a warrant issued by a court, enter upon, and inspect, any place, premises or vehicle at, on or in which goods that are reasonably suspected of being counterfeit goods, are to be found, or on reasonable grounds, are suspected to be, or to be manufactured, produced or made, and search the place, premises or vehicle and any person in that place, for such goods and for any other evidence of the alleged or suspected act of dealing in counterfeit goods and for the purposes of entering, inspecting and searching such a vehicle, a police officer may stop the vehicle, wherever found, including on any public road or at any other public place;
- (b) under the authority of an order issued by a court after hearing both parties, take the steps that may be reasonably necessary to terminate the manufacturing, production or making of counterfeit goods, or any other act of dealing in counterfeit goods being performed, at, on or in such place, premises or vehicle, and to prevent the recurrence of any such act in future;
- (c) with the authority of a warrant issued by a court, seize and detain, and, where applicable, remove for detention, all the goods in question found at, on or in such place, premises or vehicle;
- (d) under the authority of a warrant issued by a court, seize and detain, and, where applicable, remove for detention, any tools which may be used in the manufacturing, production, making or packaging of those goods or in applying a trade mark on those goods;
- (e) under the authority of a warrant issued by a court, where he or she reasonably suspects that a person at, on or in that place, premises or vehicle may furnish any information with reference to any act of dealing in counterfeit goods—

- (i) question that person and take down a statement from him or her;
 - (ii) demand and procure from that person any book, document, article, item or object which in any way may be relevant to the nature, quantity, location, source or destination of the goods in question, or the identity and address of anyone involved or who appears to be involved as a supplier, manufacturer, producer, maker, distributor, wholesaler, retailer, importer, exporter or clearing and forwarding agent of, or other dealer in, the goods in question; and
- (f) under the authority of a warrant issued by a court, seal or seal off any place, premises or vehicle at, on or in which—
- (i) the goods in question are found, or are manufactured, produced or made, either wholly or in part;
 - (ii) any trade mark, any exclusive mark or any work which is the subject matter of copyright, is applied to those goods;
 - (iii) the packaging for those goods is prepared; or the packaging of those goods is undertaken.

(2) An owner who obtains a warrant under subsection (1) shall serve it upon a police officer and the police officer shall ensure the owner executes the warrant lawfully.

(3) Notwithstanding subsection (1)(b), the steps provided under that subsection shall not include the destruction or alienation of the relevant goods unless authorised by the court, but the goods may be destroyed if they are perishable or detrimental to health or dangerous.

(4) Where goods are destroyed on the basis that they are perishable or detrimental to health or dangerous and it is found upon inquiry that the goods were not counterfeit goods, the court shall order that reasonable compensation be paid to the owner of the goods.

(5) This section shall not be construed as requiring a person to answer any question or give any information if to do so might incriminate him or her.

(6) A police officer may arrest, without a warrant, any person who hinders or refuses to give his or her name and address to the police officer or to produce to him or her satisfactory evidence of his or her identity or gives a name and address which the police officer has reason to believe to be false or it appears to the police officer that that person may not be found or made answerable to justice without unreasonable delay, trouble or expense.

(7) A police officer may arrest, without a warrant, any person whom he or she suspects upon reasonable grounds of having committed any offence under this Act and may search and detain that person

(8) A police officer who arrests a person without a warrant shall without unnecessary delay hand over the person arrested to a police officer, or in the absence of a police officer shall take the person to the nearest police station.

4. Police to cooperate with other agencies.

In carrying on his or her functions under this Act, a police officer shall cooperate with the Uganda Revenue Authority, the Uganda Registration Services Bureau, the Uganda National Bureau of Standards, or any other organisation or agency which has functions under this Act or whose operations relate to the implementation of this Act.

5. Duties of owner following seizure of goods.

(1) An owner and police officer who seize any suspected counterfeit goods under section 3 shall—

- (a) as soon as possible but not later than five working days, seal, clearly identify and categorise the goods and prepare, in quadruplicate, an inventory of those goods and cause the person from whom the goods are seized to check the inventory for correctness; and, if correct, cause that person to make a certificate under his or her signature on each copy of the inventory and if the seized goods are removed under paragraph (c), the owner or police officer shall endorse that fact under his or her signature on every copy of the inventory, and in that case the inventory; shall also serve as a receipt;
- (b) furnish one copy of the inventory to the person from whom the goods are seized within five working days after the seizure;
- (c) as soon as possible, but not later than five working days from the date of seizure, remove the goods, if transportable, to a depot for safe storage, or, if not capable of being removed or transported, declare the goods to have been seized in the place where they are found, and seal off or seal and lock up the goods or place them under guard at the place where they were found, and thereupon that place shall be taken to be a depot; and
- (d) by written notice, inform the person from whom the goods are seized of the action taken and of the address of the counterfeit goods depot where the seized goods are kept.

(2) Any person aggrieved by a seizure of goods under section 3(1), may at any time apply to the court for a declaration that the seized goods are not counterfeit goods and for an order that they be returned to him or her.

(3) The court may grant or refuse the declaration applied for may make such order as it thinks fit in the circumstances, including an order as to the payment of damages and costs, if applicable.

6. Obstruction and breaking the seal.

(1) A person commits an offence who—

- (a) willfully obstructs a police officer in the discharge of his or her duties;
- (b) willfully fails to comply with any requirement properly made to him or her by a police officer;
- (c) without reasonable cause fails to give to a police officer any assistance or information which the police officer may reasonably require of that person for the purpose of the performance of his or her duties under this Act; or
- (d) in giving any such information as is mentioned in paragraph (c) makes any statement which he or she knows to be false or does not believe to be true,

(3) A person commits an offence where he or she without authority, breaks, damages or tampers with a seal applied by a police officer under this Act or removes any goods, document, article, item, object or thing sealed or sealed-off by an owner or police officer or detained or stored at a depot under this Act.

(4) A person who commits an offence under this section is, on conviction, liable to a fine not exceeding two thousand five hundred currency points or imprisonment not exceeding three years or both.

7. Evidence and presumptions.

(1) A statement made by a police officer to the effect that the goods specified in the inventory attached to that statement are goods seized by him or her from a specified person at a specified place and on a specified date shall be *prima facie* evidence of the facts stated in the statement concerning the counterfeit goods or any act of dealing in them.

(2) Where the existence of an intellectual property right in respect of protected goods or any person's title to or interest in that intellectual property right is in issue in any civil or criminal proceedings concerning counterfeit goods, the substance of, title to or interest in that intellectual property right, where it is alleged to encompass the rights in respect of intellectual property as described in the definition of "intellectual property right" in section 1, may be proved in accordance with the provisions of any intellectual property legislation for the time being in force.

(3) Where the existence of intellectual property right in respect of suspected counterfeit goods or the title or interest in intellectual property right is in issue, it shall be proved to the satisfaction of the court that the accused is not the owner of the intellectual property or the related right.

(4) Where a name or mark purporting to be that of the author of a work or the owner of copyright or related rights, is either associated with copies of a work or other protected subject matter, or its related packaging, or appears in connection with a work or other protected subject matter, the association or connection shall be admissible as evidence of the fact indicated and such evidence shall be proved to the satisfaction of the court.

(5) Subsections (2), (3) and (4) shall not be construed so as to detract from the power of the court, in relation to any matter referred to in subsections (2), (3), (4) or any aspect of such matter—

- (a) to require oral evidence to be given; or
- (b) to order that the evidence of a person who resides or is for the time being outside the area of jurisdiction of that court, be taken by means of interrogatories.

(6) Where a person who trades in protected goods is proved to have been found in possession of suspected counterfeit goods it shall in any criminal proceedings concerning an act of dealing in counterfeit goods found in his or her possession, be presumed, until the contrary is proved, that that person was in possession of the goods for the purpose of trade.

(7) This section shall operate without prejudice to the provisions of the Evidence Act.

8. Storage of seized goods and access to them.

(1) Goods that have been seized under section 3(1) shall be stored and kept in safe custody at—

- (a) in the case of goods seized at a plant or factory, at the plant or factory;
- (b) in the case of goods seized at a point of sale, at the point of sale;
- (c) in the case of goods seized at the point of importation or exportation, at a point determined by the police officer at the expense of the importer or exporter.

(2) Goods seized under subsection (1) shall be stored until—

- (a) ordered by the court under this Act to return, release, destroy or otherwise dispose of the goods as specified in the order; or

(b) otherwise released to the person from whom they were seized by a police officer.

(3) Notwithstanding subsection (1), in the case of counterfeit goods, the goods shall be either destroyed or returned to the country of origin if imported, at the expense of the manufacturer or importer as the case may be.

(4) Where goods are required to be destroyed under subsection (3), an environmental impact assessment shall be conducted before the destruction.

(5) Upon an application in writing to a police officer, goods seized under section 3(1) shall, within five working days, be made available for inspection by the suspect or any interested party at the place the goods are stored at any reasonable time.

(6) A police officer may, in the prescribed manner, take samples in reasonable quantities for requisite testing or analysis necessary for the discharge of his or her official duties.

(7) The importer or manufacturer of any counterfeit goods shall bear the cost of their destruction or re-export under this section.

9. Release of seized goods.

(1) Where any goods are seized and detained under this Act, the police officer shall cause the goods to be returned, less any portion of the goods which has been reasonably utilized for the purpose of any test or analysis, to the person from whom they were seized within three months after the date of seizure unless within that period some person is charged with an offence under this Act and it is alleged that the offence was committed in relation to or in connection with those goods.

(2) Where a prosecution for an offence under this Act is commenced within the period mentioned in subsection (1) and any person is convicted of that offence, the court may order that any goods seized and detained under this Act in relation to or in connection with which the offence was committed, shall be forfeited to the Government for destruction at the expense of the person convicted.

(3) The court before which a person is charged with an offence under this Act shall, whether that person is convicted of the offence or not, order that any goods in his or her possession which appear to the court to be counterfeit goods or to be tools used or intended to be used for making counterfeit goods, be destroyed or otherwise dealt with as the court may deem fit.

10. Counterfeit goods depot.

(1) The Inspector General shall, by notice in the Gazette, designate any place to be a warehouse for counterfeit goods, in this Act referred to as a depot.

(2) The Inspector General shall appoint any fit and proper person to be in charge of a depot designated under subsection (1).

PART III—OFFENCES AND PENALTIES

11. Penalties for dealing in counterfeit goods.

(1) A person commits an offence who knowingly—

- (a) has in his or her possession or control in the course of trade any goods that are counterfeit goods;
- (b) manufactures, produces or makes in the course of trade, any counterfeit goods;
- (c) sells, hires out, barter, or offers or exposes for sale, hiring out, or donates any counterfeit goods;

- (d) exposes or exhibits for the purposes of trade any counterfeit goods;
- (e) distributes counterfeit goods for the purposes of trade or any other purpose;
- (f) imports into or exports from Uganda counterfeit goods;
- (g) in any other manner disposes of any counterfeit goods in the course of trade.

(2) A person does not commit an offence under subsection (1) unless he or she commits any of the acts referred to in that subsection willfully and on a commercial scale.

(3) A person who commits an offence under this section is—

- (a) in the case of an offence other than one under subsection (1)(b), liable to a fine, not less than five times the value of the market price of the genuine goods and not more than ten times the value of the market price of the genuine goods, or imprisonment not less than five years or not exceeding ten years, or both such fine and imprisonment;
- (b) in the case of an offence under subsection (1)(b), liable to a fine not less than ten times the value of the market price of the genuine goods and not more than twenty times the value of the market price of the genuine goods, or imprisonment not less than seven years and not exceeding fifteen years, or both such fine and imprisonment.

(4) A person who commits a second or subsequent offence under this section, is liable—

- (a) in the case of an offence other than one under subsection (1)(b), to a fine not less than ten times the market price of the value of the genuine goods and not more than twenty times the value of the market price of the genuine goods, and in addition shall be sentenced by the court to imprisonment not less than seven years and not exceeding fifteen years;
 - (b) in the case of an offence under subsection (1)(b), to a fine not less than twenty times the value of the market price of the genuine goods and not more than thirty times the value of the market price of the genuine goods, and in addition shall be sentenced by the court to imprisonment not less than ten years and not exceeding twenty years.
- (5) In any case where a person is convicted under this section for dealing in counterfeit goods, the court shall order the forfeiture of the goods to the State.
- (6) In the case where the offence is under subsection (1)(b), the court shall—
- (a) order the forfeiture to the State of all machinery, equipment or other material used in the commission of the offence; and
 - (b) order the closure of the premises where the offender carries on the business in respect of which the offence is committed.
- (7) A court that convicts a person of an offence under this section—
- (a) shall, when considering which penalty to impose, take into account any risk to human or animal life, health or safety or danger to property, whether movable or immovable, that may arise from the presence or use of the counterfeit goods in question.

- (b) may take into account, in mitigation of the sentence, any evidence to the effect that that person, fully, truthfully and to the best of his or her knowledge, had disclosed to an police officer who investigated that offence, all information and particulars available to that person in relation to any or all of the following—
- (i) the source from which the counterfeit goods involved in the commission of the offence, were obtained;
 - (ii) the identity of the persons involved in the importation, exportation, manufacture, production or making of those counterfeit goods;
 - (iii) the identity and, if reasonably demanded, the addresses or whereabouts of the persons involved in the distribution of those goods;
 - (iv) the channels for the distribution of those goods.

12. Disclosure of information obtained under this Act.

(1) Where a person discloses to another person—

- (a) any information with respect to any manufacturing process or trade secret obtained by him or her in premises which he or she has entered by virtue of powers of entry conferred on him or her under this Act; or
- (b) any information obtained by him or her by virtue of this Act,

he or she commits an offence unless the disclosure was made in or for the purpose of the performance of functions under this Act.

(2) A person who commits an offence under this section is liable to a fine not exceeding two thousand and five hundred currency points or imprisonment not exceeding three years or both.

13. Impersonation.

Where a person who is not a police officer purports to act as such under this Act, he or she commits an offence and is liable on conviction to a fine not exceeding two thousand five hundred currency points or imprisonment not exceeding three years or both.

14. Complaints.

(1) An owner or his or her successor in title, a licensee or agent of that owner in respect of any protected goods, who has reasonable cause to suspect that an offence under this Act has been or is being committed or any person, or any person who claims to be aggrieved by any such act, may lodge a complaint with a police officer.

(2) The complainant shall furnish to the satisfaction of a police officer such information and particulars, as may be prescribed, to the effect that the goods to which the offence relates are *prima facie* counterfeit goods.

(3) Where a police officer is satisfied—

- (a) that the complainant is a person entitled to lay a complaint under subsection (1); and
- (b) that—
 - (i) the goods claimed to be protected goods are protected goods; and
 - (ii) the intellectual property right, alleged to have been infringed by the offending goods, exists; and
- (c) that the suspicion on which the complaint is based, appears to be reasonable in the circumstances;
- (d) a person who may not be the owner of an intellectual property right has suffered damage on account of the counterfeit goods, the police officer shall cause appropriate steps to be taken under section 3(1).

(4) Where a complaint relates to suspected importation of counterfeit goods in contravention of this Act and the complainant satisfies the provisions of subsection (3), a police officer shall instruct the Commissioner General to seize and detain the suspected counterfeit goods and the goods shall remain in customs control until final disposal or order of court.

(5) For the purposes of subsection (4), the complainant may furnish to the a police officer and Commissioner General a specimen of the protected goods, if any, and to which the subject matter of his or her relevant intellectual property right relates, and sufficient information and particulars as to the subsistence and extent of that intellectual property right and to his or her title to that right.

PART IV—MISCELLANEOUS

15. Immunity of officials.

A suit, prosecution or other legal proceeding shall not be brought against a police officer or owner who does any act in good faith for the purpose of giving effect to this Act.

16. Regulations.

(1) The Minister, in consultation with the Inspector General of Police, may make regulations generally for the better carrying out of the provisions of this Act and, without prejudice to the general effect of the foregoing, the Minister may, by regulations prescribe—

- (a) any inventory to be prepared or made under this Act;
- (b) any matter necessary or expedient for the proper and effective control, management and administration of a depot and the proper care of the goods detained in a depot;
- (c) the manner and procedures for proper disposal of counterfeit goods;

- (d) any other administrative or procedural matters that may be necessary or expedient for the proper and effective administration of this Act.
- (2) Regulations made under this section may prescribe in relation to a contravention of the regulations—
- (a) a fine not exceeding one hundred currency points or imprisonment not exceeding two years or both;
 - (b) in the case of a second or subsequent offence, a fine not exceeding two hundred currency points or imprisonment not exceeding five years or both;
 - (c) a requirement that the court shall order forfeiture to the state anything used or involved in the commission of the offence.

17. Disposal of fines.

The fines imposed and recovered by the courts in respect of the contravention of any of the provisions of this Act or of any regulations made under this Act shall be distributed as follows—

- (a) ten percent to the owner; and
- (b) ninety percent to the Consolidated Fund.

18. Power of Minister to amend Schedule.

The Minister may, by statutory instrument, with the approval of Cabinet amend the Schedule to this Act.

Bill No. 30

Anti - Counterfeiting Goods Bill

2015

SCHEDULE

section 1

CURRENCY POINT

A currency point is equivalent to twenty thousand shillings.

Cross References

Copyright and Neighbouring Rights Act, No.19 of 2006.

East African Community Customs Management Act, 2004 (Act No.1 of 2005).

National Drug Policy and Authority Act, Cap.206.

Trade Marks Act, 2010, Act No. 17 of 2010

Uganda National Bureau of Standards Act, Cap. 327.

