



Weights and Measures Act 1985

1985 CHAPTER 72

PART I

UNITS AND STANDARDS OF MEASUREMENT

1 Units of measurement.

- (1) [^{F1}Subject to subsection (6) below,]The yard or the metre shall be the unit of measurement of length and the pound or the kilogram shall be the unit of measurement of mass by reference to which any measurement involving a measurement of length or mass shall be made in the United Kingdom; and—
 - (a) the yard shall be 0.9144 metre exactly;
 - (b) the pound shall be 0.453 592 37 kilogram exactly.
- (2) Schedule 1 to this Act shall have effect for defining for the purposes of measurements falling to be made in the United Kingdom the units of measurement set out in that Schedule; and for the purposes of any measurement of weight falling to be so made, the weight of any thing may be expressed, by reference to the units of measurement set out in Part V of that Schedule, in the same terms as its mass.
- (3) Subject to subsection (4) below, the Secretary of State may by order amend Schedule 1 to this Act by adding to or removing from Parts I to VI of that Schedule any unit of measurement of length, of area, of volume, of capacity, or of mass or weight, as the case may be.
- [^{F2}(4) Without prejudice to section 8(6)(b) below an order under subsection (3) above shall not remove the pint from Part IV of Schedule 1.]
- (5) An order under subsection (3) above may contain such transitional or other supplemental or incidental provisions as appear to the Secretary of State expedient.
- [^{F3}(6) Subsection (1) above shall not have effect so as to authorise the use in the specified circumstances of—
 - (a) the yard as a measurement of length, or
 - (b) the pound as a measurement of mass,

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otherwise than in accordance with Regulation 7 of the Units of Measurement Regulations 1986 (supplementary indications) or, in the case of the pound, in accordance with section 8(2)(f) ^{F4} below [^{F5}or, as the case may require, paragraph 5 of Part VI of Schedule 1 or paragraph 5 of Part VI of Schedule 2 to the Weights and Measures (Northern Ireland) Order 1981 (which permit the pound to be used for the purposes of the sale of goods loose from bulk).]

- (7) In subsection (6) above “the specified circumstances” has the same meaning as in the Units of Measurement Regulations 1986, that is to say the circumstances specified in Article 2(a) of Council Directive No.80/181/EEC as limited by the provisions of Article 2(b) of that Directive.]

Textual Amendments

- F1** Words in s. 1(1) inserted (1.10.1995) by S.I. 1994/2867, reg. 6(2)(a)
F2 S. 1(4) substituted (1.10.1995) by S.I. 1994/2867, reg. 6(2)(b)
F3 S. 1(6)(7) added (1.10.1995) by S.I. 1994/2867, reg. 6(2)(c)
F4 Section 8(2)(f) is inserted in the Act by article 3(2) of the [Weights and Measures Act 1985 \(Metrication\) \(Amendment\) Order 1994 \(S.I. 1994/2866\)](#).
F5 Words in s. 1(6) substituted (1.10.1995) by S.R. 1995/226, art. 5

2 United Kingdom primary standards and authorised copies of the primary standards.

- (1) The Secretary of State shall cause to be maintained standards of the yard, pound, metre and kilogram which shall be the standards (in this Act referred to as “United Kingdom primary standards”) by reference to which, in the United Kingdom, all other standards of those units and of any other unit of measurement derived wholly or partly from any of those units shall be maintained.
- (2) The Secretary of State shall from time to time as may appear to him expedient cause—
- (a) the value of each of the United Kingdom primary standards to be determined or redetermined, and
 - (b) any authorised copy of any of those standards to be compared with, and its value determined or redetermined by reference to, that standard,
- in such manner as he may direct.
- (3) The United Kingdom primary standards shall be—
- (a) in the case of the yard, the bar described in Part I of Schedule 2 to this Act;
 - (b) in the case of the pound, the cylinder described in Part II of that Schedule;
 - (c) in the case of the metre, the bar described in Part III of that Schedule;
 - (d) in the case of the kilogram, the cylinder described in Part IV of that Schedule.
- (4) The copies of the United Kingdom primary standards of the yard and pound which are described in Part V of Schedule 2 to this Act and deposited as mentioned in that Part shall for the purposes of this Act be authorised copies of those standards.

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3 Department of Trade and Industry secondary, tertiary and coinage standards.

- (1) The Secretary of State shall maintain secondary, tertiary and coinage standards in accordance with the provisions of this section, which shall be known collectively as the Department of Trade and Industry standards.
- (2) The secondary standards shall consist of standards of all the measures set out in Parts I and IV and all weights set out in Part V of Schedule 3 to this Act other than capacity measures of more than [^{F6}8 pints] or ten litres; and any such standard shall be constructed and, while it remains in use, from time to time at intervals not exceeding five years have its value or values redetermined, by reference to such one or more of the United Kingdom primary standards or any authorised copies of those standards as may appear to the Secretary of State to be appropriate.
- (3) The tertiary standards shall consist of such standards of such of the measures or weights set out in Parts I, IV and V of Schedule 3 to this Act as may from time to time appear to the Secretary of State to be necessary or expedient; and any such standard shall be constructed and, while it remains in use, from time to time at intervals not exceeding two years have its value or values redetermined, by reference to such one or more of the secondary standards as may appear to the Secretary of State to be appropriate.
- (4) The coinage standards shall consist of such standards of the weight of each coin of the realm for the time being authorised by or under the enactments relating to the coinage as may from time to time appear to the Secretary of State to be necessary or expedient; and any such standard shall be constructed and, while it remains in use, from time to time at intervals not exceeding two years have its value redetermined, by reference to such one or more of the secondary standards as may appear to the Secretary of State to be appropriate.
- (5) Department of Trade and Industry standards shall be provided or replaced by the Secretary of State from time to time as may appear to him necessary or expedient and shall be in such form and of such material, and be kept under his control at such place or places, as he may think fit.
- (6) A secondary or tertiary standard of any linear or capacity measure may—
 - (a) be provided either as a separate standard or by means of divisions marked on a standard of a larger measure, and
 - (b) either be marked in whole or in part with subdivisions representing any smaller unit of measurement or multiples or fractions of such a unit or have no such markings,as the Secretary of State thinks fit.

Textual Amendments

F6 Words in s. 3(2) substituted (1.10.1995) by *S.I. 1994/2867, reg. 6(3)*

4 Local standards.

- (1) There shall be maintained by each local weights and measures authority such standards (in this Act referred to as “local standards”) of such of the measures and weights set out in Schedule 3 to this Act as the Secretary of State may from time to time approve

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or require in the case of that authority as being proper and sufficient for the purposes of this Act.

(2) Local Standards—

- (a) shall be provided and replaced by the local weights and measures authority from time to time as may appear to the authority to be necessary or expedient or as the Secretary of State may require,
- (b) shall be of material and form approved by the Secretary of State,
- (c) shall be kept in such manner and under such conditions as the Secretary of State may direct at premises provided by the authority, and
- (d) shall not be used elsewhere than at those premises or at other premises which appear to the authority to be appropriate.

(3) A local standard of any linear or capacity measure—

- (a) shall be provided either as a separate standard or by means of divisions marked on a standard of a larger measure, and
- (b) shall either be marked in whole or in part with subdivisions representing any smaller unit of measurement or multiples or fractions of such a unit or have no such markings,

as the Secretary of State may from time to time direct.

(4) No article shall be used as a local standard unless there is for the time being in force a certificate of its fitness for the purpose issued by the Secretary of State.

(5) The Secretary of State shall cause any article submitted to him for certification under this section to be compared with such one or more of the tertiary standards as may appear to him to be appropriate and, if it falls within the prescribed limits of error and satisfies any other requirements of the Secretary of State, shall issue a certificate of its fitness for use as a local standard which, if the authority so request, shall include a statement of the amount of any error in it.

(6) Subject to paragraph 9 of Schedule 11 to this Act, a certificate issued under subsection (5) above shall cease to be in force at the end of the prescribed period.

(7) The Secretary of State shall keep a record of all certificates issued under subsection (5) above.

(8) Any comparison of an article with the tertiary standards in pursuance of subsection (5) above shall be carried out—

- (a) if the article is not for the time being a local standard at such place as the Secretary of State may direct; or
- (b) if the article is for the time being a local standard, at the premises where it is kept or at other premises approved in that behalf by the Secretary of State.

(9) The Secretary of State may charge on any occasion on which an article is submitted to him for certification under this section such fee as he may from time to time with the approval of the Treasury determine.

5 Working standards and testing and stamping equipment.

(1) Subject to subsection (3) below, each local weights and measures authority shall provide for use by the inspectors appointed for the authority's area, and maintain or from time to time replace—

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- (a) such standards (in this Act referred to as “working standards”) of such of the measures and weights set out in Schedule 3 to this Act,
 - (b) such testing equipment, and
 - (c) such stamping equipment,as are proper and sufficient for the efficient discharge by those inspectors of their functions in the authority’s area.
- (2) An authority may—
 - (a) provide a particular working standard or item of equipment as required by subsection (1) above by making arrangements with another person for the standard or item to be made available by him, and
 - (b) make arrangements with another person for standards or equipment provided by the authority under subsection (1) above, except stamping equipment, to be made available to the other person.
- (3) If a local weights and measures authority are of opinion—
 - (a) that any particular description of testing equipment is proper and sufficient for the efficient discharge of the functions of the inspectors appointed for the authority’s area, but
 - (b) that, having regard to the expenditure involved and the frequency with which such equipment is likely to be used by those inspectors, it would not be reasonable for the authority to provide and maintain such equipment,the authority may request the Secretary of State to provide and maintain such equipment and to make it available for hire to the authority.
- (4) The terms of hire of equipment under subsection (3) above shall be such as the Secretary of State may determine.
- (5) Working standards and testing and stamping equipment provided under subsection (1) above shall be of material and form approved by the Secretary of State.
- (6) Except so far as may be necessary for the purposes of their use elsewhere, such working standards and testing and stamping equipment shall be kept, subject to subsection (7) below, at premises provided by the local weights and measures authority.
- (7) Subsection (6) above shall not apply to things which are the subject of arrangements under subsection (2)(a) above.
- (8) A working standard of a linear or capacity measure—
 - (a) shall be provided either as a separate standard or by means of divisions marked on a standard of a larger measure, and
 - (b) shall either be marked in whole or in part with subdivisions representing any smaller unit of measurement or multiples or fractions of such a unit or have no such markings,as the Secretary of State may from time to time direct.
- (9) The Secretary of State shall by regulations make provision—
 - (a) for working standards to be from time to time tested by comparison with, and if necessary adjusted to within such limits of error as may be specified in the regulations by reference to, the local standards or other working standards more recently tested, and

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- (b) with respect to the testing, adjustment and limits of error of testing equipment provided under subsection (1) above.
- (10) No article shall be used by an inspector as a working standard or as testing equipment provided under subsection (1) above unless the relevant requirements of regulations under subsection (9) above are for the time being satisfied with respect to it.
- (11) Nothing in subsection (2) above prejudices the operation of—
- (a) the ^{M1}Local Authorities (Goods and Services) Act 1970,
 - (b) section 101 of the ^{M2}Local Government Act 1972, or
 - (c) section 56 of the ^{M3}Local Government (Scotland) Act 1973,
- (which among other things enable a local authority to arrange for the provision of goods or services and the discharge of its functions by another local authority).

Subordinate Legislation Made

- P1** [S. 5](#): for previous exercises of this power before 01. 02. 1991 see Index to Government Orders.
P2 [S. 5\(9\)](#): s. 5(9) (with s. 86(1)) power exercised (26.7.1991) by [S.I.1991/1775](#)

Marginal Citations

- M1** 1970 c. 39.
M2 1972 c. 70.
M3 1973 c. 65.

6 Testing of other standards and equipment.

- (1) The Secretary of State may, if he thinks fit, on the application of any government or person, accept for testing as to accuracy or compliance with any specification and for report—
- (a) any article used or proposed to be used as a standard of a unit of measurement of mass, length, capacity, area or volume, or as a standard of the weight of any coin,
 - (b) any weighing or measuring equipment,
 - (c) any other metrological equipment, and
 - (d) any article for use in connection with equipment mentioned in paragraph (b) or (c) above,
- submitted by that government or person for the purpose at such place as the Secretary of State may direct.
- (2) The Secretary of State may charge, in respect of any article or equipment accepted by him in pursuance of subsection (1) above, a fee of an amount ascertained in such manner as he may determine with the approval of the Treasury.

Modifications etc. (not altering text)

- C1** [S. 6](#) modified (1.3.1996) by [1986 c. 44, s. 36B\(1\)](#) (as inserted (1.3.1996) by [1995 c. 45, s. 10\(1\)](#)), [Sch. 3 para. 44](#); [S.I. 1996/218, art.2](#))

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PART II

WEIGHING AND MEASURING FOR TRADE

General

7 Meaning of “use for trade”.

- (1) In this Act “use for trade” means, subject to subsection (3) below, use in Great Britain in connection with, or with a view to, a transaction falling within subsection (2) below where—
 - (a) the transaction is by reference to quantity or is a transaction for the purposes of which there is made or implied a statement of the quantity of goods to which the transaction relates, and
 - (b) the use is for the purpose of the determination or statement of that quantity.
- (2) A transaction falls within this subsection if it is a transaction for—
 - (a) the transferring or rendering of money or money’s worth in consideration of money or money’s worth, or
 - (b) the making of a payment in respect of any toll or duty.
- (3) Use for trade does not include use in a case where—
 - (a) the determination or statement is a determination or statement of the quantity of goods required for despatch to a destination outside Great Britain and any designated country, and
 - (b) the transaction is not a sale by retail, and
 - (c) no transfer or rendering of money or money’s worth is involved other than the passing of the title to the goods and the consideration for them.
- (4) The following equipment, that is to say—
 - (a) any weighing or measuring equipment which is made available in Great Britain for use by the public, whether on payment or otherwise, and
 - (b) any equipment which is used in Great Britain for the grading by reference to their weight, for the purposes of trading transactions by reference to that grading, of hens’ eggs in shell which are intended for human consumption,shall be treated for the purposes of this Part of this Act as weighing or measuring equipment in use for trade, whether or not it would apart from this subsection be so treated.
- (5) Where any weighing or measuring equipment is found in the possession of any person carrying on trade or on any premises which are used for trade, that person or, as the case may be, the occupier of those premises shall be deemed for the purposes of this Act, unless the contrary is proved, to have that equipment in his possession for use for trade.

8 Units of measurement, weights and measures lawful for use for trade.

- (1) No person shall—
 - (a) use for trade any unit of measurement which is not included in Parts I to V of Schedule 1 to this Act, or

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- (b) use for trade, or have in his possession for use for trade, any linear, square, cubic or capacity measure which is not included in Schedule 3 to this Act, or any weight which is not so included.
- (2) No person shall use for trade—
- (a) the ounce troy, except for the purposes of transactions in, or in articles made from, gold, silver or other precious metals, including transactions in gold or silver thread, lace or fringe, or
 - (b) the carat (metric), except for the purposes of transactions in precious stones or pearls, or
 - (c) a capacity measure of [^{F7}35.] 125, 150 or 175 millilitres, except for the purposes of transactions in intoxicating liquor [^{F8}or
 - (d) the pint except for—
 - (i) the purposes of the sale of draught beer or cider, or
 - (ii) the purposes of the sale of milk in returnable containers, or
 - (iii) the purposes of the sale of beer, cider, water, lemonade or fruit juice in returnable containers, or
 - (e) the fluid ounce except for the purposes of the sale of beer, cider, water, lemonade or fruit juice in returnable containers, or
 - (f) the pound or the ounce (avoirdupois) except for the purposes of the sale of goods loose from bulk.]
- (3) Subsection (1)(a) above shall not apply to the prescribing of, or the dispensing of a prescription for, drugs.
- (4) A person who contravenes subsection (1) or (2) above shall be guilty of an offence, and any measure or weight used, or in any person's possession for use, in contravention of that subsection shall be liable to be forfeited.
- [^{F9}(5) The preceding provisions have effect subject to—
- (a) subsection (5A) below, and
 - (b) sections 9 and 89 below.
- (5A) Nothing in this section precludes the use for trade of any supplementary indication; and for this purpose any indication of quantity (“the imperial indication”) is a supplementary indication if—
- (a) it is expressed in a unit of measurement other than a metric unit,
 - (b) it accompanies an indication of quantity expressed in a metric unit (“the metric indication”) and is not itself authorised for use in the circumstances as a primary indication of quantity, and
 - (c) the metric indication is the more prominent, the imperial indication being, in particular, expressed in characters no larger than those of the metric indication.]
- (6) The Secretary of State may by order—
- (a) amend Schedule 3 to this Act by adding to or removing from it any linear, square, cubic or capacity measure, or any weight;
 - (b) add to, vary or remove from subsection (2) above any restriction on the cases or circumstances in which, or the conditions subject to which, a unit of measurement, measure or weight may be used for trade or possessed for use for trade.

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- (7) An order under subsection (6) above may contain such transitional or other supplemental or incidental provisions as appear to the Secretary of State expedient.
- (8) In this section “unit of measurement” means a unit of measurement of length, area, volume, capacity, mass or weight.

Textual Amendments

- F7** Words in s. 8(2)(c) inserted (14.7.1994) by S.I. 1994/1883, arts. 1, 2(a)
F8 S. 8(2)(d)-(f) inserted (1.10.1995) by S.I. 1994/2866, regs. 1, 3(2)
F9 S. 8(5)(5A) substituted (7.11.1994) for s. 8(5) by S.I. 1994/2867, regs. 1, 5(2)

Modifications etc. (not altering text)

- C2** S. 8(1)(b) excluded by S.I. 1988/186, arts. 3, 6(1)

9 Dual marking and conversion charts.

- (1) The Secretary of State may make regulations—
 - (a) requiring or authorising a person who uses a metric unit for trade to afford, for explanatory purposes, information giving the equivalent in the imperial system of the relevant quantity in the metric system, and
 - (b) specifying the manner in which the information is to be given, and in particular specifying the cases in which any obligation to give information in metric units is to be extended to include the same information in imperial units.
- (2) The Secretary of State may make regulations requiring or authorising the display on premises where metric units are used for trade of conversion tables or other material for converting metric units into imperial units.
- (3) Regulations under this section—
 - (a) may prescribe the form and manner in which any information or other material is to be given or displayed,
 - (b) may prescribe appropriate conversion factors by reference to which, in prescribed cases or circumstances, an amount expressed in imperial units is to be treated as equivalent to a given amount expressed in metric units,
 - (c) may prescribe the persons to whom, and the cases and circumstances in which, the regulations apply and may make different provision for different persons, cases or circumstances,
 - (d) may contain such consequential, incidental or supplementary provisions as appear to the Secretary of State to be expedient.
- (4) A person contravening regulations made under this section shall be guilty of an offence.
- (5) In this section “unit” in the expressions “metric unit” and “imperial unit” means any unit of measurement of length, area, volume, capacity, mass or weight.
- (6) Regulations under this section imposing obligations apply whether or not the relevant imperial unit may lawfully be used for trade, and regulations authorising, but not requiring, anything to be done authorise it to be done notwithstanding that the relevant imperial unit may not be lawfully used for trade, but do not in any other respect authorise what is unlawful.

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10 Multiples and fractions of measures and units.

- (1) Except as may be prescribed, and subject to any regulations made under section 15 below,—
- (a) a linear measure specified in Part I of Schedule 3 to this Act may be marked in whole or in part with divisions and sub-divisions representing any shorter length or lengths; but
 - (b) no capacity measure specified in Part IV of that Schedule shall be used for trade by means of any division or sub-division marked on it as a capacity measure of any lesser quantity.
- (2) Any person who contravenes paragraph (b) of subsection (1) above shall be guilty of an offence, and any measure used, or in any person's possession for use, in contravention of that paragraph, shall be liable to be forfeited.
- (3) The Secretary of State may by regulations prescribe what may be treated for the purposes of use for trade as the equivalent of, or of any multiple or fraction of, any unit of measurement included in Schedule 1 to this Act in terms of any other such unit.
- (4) Nothing in any regulations under subsection (3) above shall apply to any transaction in drugs.
- (5) The Secretaries of State respectively concerned with health in England, in Wales and in Scotland acting jointly may by regulations, which shall have effect notwithstanding anything in, or in any instrument made under, any other enactment—
- (a) prescribe what may be treated for the purposes of dealings with drugs as the equivalent of, or of any multiple or fraction of, any unit of measurement which—
 - (i) is included in Schedule 1 to this Act, or
 - (ii) was included in Schedule 1 to the ^{M4}Weights and Measures Act 1963 on 31st January 1964 (the date of the commencement of section 10 of that Act),
 in terms of any other such unit; and
 - (b) require that any person carrying out any such dealing with drugs as is specified in the regulations for the purposes of which the quantity of the drugs is expressed in terms of any such unit which is so specified shall carry out that dealing in terms of such equivalent quantity prescribed under paragraph (a) above as is so specified.

Marginal Citations

M4 1963 c. 31.

Weighing or measuring equipment for use for trade

11 Certain equipment to be passed and stamped by inspector.

- (1) The provisions of this section shall apply to the use for trade of weighing or measuring equipment of such classes or descriptions as may be prescribed.
- (2) No person shall use any article for trade as equipment to which this section applies, or have any article in his possession for such use, unless that article, or equipment to

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which this section applies in which that article is incorporated or to the operation of which the use of that article is incidental,—

- (a) has been passed by an inspector as fit for such use, and
 - (b) except as otherwise expressly provided by or under this Act, bears a stamp indicating that it has been so passed which remains undefaced otherwise than by reason of fair wear and tear.
- (3) If any person contravenes subsection (2) above, he shall be guilty of an offence and any article in respect of which the offence was committed shall be liable to be forfeited.
- (4) Any person requiring any equipment to which this section applies to be passed as fit for use for trade shall submit the equipment, in such manner as the local weights and measures authority may direct, to an inspector who (subject to the provisions of this Act and of any regulations under section 15 below) shall—
 - (a) test the equipment by means of such local or working standards and testing equipment as he considers appropriate or, subject to any conditions which may be prescribed, by means of other equipment which has already been tested and which the inspector considers suitable for the purpose,
 - (b) if the equipment submitted falls within the prescribed limits of error and by virtue of subsection (10) below is not required to be stamped as mentioned in paragraph (c) of this subsection, give to the person submitting it a statement in writing to the effect that it is passed as fit for use for trade, and
 - (c) except as otherwise expressly provided by or under this Act, cause it to be stamped with the prescribed stamp.
- (5) There shall be charged in respect of any test carried out under subsection (4) above such reasonable fees as the local weights and measures authority may determine.
- (6) An inspector shall keep a record of every test carried out by him under subsection (4) above.
- (7) Except as otherwise expressly provided by or under this Act, no weight or measure shall be stamped as mentioned in subsection (4)(c) above unless it has been marked in the prescribed manner with its purported value.
- (8) Subject to subsection (9) below, where any equipment submitted to an inspector under subsection (4) above is of a pattern in respect of which a certificate of approval granted under section 12 below is for the time being in force, the inspector shall not refuse to pass or stamp the equipment on the ground that it is not suitable for use for trade.
- (9) If the inspector is of opinion that the equipment is intended for use for trade for a particular purpose for which it is not suitable, he may refuse to pass or stamp it until the matter has been referred to the Secretary of State, whose decision shall be final.
- (10) The requirements of subsections (2), (4) and (7) above with respect to stamping and marking shall not apply to any weight or measure which is too small to be stamped or marked in accordance with those requirements.
- (11) Where a person submits equipment to an inspector under this section, the inspector may require the person to provide the inspector with such assistance in connection with the testing of the equipment as the inspector reasonably considers it necessary for the person to provide and shall not be obliged to proceed with the test until the person provides it; but a failure to provide the assistance shall not constitute an offence under section 81 below.

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- (12) If an inspector refuses to pass as fit for use for trade any equipment submitted to him under this section and is requested by the person by whom the equipment was submitted to give reasons for the refusal, the inspector shall give to that person a statement of those reasons in writing.
- (13) In the case of any equipment which is required by regulations made under section 15 below to be passed and stamped under this section only after it has been installed at the place where it is to be used for trade, if after the equipment has been so passed and stamped it is dismantled and reinstalled, whether in the same or some other place, it shall not be used for trade after being so reinstalled until it has again been passed under this section.
- (14) If any person—
- (a) knowingly uses any equipment in contravention of sub-section (13) above, or
 - (b) knowingly causes or permits any other person so to use it, or
 - (c) knowingly that the equipment is required by virtue of subsection (13) above to be again passed under this section, disposes of it to some other person without informing him of that requirement,
- he shall be guilty of an offence and the equipment shall be liable to be forfeited.
- (15) Subject to subsection (13) above, a stamp applied to any equipment under this section shall have the like validity throughout Great Britain as it has in the place in which it was originally applied, and accordingly that equipment shall not be required to be re-stamped because it is used in any other place.
- (16) If at any time the Secretary of State is satisfied that, having regard to the law for the time being in force in Northern Ireland, any of the Channel Islands or the Isle of Man, it is proper so to do, he may by order provide for any equipment to which this section applies duly stamped in accordance with that law, or treated for the purposes of that law as if duly stamped in accordance with it, to be treated for the purposes of this Act as if it had been duly stamped in Great Britain under this section.

Modifications etc. (not altering text)

- C3 S. 11 modified (1.1.1993) by S.I. 1992/1591, **art. 2**.
S. 11 modified (1.1.1993) by S.I. 1992/1592, **art.2**.
S. 11 modified (1.1.1993) by S.I. 1992/1593, **art.2**.
- C4 S. 11(2) excluded by S.I. 1988/186, **arts. 3, 6(2), 23(1), 24(1)**

VALID FROM 29/03/1999

[^{F10}11A Approval of persons to verify equipment manufactured etc by them.

- (1) Subsection (2) below applies where, as regards a person who carries on business (whether in Great Britain or elsewhere) as a manufacturer, installer or repairer of equipment to which section 11 above applies, the Secretary of State—
- (a) is satisfied that the person would, if approved under this section, satisfy the requirements set out in Part II of Schedule 3A to this Act, and
 - (b) considers the person a fit and proper person to be so approved.
- (2) The Secretary of State may approve the person for the purpose of—

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Changes to legislation: There are currently no known outstanding effects for the Weights and Measures Act 1985. (See end of Document for details)

- (a) testing any equipment to which section 11 above applies and which is manufactured, installed or repaired by him,
 - (b) passing any such equipment as fit for use for trade, and
 - (c) stamping any such equipment with the prescribed stamp.
- (3) Before granting an approval under this section, the Secretary of State may carry out such audits and inspections of the person's systems and procedures as he considers necessary to establish that the conditions of the approval would be observed.
- (4) Schedule 3A to this Act (which relates to approvals under this section and matters connected with such approvals) shall have effect.
- (5) In that Schedule "approval" means an approval under this section and "the verifier", in relation to such an approval, shall be construed accordingly.]

Textual Amendments

F10 S. 11A inserted (29.3.1999) by [S.I. 1999/503](#), [art. 2\(7\)](#)

VALID FROM 29/03/1999

[^{F11}11B Testing by official EEA testers.

- (1) This section applies where—
- (a) any equipment which has been tested by an official EEA tester is at any time submitted to an inspector under section 11(4) above,
 - (b) the test report of the official EEA tester is submitted to the inspector at that time, and
 - (c) that report states which tests have been applied to the equipment and sets out the results of those tests.
- (2) Section 11 above shall have effect as if—
- (a) paragraph (a) of subsection (4) required the inspector not to test the equipment in the manner mentioned in that paragraph,
 - (b) paragraphs (b) and (c) of that subsection required him to rely, for the purposes of those paragraphs, on the test report of the official EEA tester, and
 - (c) the reference in subsection (5) to any test carried out under subsection (4) were a reference to anything done under subsection (4).
- (3) In this section 'official EEA tester', in relation to the testing of equipment of any description, means a person who, at the time when the tests were applied—
- (a) had responsibility in an EEA State for the metrological control of equipment of that description, or
 - (b) was accredited in an EEA State as a person operating a laboratory, in conformity with the criteria set out in the applicable European Standard, for the purpose of testing equipment of that description.
- (4) In subsection (3) above 'EEA State' means a Contracting Party to the Agreement on the European Economic Area signed at Oporto on 2nd May 1992 as adjusted by the Protocol signed at Brussels on 17th March 1993.]

Status: Point in time view as at 01/04/1996. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: There are currently no known outstanding effects for the Weights and Measures Act 1985. (See end of Document for details)

Textual Amendments

F11 S. 11B inserted (29.3.1999) by S.I. 1999/503, art. 3

12 Approved patterns of equipment.

- (1) Where any pattern of weighing or measuring equipment is submitted by any person to the Secretary of State for the purpose in such manner as may be prescribed, the Secretary of State shall examine in such manner as he thinks fit the suitability for use for trade of equipment of that pattern, having regard in particular to the principle, materials and methods used or proposed to be used in its construction, and—
 - (a) may require the person to provide such assistance as the Secretary of State thinks fit in connection with the examination (and shall not be obliged to proceed with the examination until the person provides it), and
 - (b) may require the person to pay in respect of the examination a fee of an amount ascertained in such manner as the Secretary of State may determine with the approval of the Treasury.
- (2) Subsection (1) above applies to a pattern consisting of an approved pattern with modifications as it applies to other patterns, and in this subsection “approved pattern” means a pattern in respect of which a certificate of approval under this section is in force.
- (3) If the Secretary of State is satisfied that any equipment in respect of which a pattern is submitted to him under sub-section (1) above is suitable for use for trade, then, subject to subsection (4) and section 14(2) below, he shall issue a certificate of approval of that pattern (in this section referred to as “a certificate of approval”) and shall cause particulars of the pattern to be published.
- (4) Where the Secretary of State is satisfied as mentioned in subsection (3) above, he may require the person submitting the pattern of equipment to deposit with the Secretary of State parts of equipment of that pattern or a model or drawings of such equipment or parts of it and may withhold a certificate of approval of that pattern or, as the case may be, a declaration in pursuance of section 14(2) below in respect of the pattern, until the person complies with the requirement.
- (5) A certificate of approval may be granted subject to such conditions as the Secretary of State thinks fit.
- (6) Without prejudice to the generality of subsection (5) above, a certificate of approval may be granted subject to a condition under which it ceases to be in force at the end of a specified period of less than ten years.
- (7) Subject to any condition imposed under subsection (6) above, a certificate of approval, unless previously revoked, shall cease to be in force at the end of the period of ten years beginning with the date when it was granted.
- (8) A certificate of approval may be renewed by the Secretary of State on an application made in such manner and during such period as may be prescribed and on payment, except in such cases as the Secretary of State may determine, of a fee of an amount ascertained in such manner as the Secretary of State may determine with the approval of the Treasury; and sub-sections (5) to (7) above apply in relation to the renewal of a certificate of approval as they apply in relation to the grant of such a certificate.

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Changes to legislation: There are currently no known outstanding effects for the Weights and Measures Act 1985. (See end of Document for details)

- (9) Where application has been made to the Secretary of State in accordance with subsection (8) above for the renewal of a certificate of approval, the certificate shall remain in force until the Secretary of State gives to the applicant, in such manner as may be prescribed, notice of the Secretary of State's decision with respect to the application.
- (10) The Secretary of State, after consultation with such persons appearing to him to be interested as he thinks fit, may at any time revoke any certificate of approval (including a certificate remaining in force by virtue of subsection (9) above) and shall cause notice of any such revocation to be published.
- (11) Where a certificate of approval—
- (a) expires (whether at the end of a period or by virtue of a notice under subsection (9) above), or
 - (b) is revoked in a case where the notice or revocation published under subsection (10) above states that this subsection and section 13(2) below are to apply with respect to the revocation,
- the certificate shall remain in force in relation to any equipment of the pattern in question which was used for trade at a time when the certificate was in force otherwise than by virtue of this subsection; and the power of revocation under subsection (10) above includes power to revoke a certificate remaining in force by virtue of this subsection.
- (12) Any equipment of a pattern in respect of which a certificate of approval has been granted may, and in such cases as may be prescribed shall, be marked in the prescribed manner so as to identify it with the pattern in question.

13 Offences in connection with approved patterns of equipment.

- (1) Where one or more conditions are imposed by the Secretary of State on the grant or renewal of a certificate of approval, then if any person—
- (a) knowing that a condition, other than such a condition as is mentioned in section 12(6) above, has been imposed with respect to any equipment, uses, or causes or permits any other person to use, that equipment in contravention of that condition, or
 - (b) knowing that any condition has been imposed with respect to any equipment, disposes of that equipment to any other person in a state in which it could be used for trade without informing that other person of that condition,
- he shall be guilty of an offence and the equipment shall be liable to be forfeited.
- (2) Where a certificate of approval in respect of any pattern of equipment—
- (a) expires (whether at the end of a period or by virtue of a notice under section 12(9) above), or
 - (b) is revoked in a case falling within section 12(11)(b) above,
- then if any person, knowing that the certificate has expired or has been so revoked, supplies to another person any equipment of the pattern in question which is marked with a stamp and which was not used for trade at a time when the certificate was in force otherwise than by virtue of section 12(11) above, he shall be guilty of an offence and the equipment supplied shall be liable to be forfeited.
- (3) Where a certificate of approval in respect of any pattern of equipment is revoked in a case not falling within section 12(11)(b) above, then if any person, knowing that the

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certificate has been so revoked (and except as may be permitted by any fresh certificate granted in respect of that pattern)—

- (a) uses for trade, or has in his possession for such use, any equipment of that pattern,
- (b) causes or permits any other person to use any such equipment for trade, or
- (c) disposes of any such equipment to any such person in a state in which it could be used for trade without informing that other person of the revocation,

he shall be guilty of an offence and the equipment shall be liable to be forfeited.

- (4) In this section “certificate of approval” means a certificate of approval of a pattern of weighing or measuring equipment granted under section 12 above; and subsections (1) and (3) above have effect in relation to a certificate of approval remaining in force by virtue of subsection (9) or (11) of section 12 above as they have effect in relation to other certificates of approval.

14 General specifications of equipment.

- (1) The Secretary of State may by regulations prescribe general specifications for the construction of equipment to which section 11 above applies and, subject to subsection (4) below, while any such specification is for the time being so prescribed no equipment which does not conform with it shall be passed or stamped by an inspector under that section unless it is of a pattern in respect of which a certificate of approval under section 12 above is in force.
- (2) If the Secretary of State is satisfied that any pattern submitted to him under section 12(1) above conforms with any general specification for the time being prescribed under this section he may, instead of issuing a certificate of approval under that section, cause to be published a declaration to that effect together with particulars of that pattern.
- (3) Where a specification prescribed by regulations under this section is varied or revoked by further regulations under this section, then if any person—
- (a) uses for trade any equipment which conformed with that specification but which to his knowledge no longer conforms with any specification prescribed by regulations under this section,
 - (b) has any such equipment in his possession for use for trade,
 - (c) causes or permits any other person to use any such equipment for trade, or
 - (d) disposes of any such equipment to any other person in a state in which it could be used for trade without informing that other person that it no longer conforms with any specification prescribed by regulations under this section,
- he shall be guilty of an offence and the equipment shall be liable to be forfeited.
- (4) Where, in the case of any particular equipment, the Secretary of State is of opinion that there are special circumstances which make it impracticable or unnecessary for that equipment to comply with any particular requirement of any specification prescribed under this section, the Secretary of State may exempt that equipment from that requirement subject to compliance with such conditions, if any, as he thinks fit.
- (5) If any person knowingly contravenes any condition imposed with respect to any equipment by virtue of subsection (4) above, he shall be guilty of an offence and the equipment shall be liable to be forfeited.

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Changes to legislation: There are currently no known outstanding effects for the Weights and Measures Act 1985. (See end of Document for details)

- (6) If any difference arises between an inspector and any other person as to the interpretation of any specification prescribed under this section, or as to whether or not any equipment conforms with such a specification, that difference may with the consent of that other person, and shall at the request of that other person, be referred to the Secretary of State, whose decision shall be final.

Miscellaneous

15 Regulations relating to weighing or measuring for trade.

- (1) The Secretary of State may make regulations with respect to—
- (a) the materials and principles of construction of weighing or measuring equipment for use for trade
 - (b) the inspection, testing, passing as fit for use for trade and stamping of such equipment, including—
 - (i) the prohibition of the stamping of such equipment in such circumstances as may be specified in the regulations,
 - (ii) the circumstances in which an inspector may remove or detain any such equipment for inspection or testing,
 - (iii) the marking of any such equipment found unfit for use for trade,
 - (c) the circumstances in which, conditions under which and manner in which stamps may be destroyed, obliterated or defaced,
 - (d) where any stamp on weighing or measuring equipment is lawfully destroyed, obliterated or defaced, the circumstances in which, and conditions subject to which, the equipment may be used for trade without contravening section 11(2) above,
 - (e) the purposes for which particular types of weighing or measuring equipment may be used for trade,
 - (f) the manner of erection or use of weighing or measuring equipment used for trade,
 - (g) the abbreviations of or symbols for units of measurement which may be used for trade, and
 - (h) the manner in which the tare weight of road vehicles, or of road vehicles of any particular class or description is to be determined.
- (2) Regulations under subsection (1) above with respect to the testing of equipment may provide—
- (a) that where a group of items of equipment of the same kind is submitted for testing and prescribed conditions are satisfied with respect to the group, the testing may be confined to a number of items determined by or under the regulations and selected in the prescribed manner, and
 - (b) that if items so selected satisfy the test other items in the group shall be treated as having satisfied it.
- (3) Subject to subsection (5) below, if any person contravenes any regulation made by virtue of subsection (1)(e), (f), (g) or (h) above, he shall be guilty of an offence, and any weighing or measuring equipment in respect of which the contravention was committed shall be liable to be forfeited.

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Changes to legislation: There are currently no known outstanding effects for the Weights and Measures Act 1985. (See end of Document for details)

- (4) If any difference arises between an inspector and any other person as to the interpretation of any regulations made under this section or as to the method of testing any weighing or measuring equipment, that difference may with the consent of that other person, and shall at the request of that other person, be referred to the Secretary of State, whose decision shall be final.
- (5) Where in the special circumstances of any particular case it appears to be impracticable or unnecessary that any requirement of any regulations made under this section should be complied with, the Secretary of State may if he thinks fit dispense with the observance of that requirement subject to compliance with such conditions, if any, as he thinks fit to impose; and if any person knowingly contravenes any condition imposed with respect to any equipment by virtue of this subsection he shall be guilty of an offence and the equipment shall be liable to be forfeited.

VALID FROM 29/03/1999

[^{F12}15A Pre-test stamping by certain manufacturers.

- (1) Subject to subsection (2) below, an approved verifier who is the manufacturer of any equipment to which section 11 above applies may apply the prescribed stamp to the equipment, notwithstanding that it has not been passed as fit for use for trade, if he is satisfied on reasonable grounds that it will not be used (whether for trade or otherwise) unless either—
 - (a) the equipment has been passed as fit for use for trade, or
 - (b) the stamp has been destroyed, obliterated or defaced.
- (2) A prescribed stamp shall not be applied under subsection (1) above unless the stamp includes the approved verifier's number.
- (3) If any person contravenes subsection (2) above, he shall be guilty of an offence and any equipment in respect of which the offence was committed shall be liable to be forfeited.
- (4) A prescribed stamp which has been duly applied to any equipment under subsection (1) above shall have effect as follows—
 - (a) at any time before the equipment is passed as fit for use for trade, as an indication that, at the time when the stamp was applied, the approved verifier was satisfied as mentioned in subsection (1) above, and
 - (b) at any time after the equipment is so passed, as evidence of the passing of the equipment as fit for such use.
- (5) Where equipment to which a prescribed stamp has been duly applied under subsection (1) above is passed as fit for use for trade, nothing in section 11(4)(c) or (4A)(c) above shall require another such stamp to be applied to it.
- (6) Where the approved verifier fails to pass as fit for use for trade equipment to which a prescribed stamp has been applied under subsection (1) above, he may destroy, obliterate or deface the stamp—
 - (a) in any case where there is a prescribed manner of doing so, in that manner, and
 - (b) in any other case, in such reasonable manner as will leave no doubt that the stamp has been intentionally destroyed, obliterated or defaced.

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- (7) References in subsections (4) to (6) above to prescribed stamps which have been applied do not include references to such stamps which have subsequently been destroyed, obliterated or defaced.]

Textual Amendments

F12 S. 15A inserted (29.3.1999) by S.I. 1999/503, art. 4(1)

16 Offences in connection with stamping of equipment.

- (1) Subject to subsection (2) below, any person who, in the case of any weighing or measuring equipment used or intended to be used for trade—
- not being an inspector or a person acting under the instructions of an inspector, marks in any manner any plug or seal used or designed for use for the reception of a stamp,
 - forges, counterfeits or, except as permitted by or under this Act, in any way alters or defaces any stamp,
 - removes any stamp and inserts it into any other such equipment,
 - makes any alteration in the equipment after it has been stamped such as to make it false or unjust, or
 - severs or otherwise tampers with any wire, cord or other thing by means of which a stamp is attached to the equipment,

shall be guilty of an offence.

- (2) Paragraphs (a) and (b) of subsection (1) above shall not apply to the destruction or obliteration of any stamp, plug or seal, and paragraph (e) of that subsection shall not apply to anything done, in the course of the adjustment or repair of weighing or measuring equipment by, or by the duly authorised agent of, a person who is a manufacturer of, or regularly engaged in the business of repairing, such equipment.
- (3) Any person who uses for trade, sells, or exposes or offers for sale any weighing or measuring equipment which to his knowledge—
- bears a stamp which is a forgery or counterfeit, or which has been transferred from other equipment, or which has been altered or defaced otherwise than as permitted by or under this Act, or
 - is false or unjust as the result of an alteration made in the equipment after it has been stamped,

shall be guilty of an offence.

- (4) Any weighing or measuring equipment in respect of which an offence under this section is committed, and any stamp or stamping implement used in the commission of the offence, shall be liable to be forfeited.

17 Offences relating to false or unjust equipment or fraud.

- (1) If any person uses for trade, or has in his possession for use for trade, any weighing or measuring equipment which is false or unjust, he shall be guilty of an offence and the equipment shall be liable to be forfeited.

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Changes to legislation: There are currently no known outstanding effects for the Weights and Measures Act 1985. (See end of Document for details)

- (2) Without prejudice to the liability of any equipment to be forfeited, it shall be a defence for any person charged with an offence under subsection (1) above in respect of the use for trade of any equipment to show—
 - (a) that he used the equipment only in the course of his employment by some other person, and
 - (b) that he neither knew, nor might reasonably have been expected to know, nor had any reason to suspect, the equipment to be false or unjust.
- (3) If any fraud is committed in the using of any weighing or measuring equipment for trade, the person committing the fraud and any other person party to it shall be guilty of an offence and the equipment shall be liable to be forfeited.

Modifications etc. (not altering text)

C5 S. 17(1) excluded by S.I. 1988/186, arts. 3, 6(3)

PART III

PUBLIC WEIGHING OR MEASURING EQUIPMENT

18 Keepers of public equipment to hold certificate.

- (1) No person shall attend to any weighing or measuring by means of weighing or measuring equipment available for use by the public, being a weighing or measuring demanded by a member of the public and for which a charge is made, other than a weighing or measuring of a person, unless he holds a certificate from a chief inspector that he has sufficient knowledge for the proper performance of his duties.
- (2) Any person refused such a certificate by a chief inspector may appeal against the refusal to the Secretary of State, who may if he thinks fit direct the chief inspector to grant the certificate.
- (3) Any person who contravenes, or who causes or permits any other person to contravene, subsection (1) above shall be guilty of an offence.

19 Provision of public equipment by local authorities.

- (1) Without prejudice to any functions conferred or imposed by any other enactment, any local authority who are for the time being, or have at any time been, a local weights and measures authority under this Act or the ^{M5}Weights and Measures Act 1963 may provide and maintain within their area for use by the public such weighing or measuring equipment as may appear to the authority to be expedient.
- (2) Without prejudice to the provisions of any other Act, and subject to section 18 above, a local authority may employ persons to attend to any weighing or measuring by means of equipment provided by that authority for use by the public.
- (3) Except in the case of a weighing or measuring for which, under any other Act, the charge falls to be regulated from time to time by some other person, a local authority by whom any weighing or measuring equipment is provided for use by the public may

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Changes to legislation: There are currently no known outstanding effects for the Weights and Measures Act 1985. (See end of Document for details)

make such charges for any weighing or measuring by means of that equipment as they may from time to time think fit.

Marginal Citations

M5 1963 c. 31.

20 Offences in connection with public equipment.

- (1) Subsection (2) below shall apply where any article, vehicle (whether loaded or unloaded) or animal has been brought for weighing or measuring by means of weighing or measuring equipment which is available for use by the public and is provided for the purpose of weighing or measuring articles, vehicles or animals of the description in question.
- (2) If any person appointed to attend to weighing or measuring by means of the equipment in question—
 - (a) without reasonable cause fails to carry out the weighing or measuring on demand.
 - (b) carries out the weighing or measuring unfairly,
 - (c) fails to deliver to the person demanding the weighing or measuring or to his agent a statement in writing of the weight or other measurement found, or
 - (d) fails to make a record of the weighing or measuring, including the time and date of it and, in the case of the weighing of a vehicle, such particulars of the vehicle and of any load on the vehicle as will identify that vehicle and that load,he shall be guilty of an offence.
- (3) If in connection with any such equipment as is mentioned in subsection (1) above—
 - (a) any person appointed to attend to weighing or measuring by means of the equipment delivers a false statement of any weight or other measurement found or makes a false record of any weighing or measuring, or
 - (b) any person commits any fraud in connection with any, or any purported, weighing or measuring by means of that equipment,he shall be guilty of an offence.
- (4) If, in the case of a weighing or measuring of any article, vehicle or animal carried out by means of any such equipment as is mentioned in subsection (1) above, the person bringing the article, vehicle or animal for weighing or measuring, on being required by the person attending to the weighing or measuring to give his name and address, fails to do so or gives a name or address which is incorrect, he shall be guilty of an offence.
- (5) The person making any weighing or measuring equipment available for use by the public (in this section referred to as “the responsible person”) shall retain for a period of not less than two years any record of any weighing or measuring by means of that equipment made by any person appointed to attend to the weighing or measuring.
- (6) An inspector, subject to the production of his credentials if so requested, may require the responsible person to produce any such record as is mentioned in subsection (5) above for inspection at any time while it is retained by him.

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Changes to legislation: There are currently no known outstanding effects for the *Weights and Measures Act 1985*. (See end of Document for details)

- (7) If the responsible person fails to retain any such record as is mentioned in subsection (5) above in accordance with that subsection or fails to produce it in accordance with subsection (6) above, he shall be guilty of an offence.
- (8) If any person wilfully destroys or defaces any such record as is mentioned in subsection (5) above before the expiration of two years from the date when it was made, he shall be guilty of an offence.

PART IV

REGULATION OF TRANSACTIONS IN GOODS

Transactions in particular goods

21 Transactions in goods mentioned in Schedules 4 to 7.

Schedules 4, 5, 6 and 7 to this Act (which relate to transactions in the goods mentioned in those Schedules) shall have effect.

Modifications etc. (not altering text)

- C6** *Ss. 21, 22, 23:* power to modify or exclude conferred by *Weights and Measures &c. Act 1976 (c. 77, SIF 131)*, s. 12(1)(2)

22 Orders relating to transactions in particular goods.

- (1) The Secretary of State may by order make provision with respect to any goods specified in the order for all or any of the following purposes, that is to say, to ensure that, except in such cases or in such circumstances as may be so specified, the goods in question—
- (a) are sold only by quantity expressed in such manner as may be so specified,
 - (b) are pre-packed, or are otherwise made up in or on a container for sale or for delivery after sale, only if the container is marked with such information as to the quantity of the goods as may be so specified,
 - (c) are pre-packed, or are otherwise made up for sale or for delivery after sale, only in or on a container of a size or capacity so specified,
 - (d) are sold, or are pre-packed, or are otherwise made up in or on a container for sale or for delivery after sale, or are made for sale, only in such quantities as may be so specified,
 - (e) are not sold without the quantity sold expressed in such manner as may be so specified being made known to the buyer at or before such time as may be so specified,
 - (f) are sold by means of, or are offered or exposed for sale in, a vending machine only if there is displayed on or in the machine—
 - (i) such information as to the quantity of the goods in question comprised in each item for sale by means of that machine as may be so specified, and
 - (ii) a statement of the name and address of the seller,

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Changes to legislation: There are currently no known outstanding effects for the Weights and Measures Act 1985. (See end of Document for details)

- (g) are carried for reward only in pursuance of an agreement made by reference to the quantity of the goods in question expressed in such manner as may be so specified,
 - (h) in such circumstances as may be so specified, have associated with them in such manner as may be so specified a document containing a statement of the quantity of the goods in question expressed in such manner, and a statement of such other particulars, if any, as may be so specified, or
 - (i) when carried on a road vehicle along a highway are accompanied by a document containing such particulars determined in such manner as may be so specified as to the weight of the vehicle and its load apart from the goods in question.
- (2) An order under subsection (1) above may be made with respect to any goods, including goods to which any of the provisions of Schedule 4, 5, 6, or 7 to this Act applies, and may—
- (a) make provision for any of the purposes mentioned in subsection (1) above in such manner, whether by means of amending, or of applying with or without modifications, or of excluding the application in whole or in part of, any of the provisions of this Act (except Part V) or of any previous order under subsection (1) or otherwise,
 - (b) make such, if any, different provision for retail and other sales respectively, and
 - (c) contain such consequential, incidental or supplementary provision, whether by such means as mentioned in paragraph (a) above or otherwise,
- as may appear to the Secretary of State to be expedient, and may in particular make provision in respect of contraventions of the order for which no penalty is provided by this Act for the imposition of penalties not exceeding those provided by section 84(6) below for an offence under this Act.
- (3) Without prejudice to the generality of the powers conferred by paragraph (c) of subsection (1) above, an order made by virtue of that paragraph—
- (a) may require a container to be marked with such information concerning it or its contents as is specified in the order, and
 - (b) in order to prevent size or capacity from giving a false impression of the quantity of the goods in a container, may prescribe a minimum quantity for the goods in a container of a given capacity.
- (4) The minimum quantity referred to in subsection (3)(b) above may be expressed in the order by weight or volume, by percentage of the capacity of the container or in any other manner.

Modifications etc. (not altering text)

C7 Ss. 21, 22, 23: power to modify or exclude conferred by Weights and Measures &c. Act 1976 (c. 77, SIF 131), s. 12(1)(2)

23 Regulations as to information.

- (1) The Secretary of State may make regulations—
- (a) as to the manner in which any container required by any of the provisions of Schedules 4, 5, 6 or 7 to this Act or of any order under section 22(1) above to

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- be marked with information (including in particular information as to quantity or capacity) is to be so marked,
- (b) as to the manner in which any information required by any such provision to be displayed on or in a vending machine is to be so displayed,
 - (c) as to the conditions which must be satisfied in marking with information as to the quantity of goods made up in it the container in or on which any goods are made up for sale (whether by way of pre-packing or otherwise) where those goods are goods on a sale of which (whether any sale or a sale of any particular description) the quantity of the goods sold is required by any such provision to be made known to the buyer at or before a particular time,
 - (d) as to the units of measurement to be used in marking any such container or machine with any information,
 - (e) for securing, in the case of pre-packed goods, that the container is so marked as to enable the packer to be identified,
 - (f) as to the method by which and conditions under which quantity is to be determined in connection with any information relating to quantity required by or under section 21 or 22 above, and
 - (g) permitting, in the case of such goods and in such circumstances as may be specified in the regulations, the weight of such articles used in making up the goods for sale as may be so specified to be included in the net weight of the goods for the purposes of this Part of this Act.
- (2) Any person who contravenes any regulation made under subsection (1) above otherwise than by virtue of paragraph (f) or (g) of that subsection shall be guilty of an offence.

Modifications etc. (not altering text)

C8 Ss. 21, 22, 23: power to modify or exclude conferred by Weights and Measures &c. Act 1976 (c. 77, SIF 131), s. 12(1)(2)

24 Exemption from requirements imposed under sections 21 to 23.

- (1) The Secretary of State may by order grant, with respect to goods or sales of such descriptions as may be specified in the order, exemption, either generally or in such circumstances as may be so specified, from all or any of the requirements imposed by or under sections 21 to 23 above.
- (2) Until otherwise provided by an order under subsection (1) above, the following shall be exempted from all requirements imposed by or under sections 21 to 23 above, that is to say—
 - (a) goods made up in or on a container for sale only for use by Her Majesty's forces or by a visiting force within the meaning of any of the provisions of Part I of the ^{M6}Visiting Forces Act 1952 and not sold or offered, exposed or in any person's possession for sale for any other use,
 - (b) any sale of goods in the case of which the buyer gives notice in writing to the seller before the sale is completed that the goods are being bought—
 - (i) for despatch to a destination outside Great Britain and any designated country, or

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- (ii) for use as stores within the meaning of the ^{M7}Customs and Excise Management Act 1979 in a ship or aircraft on a voyage or flight to an eventual destination outside the United Kingdom and the Isle of Man,
- (c) any goods sold for, or offered, exposed or in any person's possession for sale only for, use or consumption at the premises of the seller, not being intoxicating liquor, and
- (d) any assortment of articles of food pre-packed together for consumption together as a meal and ready for such consumption without being cooked, heated or otherwise prepared.

Marginal Citations

M6 1952 c. 67.

M7 1979 c. 2.

25 Offences relating to transactions in particular goods.

- (1) Subject to section 44 below, where any goods are required, when not pre-packed, to be sold only by quantity expressed in a particular manner or only in a particular quantity, any person shall be guilty of an offence who—
 - (a) whether on his own behalf or on behalf of another person, offers or exposes for sale, sells or agrees to sell, or
 - (b) causes or suffers any other person to offer or expose for sale, sell or agree to sell on his behalf,those goods otherwise than by quantity expressed in that manner or, as the case may be, otherwise than in that quantity.
- (2) Any person shall be guilty of an offence who—
 - (a) whether on his own behalf or on behalf of another person, has in his possession for sale, sells or agrees to sell,
 - (b) except in the course of carriage of the goods for reward, has in his possession for delivery after sale, or
 - (c) causes or suffers any other person to have in his possession for sale or for delivery after sale, sell or agree to sell on behalf of the first-mentioned person,any goods to which subsection (3) below applies, whether the sale is or is to be, by retail or otherwise.
- (3) This subsection applies to any goods—
 - (a) which are required to be pre-packed only in particular quantities but are not so pre-packed,
 - (b) which are required to be otherwise made up in or on a container for sale or for delivery after sale only in particular quantities but are not so made up,
 - (c) which are required to be made for sale only in particular quantities but are not so made,
 - (d) which are required to be pre-packed only if the container is marked with particular information but are pre-packed otherwise than in or on a container so marked,
 - (e) which are required to be otherwise made up in or on a container for sale or for delivery after sale only if the container is marked with particular information but are so made up otherwise than in or on a container so marked,

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- (f) which are required to be pre-packed only in or on a container of a particular description but are not pre-packed in or on a container of that description, or
 - (g) which are required to be otherwise made up in or on a container for sale or for delivery after sale only in or on a container of a particular description but are not so made up in or on a container of that description.
- (4) In the case of any sale where the quantity of the goods sold expressed in a particular manner is required to be made known to the buyer at or before a particular time and that quantity is not so made known, the person by whom, and any other person on whose behalf, the goods were sold shall be guilty of an offence.
- (5) Where any goods required to be sold by means of, or to be offered or exposed for sale in, a vending machine only if certain requirements are complied with are so sold, offered or exposed without those requirements being complied with, the seller or person causing the goods to be offered or exposed shall be guilty of an offence.
- (6) The preceding provisions of this section have effect subject to sections 33 to 37 below.
- (7) For the purposes of this section the quantity of the goods in a regulated package (as defined by section 68(1) below) shall be deemed to be the nominal quantity (as so defined) on the package.
- (8) In this section “required” means required by or under this Part of this Act.

Modifications etc. (not altering text)

- C9** S. 25(2) restricted by S.I. 1988/2040, art. 11(2)
- C10** S. 25(2) excluded (*temp.*) by S.I. 1990/1550, art. 4
- C11** S. 25(2)(3) applied with modifications by S.I. 1988/2040, art. 18

Quantity to be stated in writing

26 Quantity to be stated in writing in certain cases.

- (1) Subject to section 27 below, the provisions of this section shall have effect on any sale of goods—
- (a) which is required by or under this Part of this Act to be a sale by quantity expressed in a particular manner,
 - (b) in the case of which the quantity of the goods sold expressed in a particular manner is so required to be made known to the buyer at or before a particular time, or
 - (c) which, being a sale by retail not falling within paragraph (a) or (b) above, is or purports to be, a sale by quantity expressed in a particular manner other than by number.
- (2) Subject to subsections (4) to (6) below, unless the quantity of the goods sold expressed in the manner in question is made known to the buyer at the premises of the seller and the goods are delivered to the buyer at those premises on the same occasion as, and at or after the time when, that quantity is so made known to him, a statement in writing of that quantity shall be delivered to the consignee at or before delivery of the goods to him.

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- (3) If subsection (2) above is contravened then, subject to sections 33 to 37 below, the person by whom, and any other person on whose behalf, the goods were sold shall be guilty of an offence.
- (4) If at the time when the goods are delivered the consignee is absent, it shall be sufficient compliance with subsection (2) above if the statement is left at some suitable place at the premises at which the goods are delivered.
- (5) Subsection (2) above shall not apply to any sale otherwise than by retail where, by agreement with the buyer, the quantity of the goods sold is to be determined after their delivery to the consignee.
- (6) Where any liquid goods are sold by capacity measurement and the quantity sold is measured at the time of delivery and elsewhere than at the premises of the seller, subsection (2) above shall not apply but, unless the quantity by capacity measurement of the goods sold is measured in the presence of the buyer, the person by whom the goods are delivered shall immediately after the delivery hand to the buyer, or if the buyer is not present leave at some suitable place at the premises at which the goods are delivered, a statement in writing of the quantity by capacity measurement delivered, and if without reasonable cause he fails so to do he shall be guilty of an offence.

27 Exemption from requirements of section 26.

- (1) The Secretary of State may by order grant, with respect to goods or sales of such descriptions as may be specified in the order, exemption, either generally or in such circumstances as may be so specified, from all or any of the requirements of section 26 above.
- (2) Until otherwise provided by an order under subsection (1) above, nothing in section 26 above shall apply to—
 - (a) a sale by retail from a vehicle of—
 - (i) any of the following in a quantity not exceeding [^{F13}110 kilograms], that is to say, any solid fuel within the meaning of Schedule 5 to this Act, and wood fuel, or
 - (ii) any of the following in a quantity not exceeding [^{F14}25 litres], that is to say, liquid fuel, lubricating oil, and any mixture of such fuel and oil,
 - (b) a sale by retail of bread within the meaning of the ^{M8}Weights and Measures Act 1963 (Miscellaneous Foods) Order 1984,
 - (c) goods made up for sale (whether by way of pre-packing or otherwise) in or on a container marked with a statement in writing with respect to the quantity of the goods expressed in the manner in question, being a container which is delivered with the goods,
 - (d) a sale of goods in the case of which a document stating the quantity of the goods expressed in the manner in question is required to be delivered to the buyer or consignee of the goods by or under any other provision of this Part of this Act,
 - (e) any such goods or sales as are mentioned in section 24(2)(a) to (d) above,
 - (f) a sale of intoxicating liquor for consumption at the premises of the seller,
 - (g) a sale by means of a vending machine, or
 - (h) goods delivered at premises of the buyer by means of an installation providing a connection of a permanent nature between those premises and premises of the seller.

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Textual Amendments

F13 Words in s. 27(2)(a)(i) substituted (1.10.1995) by S.I. 1994/2867, reg. 6(4)

F14 Words in s. 27(2)(a)(ii) substituted (1.10.1995) by S.I. 1994/2867, reg. 6(4)

Marginal Citations

M8 S.I. 1984/1316.

General offences

28 Short weight, etc.

- (1) Subject to sections 33 to 37 below, any person who, in selling or purporting to sell any goods by weight or other measurement or by number, delivers or causes to be delivered to the buyer—
 - (a) a lesser quantity than that purported to be sold, or
 - (b) a lesser quantity than corresponds with the price charged,
shall be guilty of an offence.
- (2) For the purposes of this section—
 - (a) the quantity of the goods in a regulated package (as defined by section 68(1) below) shall be deemed to be the nominal quantity (as so defined) on the package, and
 - (b) any statement, whether oral or in writing, as to the weight of any goods shall be taken, unless otherwise expressed, to be a statement as to the net weight of the goods.
- (3) Nothing in this section shall apply in relation to any such goods or sales as are mentioned in section 24(2)(a) or (b) above.

29 Misrepresentation.

- (1) Subject to sections 33 to 37 below, any person who—
 - (a) on or in connection with the sale or purchase of any goods,
 - (b) in exposing or offering any goods for sale,
 - (c) in purporting to make known to the buyer the quantity of any goods sold, or
 - (d) in offering to purchase any goods,
makes any misrepresentation whether oral or otherwise as to the quantity of the goods, or does any other act calculated to mislead a person buying or selling the goods as to the quantity of the goods, shall be guilty of an offence.
- (2) Subsection (2) of section 28 above shall have effect for the purposes of this section as it has effect for the purposes of that section.
- (3) Nothing in this section shall apply in relation to any such goods or sales as are mentioned in section 24(2)(a) or (b) above.

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30 Quantity less than stated.

(1) If, in the case of any goods pre-packed in or on a container marked with a statement in writing with respect to the quantity of the goods, the quantity of the goods is at any time found to be less than that stated, then, subject to sections 33 to 37 below—

- (a) any person who has those goods in his possession for sale shall be guilty of an offence, and
- (b) if it is shown that the deficiency cannot be accounted for by anything occurring after the goods had been sold by retail and delivered to, or to a person nominated in that behalf by, the buyer, any person by whom or on whose behalf those goods have been sold or agreed to be sold at any time while they were pre-packed in or on the container in question, shall be guilty of an offence.

(2) If—

- (a) in the case of a sale of or agreement to sell any goods which, not being pre-packed, are made up for sale or for delivery after sale in or on a container marked with a statement in writing with respect to the quantity of the goods, or
- (b) in the case of any goods which, in connection with their sale or an agreement for their sale, have associated with them a document containing such a statement,

the quantity of the goods is at any time found to be less than that stated, then, if it is shown that the deficiency cannot be accounted for by anything occurring after the goods had been delivered to, or to a person nominated in that behalf by, the buyer, and subject to sections 33 to 37 below and paragraph 10 of Schedule 4 to this Act, the person by whom, and any other person on whose behalf, the goods were sold or agreed to be sold shall be guilty of an offence.

(3) Subsections (1) and (2) above shall have effect notwithstanding that the quantity stated is expressed to be the quantity of the goods at a specified time falling before the time in question, or is expressed with some other qualification of what ever description, except where—

- (a) that quantity is so expressed in pursuance of an express requirement of this Part of this Act or any instrument made under this Part, or
- (b) the goods, although falling within subsection (1) or subsection (2)(a) above—
 - (i) are not required by or under this Part of this Act to be pre-packed as mentioned in subsection (1) or, as the case may be, to be made up for sale or for delivery after sale in or on a container only if the container is marked as mentioned in subsection (2)(a), and
 - (ii) are not goods on a sale of which (whether any sale or a sale of any particular description) the quantity sold is required by or under any provision of this Part of this Act other than section 26, to be made known to the buyer at or before a particular time, or
- (c) the goods, although falling within subsection (2)(b) above, are not required by or under this Part of this Act to have associated with them such a document as is mentioned in that provision.

(4) In any case to which, by virtue of paragraph (a), (b) or (c) of subsection (3) above, the provisions of subsection (1) or (2) above do not apply, if it is found at any time that the quantity of the goods in question is less than that stated and it is shown that the deficiency is greater than can be reasonably justified on the ground justifying the qualification in question, then, subject to sections 33 to 37 below—

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- (a) in the case of goods such as are mentioned in subsection (1) above, if it is further shown as mentioned in that subsection, then—
 - (i) where the container in question was marked in Great Britain, the person by whom, and any other person on whose behalf, the container was marked, or
 - (ii) where the container in question was marked outside Great Britain, the person by whom, and any other person on whose behalf, the goods were first sold in Great Britain,
 shall be guilty of an offence;
 - (b) in the case of goods such as are mentioned in subsection (2) above, the person by whom, and any other person on whose behalf, the goods were sold or agreed to be sold shall be guilty of an offence if, but only if, he would, but for paragraph (a), (b) or (c) of subsection (3) above have been guilty of an offence under subsection (2).
- (5) Subsection (2) of section 28 above shall have effect for the purposes of this section as it has effect for the purposes of that section.
- (6) Nothing in this section shall apply in relation to any such goods or sales as are mentioned in section 24(2)(a) or (b) above.

31 Incorrect statements.

- (1) Without prejudice to section 30(2) to (4) above, if in the case of any goods required by or under this Part of this Act to have associated with them a document containing particular statements, that document is found to contain any such statement which is materially incorrect, any person who, knowing or having reasonable cause to suspect that statement to be materially incorrect, inserted it or caused it to be inserted in the document, or used the document for the purposes of this Part of this Act while that statement was contained in the document, shall be guilty of an offence.
- (2) Subsection (2) of section 28 above shall have effect for the purposes of this section as it has effect for the purposes of that section.
- (3) Nothing in this section shall apply in relation to any such goods or sales as are mentioned in section 24(2)(a) or (b) above.

32 Offences due to default of third person.

Where the commission by any person of an offence under this Part of this Act or an instrument made under this Part is due to the act or default of some other person, the other person shall be guilty of an offence and may be charged with and convicted of the offence whether or not proceedings are taken against the first-mentioned person.

Defences

33 Warranty.

- (1) Subject to the following provisions of this section, in any proceedings for an offence under this Part of this Act or any instrument made under this Part, being an offence relating to the quantity or pre-packing of any goods, it shall be a defence for the person charged to prove—

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- (a) that he bought the goods from some other person—
 - (i) as being of the quantity which the person charged purported to sell or represented, or which was marked on any container or stated in any document to which the proceedings relate, or
 - (ii) as conforming with the statement marked on any container to which the proceedings relate, or with the requirements with respect to the pre-packing of goods of this Part of this Act or any instrument made under this Part,as the case may require, and
 - (b) that he so bought the goods with a written warranty from that other person that they were of that quantity or, as the case may be, did so conform, and
 - (c) that at the time of the commission of the offence he did in fact believe the statement contained in the warranty to be accurate and had no reason to believe it to be inaccurate, and
 - (d) if the warranty was given by a person who at the time he gave it was resident outside Great Britain and any designated country, that the person charged had taken reasonable steps to check the accuracy of the statement contained in the warranty, and
 - (e) in the case of proceedings relating to the quantity of any goods, that he took all reasonable steps to ensure that, while in his possession, the quantity of the goods remained unchanged and, in the case of such or any other proceedings, that apart from any change in their quantity the goods were at the time of the commission of the offence in the same state as when he bought them.
- (2) A warranty shall not be a defence in any such proceedings as are mentioned in subsection (1) above unless, not later than three days before the date of the hearing, the person charged has sent to the prosecutor a copy of the warranty with a notice stating that he intends to rely on it and specifying the name and address of the person from whom the warranty was received, and has also sent a like notice to that person.
- (3) Where the person charged is the employee of a person who, if he had been charged, would have been entitled to plead a warranty as a defence under this section, subsection (1) above shall have effect—
- (a) with the substitution, for any reference (however expressed) in paragraphs (a), (b), (d) and (e) to the person charged, of a reference to his employer, and
 - (b) with the substitution for paragraph (c) of the following—
 - “(c) that at the time of the commission of the offence his employer did in fact believe the statement contained in the warranty to be accurate and the person charged had no reason to believe it to be inaccurate.”.
- (4) The person by whom the warranty is alleged to have been given shall be entitled to appear at the hearing and to give evidence.
- (5) If the person charged in any such proceedings as are mentioned in subsection (1) above wilfully attributes to any goods a warranty given in relation to any other goods, he shall be guilty of an offence.
- (6) A person who, in respect of any goods sold by him in respect of which a warranty might be pleaded under this section, gives to the buyer a false warranty in writing shall be guilty of an offence unless he proves that when he gave the warranty he took all reasonable steps to ensure that the statements contained in it were, and would continue at all relevant times to be, accurate.

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- (7) Where in any such proceedings as are mentioned in subsection (1) above (“the original proceedings”) the person charged relies successfully on a warranty given to him or to his employer, any proceedings under subsection (6) above in respect of the warranty may, at the option of the prosecutor, be taken either before a court having jurisdiction in the place where the original proceedings were taken or before a court having jurisdiction in the place where the warranty was given.
- (8) For the purposes of this section, any statement with respect to any goods which is contained in any document required by or under this Part of this Act to be associated with the goods or in any invoice, and, in the case of goods made up in or on a container for sale or for delivery after sale, any statement with respect to those goods with which that container is marked, shall be taken to be a written warranty of the accuracy of that statement.

34 Reasonable precautions and due diligence.

- (1) In any proceedings for an offence under this Part of this Act or any instrument made under this Part, it shall be a defence for the person charged to prove that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.
- (2) If in any case the defence provided by subsection (1) above involves an allegation that the commission of the offence in question was due to the act or default of another person or due to reliance on information supplied by another person, the person charged shall not, without the leave of the court, be entitled to rely on the defence unless, before the beginning of the period of seven days ending with the date when the hearing of the charge began, he served on the prosecutor a notice giving such information identifying or assisting in the identification of the other person as was then in his possession.

35 Subsequent deficiency.

- (1) This subsection applies to any proceedings for an offence under this Part of this Act, or any instrument made under this Part, by reason of the quantity—
- (a) of any goods made up for sale or for delivery after sale (whether by way of pre-packing or otherwise) in or on a container marked with an indication of quantity.
 - (b) of any goods which, in connection with their sale or an agreement for their sale, have associated with them a document purporting to state the quantity of the goods, or
 - (c) of any goods required by or under this Part of this Act to be pre-packed, or to be otherwise made up in or on a container for sale or for delivery after sale, or to be made for sale, only in particular quantities,
- being less than that marked on the container or stated in the document in question or than the relevant particular quantity, as the case may be.
- (2) In any proceedings to which subsection (1) above applies, it shall be a defence for the person charged to prove that the deficiency arose—
- (a) in a case falling within paragraph (a) of subsection (1) above, after the making up of the goods and the marking of the container,

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- (b) in a case falling within paragraph (b) of that subsection, after the preparation of the goods for delivery in pursuance of the sale or agreement and after the completion of the document,
 - (c) in a case falling within paragraph (c) of that subsection, after the making up or making, as the case may be, of the goods for sale,
- and was attributable wholly to factors for which reasonable allowance was made in stating the quantity of the goods in the marking or document or in making up or making the goods for sale, as the case may be.
- (3) In the case of a sale by retail of food, other than food pre-packed in a container which is, or is required by or under this Part of this Act to be, marked with an indication of quantity, in any proceedings for an offence under this Part of this Act or any instrument made under this Part, by reason of the quantity delivered to the buyer being less than that purported to be sold, it shall be a defence for the person charged to prove that the deficiency was due wholly to unavoidable evaporation or drainage since the sale and that due care and precaution were taken to minimise any such evaporation or drainage.
 - (4) If in any proceedings for an offence under this Part of this Act or any instrument made under this Part, being an offence in respect of any deficiency in the quantity of any goods sold, it is shown that between the sale and the discovery of the deficiency the goods were with the consent of the buyer subjected to treatment which could result in a reduction in the quantity of those goods for delivery to, or to any person nominated in that behalf by, the buyer, the person charged shall not be found guilty of that offence unless it is shown that the deficiency cannot be accounted for by the subjecting of the goods to that treatment.

36 Excess due to precautions.

In any proceedings for an offence under this Part of this Act or any instrument made under this Part, being an offence in respect of any excess in the quantity of any goods, it shall be a defence for the person charged to prove that the excess was attributable to the taking of measures reasonably necessary in order to avoid the commission of an offence in respect of a deficiency in those or other goods.

37 Provisions as to testing.

- (1) If proceedings for an offence under this Part of this Act, or any instrument made under this Part, in respect of any deficiency or excess in the quantity—
 - (a) of any goods made up for sale (whether by way of pre-packing or otherwise) in or on a container marked with an indication of quantity, or
 - (b) of any goods which have been pre-packed or otherwise made up in or on a container for sale or for delivery after sale, or which have been made for sale, and which are required by or under this Part of this Act to be pre-packed, or to be otherwise so made up, or to be so made, as the case may be, only in particular quantities,are brought with respect to any article, and it is proved that, at the time and place at which that article was tested, other articles of the same kind, being articles which, or articles containing goods which, had been sold by the person charged or were in that person's possession for sale or for delivery after sale, were available for testing, the person charged shall not be convicted of such an offence with respect to that article unless a reasonable number of those other articles was also tested.

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- (2) In any proceedings for such an offence as is mentioned in subsection (1) above, the court—
- (a) if the proceedings are with respect to one or more of a number of articles tested on the same occasion, shall have regard to the average quantity in all the articles tested,
 - (b) if the proceedings are with respect to a single article, shall disregard any inconsiderable deficiency or excess, and
 - (c) shall have regard generally to all the circumstances of the case.
- (3) Subsections (1) and (2) above shall apply with the necessary modifications to proceedings for an offence in respect of the size, capacity or contents of a container as they apply to proceedings for an offence in respect of the excess or deficiency in the quantity of certain goods.
- (4) Where by virtue of section 32 above a person is charged with an offence with which some other person might have been charged, the reference in subsection (1) above to articles or goods sold by or in the possession of the person charged shall be construed as a reference to articles or goods sold by or in the possession of that other person.

Powers of inspectors

38 Special powers of inspectors with respect to certain goods.

- (1) Subsection (2) below applies where any person—
- (a) makes in any manner any representation as to the quantity of any goods offered or exposed for sale by him, or
 - (b) has in his possession or charge awaiting or in the course of delivery to the buyer any goods which have been sold or agreed to be sold, and the sale is, or purports to be, or is required by or under this Part of this Act to be, by quantity expressed in a particular manner, or is such that the quantity of the goods sold is required by or under any provision of this Part other than section 26 to be made known to the buyer at or before a particular time, or
 - (c) has in his possession or charge for sale, or awaiting or in the course of delivery to a buyer after they have been sold or agreed to be sold—
 - (i) any goods pre-packed or otherwise made up in or on a container for sale or for delivery after sale which are required by or under this Part of this Act to be pre-packed, or to be otherwise so made up, as the case may be, only in particular quantities or only if the container is marked with particular information, or
 - (ii) any goods pre-packed in or on a container marked with an indication of quantity, or
 - (iii) any goods required by or under this Part of this Act to be made for sale only in particular quantities, or
 - (d) has in his possession or charge for sale, or awaiting or in the course of delivery to a buyer after they have been sold or agreed to be sold, any goods subject to a requirement imposed by virtue of section 22(1)(c) above.
- (2) Where this subsection applies, the powers of an inspector under section 79 below shall, subject to subsection (4) below, include power to require the person referred to in subsection (1) above either to do in the presence of the inspector, or to permit the inspector to do, all or any of the following things, that is to say—

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- (a) weigh or otherwise measure or count the goods,
- (b) weigh or otherwise measure any container in or on which the goods are made up,
- (c) in the case of goods within subsection (1)(d) above, do anything else as respects the goods or container which is reasonably necessary to ascertain whether the requirement there mentioned is complied with, and which does not damage or depreciate the goods or container,
- (d) if necessary for any of the purposes of paragraphs (a) to (c) above, break open any container of goods, or open any vending machine in which goods are offered or exposed for sale,

and, in the case of any of the goods which are not already sold, power to require that person to sell any of them to the inspector.

- (3) Where any container of goods is broken open under subsection (2) above and all requirements of, and of any instrument made under, this Part of this Act which are applicable to those goods are found to have been complied with, then—
 - (a) if the container can be resealed without injury to the contents, the inspector may reseal it with a label certifying that all such requirements have been complied with, and
 - (b) if he does not so reseal it or it cannot be so resealed without injury to the contents, the inspector shall at the request of the person referred to in subsection (1) above buy the goods on behalf of the local weights and measures authority.

(4) F15

Textual Amendments

F15 S. 38(4) repealed by [Food Safety Act 1990 \(c. 16, SIF 53:1, 2\)](#), s. 59(1)(4), Sch. 3 para. 32, [Sch. 5](#)

39 Powers of inspectors with respect to certain documents.

- (1) An inspector, subject to the production if so requested of his credentials, may require the person in charge of any document required by or under this Part of this Act to be associated with any goods to produce that document for inspection.
- (2) If the inspector has reasonable cause to believe that any document produced to him under subsection (1) above contains any inaccurate statement, he may either—
 - (a) seize and detain the document, giving in exchange a copy with an endorsement signed by him certifying that the original has been seized and giving particulars of any inaccuracy alleged, or
 - (b) without prejudice to any proceedings which may be taken by reason of any inaccuracy alleged, make on the document an endorsement signed by him giving particulars of any such inaccuracy;

and, except where the context otherwise requires, any reference in this Part of this Act to any such document includes a reference to a copy given in pursuance of paragraph (a) above.

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40 Powers of inspectors with respect to goods carried on road vehicles.

- (1) Subsection (2) below applies where, in the case of any goods being carried on a road vehicle,—
- (a) the whole of the vehicle's load is being carried for sale to, or for delivery after sale to, the same person, and
 - (b) any document produced in pursuance of section 39(1) above by the person in charge of the vehicle purports, or is required by or under this Part of this Act, to state the quantity of the goods.
- (2) Where this subsection applies, the inspector may, for the purpose of the exercise of his powers under section 38(2) above do all or any of the following things that is to say—
- (a) require the goods to which the document relates to be unloaded from the vehicle;
 - (b) require the vehicle to be taken to the nearest suitable and available weighing or measuring equipment;
 - (c) require the person in charge of the vehicle to have it check-weighed.
- (3) The powers conferred by subsection (2) above shall be exercised only to such extent as may appear to the inspector reasonably necessary in order to secure that the provisions of this Act (apart from Part V) and of any instrument made under those provisions are duly observed.

Miscellaneous and supplementary

41 Check-weighing of certain road vehicles.

Where any road vehicle is loaded with goods for sale by weight to a single buyer of the whole of the vehicle's load, or for delivery to the buyer after they have been so sold, the buyer or seller of the goods, or any inspector who shows that he is authorised so to do by the buyer or seller of the goods, may require the person in charge of the vehicle to have it check-weighed, and if that person fails without reasonable cause to comply with any such requirement he shall be guilty of an offence.

42 Power to make test purchases.

A local weights and measures authority shall have power to make, or to authorise an inspector to make on their behalf, such purchases of goods as may appear expedient for the purpose of determining whether or not the provisions of this Part of this Act and any instrument made under this Part, and the provisions of Parts II and III of this Act and any instrument made under either of those Parts, are being complied with.

PROSPECTIVE

F16 43

Textual Amendments

F16 S. 43 repealed (1.1.1996) by 1994 c. 40, s. 14, Sch. 17; S.I. 1995/2835, art. 2

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44 Selling by quantity.

Where any goods are required by or under this Part of this Act to be sold only by quantity expressed in a particular manner—

- (a) it shall be a sufficient compliance with that requirement in the case of any sale of, or agreement to sell, any such goods if the quantity of the goods expressed in the manner in question is made known to the buyer before the purchase price is agreed; and
- (b) no person shall be guilty of an offence under section 25(1) above by reason of the exposing or offering for sale of such goods at any time if both the quantity of the goods expressed in the manner in question and the price at which they are exposed or offered for sale are made known at that time to any prospective buyer.

45 Making quantity known to a person.

(1) For the purposes of this Part of this Act, without prejudice to any other method of making known to a person the quantity of any goods expressed in a particular manner, that quantity shall be taken to be made known to that person—

- (a) if the goods are weighed or otherwise measured or counted, as the case may require, in the presence of that person,
- (b) if the goods are made up in or on a container marked with a statement in writing of the quantity of the goods expressed in the manner in question and the container is readily available for inspection by that person, or
- (c) upon such a statement in writing being delivered to that person.

(2) The Secretary of State may by order provide that subsection (3) below shall apply, in the case of such goods in such circumstances as are specified in the order, to any requirement so specified of, or of any instrument made under, this Part of this Act with respect to the making known to the buyer of the quantity by weight of such goods sold by retail.

(3) In any case to which this subsection applies, the requirement specified in the order shall be taken to be satisfied if the goods are bought at premises at which weighing equipment of such description as may be prescribed—

- (a) is kept available by the occupier of those premises for use without charge by any prospective buyer of such goods for the purpose of weighing for himself any such goods offered or exposed for sale by retail on those premises, and
- (b) is so kept available in a position on those premises which is suitable and convenient for such use of the equipment, and
- (c) is reserved for use for that purpose at all times while those premises are open for retail transactions,

and a notice of the availability of the equipment for such use is displayed in a position on the premises where it may be readily seen by any such prospective buyer.

46 Weighing in presence of a person.

For the purposes of this Part of this Act, a person shall not be taken to weigh or otherwise measure or count any goods in the presence of any other person unless he causes any equipment used for the purpose to be so placed, and so conducts the operation of weighing or otherwise measuring or counting the goods, as to permit that other person a clear and unobstructed view of the equipment, if any, and of the

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operation, and of any indication of quantity given by any such equipment as the result of that operation.

PART V

PACKAGED GOODS

Modifications etc. (not altering text)

- C12** Part V (ss. 47–68) restricted (E.W.S.) by [S.I. 1986/2049, reg. 5\(1\)](#)
- C13** Part V (ss. 47–68) modified (E.W.S.) by [S.I. 1986/2049, regs. 5\(2\)\(a\)\(b\)](#), 25(3)(4)(5)(6)(7), 26(3), Sch. 3
- C14** Part V (ss. 47–68) applied (E.W.S.) with modifications by [S.I. 1986/2049, reg. 27](#)

Quantity control

47 Duty of packers and importers as to quantity.

- (1) It shall be the duty of a person who is the packer or importer of regulated packages to ensure that when a group of the packages marked with the same nominal quantity is selected in the prescribed manner and the packages in the group or such a portion of the group as is so selected are tested in the prescribed manner by an inspector—
 - (a) the total quantity of the goods shown by the test to be included in the packages tested divided by the number of those packages is not less than the nominal quantity on those packages, and
 - (b) the number of non-standard packages among those tested is not greater than the number prescribed as acceptable in relation to the number tested.
- (2) It is hereby declared that a person discharges the duty imposed on him by subsection (1) above in respect of a group of packages if the quantity of goods in each package is or exceeds the nominal quantity on the package.
- (3) Regulations in pursuance of subsection (1) above with respect to the manner of selecting or testing packages may, without prejudice to the generality of the powers to make regulations conferred by that subsection or to the generality of section 66(b) below make provision by reference to a document other than the regulations (which may be or include a code of practical guidance issued by the Secretary of State).
- (4) Where, as a result of a test in respect of a group of packages which is carried out when the packages are in the possession of the packer or importer of the packages or another person, it is shown that the packer or importer of the packages has failed to perform the duty imposed on him by subsection (1) above in respect of the packages, then, without prejudice to the liability of the packer or importer under section 50(1) below in respect of the failure, it shall be the duty of the person in possession of the packages to keep them in his possession—
 - (a) except so far as he is authorised by or under regulations to dispose of them, or
 - (b) if he is the packer or importer of them, until he has performed his duty under subsection (1) above in respect of the group.

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48 Duty of packers and importers as to marking of containers.

- (1) It shall be the duty of a person who is the packer or importer of a regulated package to ensure that the container included in the package is marked before the prescribed time and in the prescribed manner with—
 - (a) a statement of quantity in prescribed units either of weight or of volume, as regulations require, and
 - (b) his name and address or a mark which enables his name and address to be readily ascertained by an inspector, or—
 - (i) if he is the packer of the package, the name and address of a person who arranged for him to make up the package or a mark which enables that name and address to be readily ascertained by an inspector.
 - (ii) if he is the importer of the package, the name and address of the packer of the package or of the person who arranged for the packer to make up the package or a mark which enables the name and address of the packer or that person to be readily ascertained by an inspector, and
 - (c) if regulations so provide, a mark allocated to him by a scheme in pursuance of section 58 below for the purpose of enabling the place where the package was made up to be ascertained.
- (2) If at the time when a regulated package is made up or imported the container included in the package is not marked with such a statement as is mentioned in paragraph (a) of subsection (1) above, it shall be the duty of the packer or, as the case may be, the importer of the package—
 - (a) to decide what statement he proposes to mark on the container in pursuance of that paragraph, and
 - (b) to make at that time, and to maintain for the prescribed period, a record of the statement.
- (3) Until the time mentioned in subsection (1) above, or any earlier time at which the container is actually marked in the prescribed manner in pursuance of paragraph (a) of that subsection, it shall be treated for the purposes of this Part of this Act as marked with the statement in the record.
- (4) A statement applied to a package in pursuance of subsection (1)(a) above shall be deemed not to be a trade description within the meaning of the ^{M9}trade Descriptions Act 1968.

Marginal Citations

M9 1968 c. 29.

49 Duties as to equipment, checks and documentation.

- (1) It shall be the duty of a person who makes up packages either—
 - (a) to use suitable equipment of the prescribed kind in an appropriate manner in making up the packages, or
 - (b) to carry out at the prescribed time a check which is adequate to show whether he has performed the duty imposed on him by section 47(1) above in respect of the packages and—

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- (i) to used suitable equipment of the prescribed kind in an appropriate manner in carrying out the check, and
 - (ii) to make, and keep for the prescribed period, an adequate record of the check.
- (2) It shall be the duty of a person who is the importer of regulated packages—
 - (a) to carry out at the prescribed time such a check as is mentioned in paragraph (b) of subsection (1) above and to comply with sub-paragraphs (i) and (ii) of that paragraph in connection with the check, or
 - (b) to obtain before the prescribed time, and to keep for the prescribed period, documents containing such information about the packages as is adequate to show that the person is likely to have complied with his duty under section 47(1) above in relation to the packages.
- (3) Without prejudice to the generality of the powers to make regulations conferred by subsection (1) or (2) above or to the generality of section 66 below, regulations may provide—
 - (a) for equipment not to be suitable equipment for the purposes of the subsection in question unless it is made from materials and on principles specified in the regulations and is inspected, tested and certified as provided by the regulations,
 - (b) for questions as to the suitability of equipment, the appropriate manner of using equipment and the adequacy of checks, records and information to be determined for those purposes by reference to documents other than the regulations (which may be or include codes or parts of codes of practical guidance issued or approved by the Secretary of State), and
 - (c) that the use and the possession for use, for the purposes of subsection (1) or (2) above, of a thing which is suitable equipment for the purpose of the subsection in question shall not constitute a contravention of section 8(1)(b) above.
- (4) Where regulations made by virtue of subsection (3)(a) above provide for inspection, testing and certification of equipment, a local weights and measures authority may charge such reasonable fees as they may determine for the inspection, testing and certification of the equipment.

Enforcement of control

50 Offences, etc.

- (1) A person who fails to perform a duty imposed on him by section 47, 48 or 49 above shall be guilty of an offence.
- (2) If a person purports to comply with his duty under—
 - (a) sub-paragraph (ii) of subsection (1)(b) of section 49 above, or
 - (b) that sub-paragraph as applied by subsection (2)(a) of that section,
 by making a record which he knows is false in a material particular, he shall be guilty of an offence.
- (3) If a person purports to comply with his duty under section 49(2)(b) above by reference to a document containing information which he knows is false in a material particular, he shall be guilty of an offence.

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- (4) If a person, with intent to deceive, alters—
 - (a) any record kept for the purposes of section 48(2) or 49(1)(b)(ii) above or section 49(1)(b)(ii) above as applied by section 49(2)(a) above, or
 - (b) any document kept for the purposes of section 49(2)(b) above,he shall be guilty of an offence.
- (5) If a person has in his possession for sale, agrees to sell or sells a regulated package which is inadequate and either—
 - (a) he is the packer or importer of the package, or
 - (b) he knows that the package is inadequate,he shall be guilty of an offence.
- (6) If the packer of a regulated package which is inadequate and which was made up by him in the course of carrying out arrangements with another person for the packer to make up packages delivers the package to or to the order of a person to whom it falls to be delivered in pursuance of the arrangements, the packer shall be guilty of an offence.
- (7) No action shall lie in respect of a failure to perform a duty imposed by section 47, 48 or 49 above.

51 Defences to certain charges under section 50.

- (1) Where a person is charged with an offence under section 50(1) above of failing to perform the duty imposed on him by section 47(1) above in respect of any packages, it shall be a defence to prove that the test in question took place when the packages were not in his possession and by reference to a nominal quantity which was not on the packages when they were in his possession.
- (2) Where the importer of packages is charged with an offence under section 50(1) above of failing to perform the duty imposed on him by section 47(1) above in respect of the packages, it shall be a defence to prove—
 - (a) that in respect of the packages the accused performed the duty imposed on him by paragraph (b) of section 49(2) above, and
 - (b) that within the prescribed period after obtaining the documents mentioned in that paragraph relating to the packages he took all reasonable steps to verify the information contained in the documents and that when the relevant test in pursuance of section 47(1) above began he believed and had no reason to disbelieve that the information was true, and
 - (c) that before the beginning of the period of seven days ending with the date when the hearing of the charge began he served on the prosecutor a copy of the said documents and a notice which stated that the accused intended to rely on them in proving a defence under this subsection, and
 - (d) that he took all reasonable steps to ensure that the quantity of goods in each of the packages did not alter while the packages were in his possession.
- (3) Where a person is charged with an offence under section 50(1) above of failing to perform the duty imposed on him by paragraph (b) of section 48(1) above in respect of a package, it shall be a defence to prove—
 - (a) that the container included in the package was marked at the time and in the manner mentioned in that subsection with a mark as to which he had, before

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that time, given notice to an inspector stating that the mark indicated a name and address specified in the notice, and

- (b) that at that time the name and address were such as are mentioned in relation to him in that paragraph.

- (4) Where a person is charged with—

- (a) an offence under subsection (1) of section 50 above, or
 (b) an offence alleged to have been committed by him, as the packer or importer of a package, under subsection (5) or (6) of that section.

it shall be a defence to prove that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.

52 Enforcement of Part V by local weights and measures authority.

- (1) It shall be the duty of a local weights and measures authority to enforce the provisions of this Part of this Act within the area of the authority.
- (2) Nothing in subsection (1) above authorises a local weights and measures authority to institute proceedings in Scotland for an offence

53 Powers of inspectors and local weights and measures authority under Part V.

Schedule 8 to this Act shall have effect.

Special provision for certain packages

54 Special provision for certain packages.

- (1) Subsections (2) to (7) below apply only to packages containing goods of a prescribed quantity, and references to packages in those subsections shall be construed accordingly.
- (2) If in the course of carrying on a business—
- (a) a person marks a package with the EEC mark and is neither the packer nor the importer of the package nor a person acting on behalf of the packer or importer of the package, or
- (b) a person marks a package with a mark so closely resembling the EEC mark as to be likely to deceive,
- he shall be guilty of an offence.
- (3) For the purposes of this Part of this Act a person who brings a package marked with the EEC mark into the United Kingdom does not import the package if he shows that the package is from a member State of the Economic Community in which it was liable to be tested under a law corresponding to section 47(1) above and, except in such cases as are determined by or under regulations, has not since leaving that State been in a country which is not such a member State.
- (4) Subject to subsection (6) below, it shall be the duty of—
- (a) the packer of packages which are marked with the EEC mark and which he intends to export from the United Kingdom,

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- (b) a person who intends to import packages which are so marked and to export them from the United Kingdom to a place in another member State of the Economic Community, and
 - (c) a person who intends to import packages, to mark them with the EEC mark and to export them as mentioned in paragraph (b) above,
- to give before the prescribed time and in the prescribed manner, to the local weights and measures authority for the area in which the packages were packed or, as the case may be, in which the place of intended import is situated, a notice containing such information about the packages as is prescribed and, in the case of a person who has given such a notice in pursuance of paragraph (b) or (c) above, such further information about the packages in question as an inspector may specify in a notice served on the person by the inspector.
- (5) A person who fails without reasonable cause to perform a duty imposed on him by subsection (4) above shall be guilty of an offence.
 - (6) Regulations may enable an inspector to give notice to any person providing that, until an inspector informs the person in writing that the notice is cancelled, any paragraph of subsection (4) above which is specified in the notice shall not apply to the person or shall not apply to him as respects packages of a kind specified in the notice or a place so specified.
 - (7) In this section “the EEC mark” means such mark as may be prescribed; and, without prejudice to the generality of section 66 below, regulations prescribing a mark in pursuance of this subsection—
 - (a) may contain such provisions as the Secretary of State considers appropriate with respect to the dimensions of the mark and the manner and position in which it is to be applied to the container included in a package, and
 - (b) may provide for a mark which is not in accordance with those provisions to be disregarded for the purposes of prescribed provisions of this section

Co-ordination of control

55 The national Metrological Co-ordinating Unit

- (1) ^{F17}
- (5) The Secretary of State may, out of money provided by Parliament, make payments to the Unit from time to time for the purpose of enabling the Unit to defray the whole or part of its expenses.
- (6) ^{F17}

Textual Amendments

F17 S. 55(1)–(4), (6) repealed by S.I. 1987/2187, art. 2(b), **Sch. para. 1**

56 General duties of [^{F18}Secretary of State].

- (1) It shall be the duty of the [^{F18}Secretary of State]—

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- (a) to keep under review the operation of this Part of this Act and to carry out such research in connection with the review as the [F18Secretary of State]considers appropriate;
- (b) to make available, to local weights and measures authorities and to packers and importers of packages, such information as the [F18Secretary of State] considers appropriate in connection with the operation of this Part of this Act;
- (c) to give advice to local weights and measures authorities—
 - (i) about arrangements to be made by them for the purpose of enforcing this Part of this Act within their area; and
 - (ii) about such other matters as the [F18Secretary of State]considers appropriate in connection with the operation of this Part of this Act;
- (d) to seek to collaborate, with any authority in a place outside Great Britain appearing to the [F18Secretary of State]to have functions which correspond to those of the [F18Secretary of State]or to those conferred on a local weights and measures authority by this Part of this Act, about matters which are connected with packages and are of interest to the [F18Secretary of State]and the authority;
- (e) F19
- (f) to make and maintain a record of the names and addresses of packers and importers of packages and of—
 - (i) the kinds of packages which they make up or import, and
 - (ii) the marks of which particulars have been furnished by them in pursuance of section 57 below;
- (g) to make and maintain a record of the names and addresses of persons who make measuring container bottles in any member State of the Economic Community and of the marks put on the bottles for the purpose of enabling the makers of them to be identified;
- (h) F19

(2) In this section—

“measuring container bottle” has the same meaning as in the 1977 Regulations or, if regulations so provide, such other meaning as is prescribed, and

“the 1977 Regulations” means the M10Measuring Container Bottles (EEC Requirements) Regulations 1977.

<p>Textual Amendments</p> <p>F18 Words substituted by S.I. 1987/2187, art. 2(b), Sch. para. 2(b)</p> <p>F19 S. 56(1) paras. (e) and (h) repealed by S.I. 1987/2187, art. 2(b), Sch. para. 2(a)</p> <hr/> <p>Marginal Citations</p> <p>M10 S.I. 1977/932.</p>

57 Power of [F20Secretary of State]to require packers and importers to furnish particulars of marks.

- (1) The [F20Secretary of State]may serve, on any person carrying on business as a packer or importer of packages, a notice requiring him—
 - (a) to furnish the [F20Secretary of State]from time to time with particulars of the kind specified in the notice of any marks which, otherwise than in pursuance

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of section 48(1)(c) above, are applied from time to time to packages made up or as the case may be imported by him, for the purpose of enabling the place where the packages were made up to be ascertained, and

- (b) if he has furnished particulars of a mark in pursuance of the notice and the mark ceases to be applied for that purpose to packages made up or imported by him, to give notice of the cesser to the [F20Secretary of State];

but a notice given by the [F20Secretary of State] in pursuance of this subsection shall not require a person to furnish information which he does not possess.

- (2) A person who without reasonable cause fails to comply with a notice served on him in pursuance of subsection (1) above shall be guilty of an offence.

Textual Amendments

F20 Words substituted by S.I. 1987/2187, art. 2(b), Sch. para. 3

58 Duty of [F21Secretary of State] to prepare scheme allocating marks.

It shall be the duty of the [F21Secretary of State] —

- (a) [F22if he thinks fit], to prepare a scheme which—
- (i) allocates, to persons carrying on business as packers or importers of packages, marks from which there can be ascertained the places where packages made up or imported by them were made up, and
 - (ii) specifies the kinds of packages to which each mark is to be applied;
- (b) to make from time to time such alterations of the scheme as the [F21Secretary of State] considers appropriate . . . F23;
- (c) to give, to each person to whom a mark is for the time being allocated by the scheme, a notice which specifies the mark, states that it has been allocated to him in pursuance of the scheme and specifies the kinds of packages to which it is to be applied.

Textual Amendments

F21 Words substituted by S.I. 1987/2187, art. 2(b), Sch. para. 4(a)

F22 Words substituted by S.I. 1987/2187, art. 2(b), Sch. para. 4(b)

F23 Words repealed by S.I. 1987/2187, art. 2(b), Sch. para. 4(c)

59 Supervision by [F24Secretary of State] of certain functions of inspectors.

- (1) The [F24Secretary of State] may serve on any local weights and measures authority a notice requiring the authority—

- (a) to furnish the [F24Secretary of State] with information of such a kind as is specified in the notice (and, if the notice so provides, relating only to persons so specified or packages or measuring container bottles of a kind so specified) with respect to relevant functions which inspectors appointed by the authority have performed or propose to perform during a period so specified, or
- (b) to arrange for the performance by an inspector, in relation to persons, premises or equipment specified in the notice or packages or measuring container bottles of a kind so specified and during a period so specified, of such relevant functions as are so specified and to make to the [F24Secretary of State] a report

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containing information of a kind so specified about the results of complying with the notice;

and, subject to subsection (4)(b)(ii) below, it shall be the duty of the authority to comply with the requirements of the notice.

(2) in subsection (1) above “relevant functions” means—

- (a) the function of carrying out a test in pursuance of section 47(1) above,
- (b) functions conferred on an inspector—
 - (i) by paragraphs 1 and 5 of Schedule 8 to this Act, and
 - (ii) by regulation 8(1)

of the 1977 regulations (inspection for the purposes of those regulations), and

- (c) such other functions conferred on an inspector by this Part of this Act as are prescribed.

(3) In relation to a notice served in pursuance of subsection (1)(b) above the inspector in question shall be treated as having such reasonable cause as is mentioned in paragraph 1(a) and (b) of Schedule 8 to this Act and regulation 8(1)(b) of the 1977 Regulations.

(4) If the [^{F25}Secretary of State] is of the opinion that a local weights and measures authority has not complied with a requirement contained in a notice served on the authority in pursuance of subsection (1) above, [^{F26}he] may—

- (a) serve a notice on the authority requiring it to comply with the requirement within a period specified in the notice; or
- (b) in the case of a requirement in pursuance of subsection (1) (b) above—
 - (i) make such arrangements as the Secretary of State considers appropriate for securing that the requirement is complied with by persons acting on his behalf
 - (ii) serve on the authority a notice stating that he proposes to make the arrangements and prohibiting the authority from complying with the requirement,
 - (iii) by an instrument in writing appoint a person specified in the instrument to be an inspector for the purpose of carrying out the arrangements and to exercise accordingly for that purpose any power which by virtue of this Part of this Act or the 1977 Regulations is conferred on an inspector, and
 - (iv) recover from the authority the reasonable cost of making and carrying out the arrangements.

(5) In this section “measuring container bottle” and “the 1977 Regulations” have the meanings given by section 56(2) above.

Textual Amendments

F24 Words substituted by S.I. 1987/2187, art. 2(b), **Sch. para. 5(a)**

F25 Words substituted by S.I. 1987/2187, art. 2(b), **Sch. para. 5(b)(i)**

F26 Word substituted by S.I. 1987/2187, art. 2(b), **Sch. para. 5(b)(ii)**

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Changes to legislation: There are currently no known outstanding effects for the Weights and Measures Act 1985. (See end of Document for details)

Textual Amendments

F27 Ss. 60, 61 repealed by S.I. 1987/2187, art. 2(b), **Sch. para. 6**

61 **F28**

Textual Amendments

F28 Ss. 60, 61 repealed by S.I. 1987/2187, art. 2(b), **Sch. para. 6**

62 Power to extend or transfer Unit’s functions and to abolish Unit.

- (1) The Secretary of State may by order confer on the Unit such functions as he thinks fit in addition to the functions conferred on the Unit by this Act.
- (2) The Secretary of State may by order—
 - (a) transfer any function of the Unit to himself;
 - (b) establish a body and transfer to it any function of the Unit and any function transferred by virtue of paragraph (a) above;
 - (c) where all the functions of the Unit are transferred by virtue of paragraphs (a) and (b) above, abolish the Unit.
- (3) An order made by virtue of this section may—
 - (a) make such modifications—
 - (i) of section 55(1)
 - to (4) and (6) above and Schedule 9 to this Act, and
 - (ii) of references to the Unit in any provision of this Act except section 55,as the Secretary of State considers appropriate in connection with the conferring or transfer of any function, the establishment of a body or the abolition of the Unit in pursuance of this section;
 - (b) contain such supplemental and transitional provisions as the Secretary of State considers appropriate in that connection.
- (4) The Secretary of State may make payments out of money provided by Parliament to any body established by virtue of this section for the purpose of enabling the body to defray its expenses.

Instructions by inspectors

63 Instructions by inspectors.

- (1) If an inspector has reasonable cause to believe that a person has failed to perform the duty imposed on him by section 47(1) above in relation to a group of packages, the inspector may give to the person in possession of the packages instructions in writing—
 - (a) specifying the packages, and

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- (b) requiring that person to keep the packages at a place specified in the instructions and at the disposal of the inspector for the period of twenty-four hours beginning with the time when the inspector gives him the instructions or for such shorter period as the inspector may specify.
- (2) If an inspector has reasonable cause to believe that a person has failed to perform the duty imposed on him by section 49(1) or (2) above, the inspector may give to that person such instructions in writing as the inspector considers appropriate with a view to ensuring that that person does not subsequently fail to perform that duty.
- (3) Instructions given to a person by an inspector under subsection (2) above shall not come into force until the expiration of the prescribed period beginning with the day when the instructions are given to him and, if during that period that person gives notice to the inspector that he objects to the instructions, they shall not come into force except as agreed in writing by that person or as directed by the Secretary of State.
- (4) Where under subsection (3) above a person gives to an inspector notice of objection to instructions, it shall be the duty of the inspector to refer the instructions to [^{F29}the Secretary of State]
- (5) ^{F30}
- (6) Where instructions are referred to the Secretary of State in pursuance of [^{F31}subsection (4) above], it shall be his duty—
- (a) to invite representations in writing about the instructions . . . ^{F32}, from the inspector who gave them and from the person to whom they were given,
 - (b) to consider any representations made in response to the invitations within the periods specified in the invitations,
 - (c) to direct that the instructions shall come into force, without modifications or with modifications specified in the direction, on a day so specified or that they shall not come into force, and
 - (d) to give notice of the direction . . . ^{F33}, to the inspector and to the person in question.
- (7) Where—
- (a) instructions have been given to a person under subsection (1) above, or
 - (b) instructions given to a person under subsection (2) above have come into force (or have come into force with modifications) in accordance with subsections (3) to (6) above,

he shall be guilty of an offence if without reasonable cause he fails to comply with those instructions (or, as the case may require, those instructions with modifications).

Textual Amendments

F29 Words substituted by S.I. 1987/2187, art. 2(b), **Sch. para. 7(a)**

F30 S. 63(5) repealed by S.I. 1987/2187, art. 2(b), **Sch. para. 7(b)**

F31 Words substituted by S.I. 1987/2187, art. 2(b), **Sch. para. 7(c)(i)**

F32 Word repealed by S.I. 1987/2187, art. 2(b), **Sch. para. 7(c)(ii)**

F33 Words repealed by S.I. 1987/2187, art. 2(b), **Sch. para. 7(c)(iii)**

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Miscellaneous

64 Disclosure of information.

- (1) If a person discloses information which—
- (a) relates to a trade secret or secret manufacturing process, and
 - (b) was obtained by him by virtue of this Part of this Act when he was—
 - (i) F34
 - (ii) F34
 - (iii) an inspector,
 - (iv) a person who accompanied an inspector by virtue of paragraph 3(1) of Schedule 8 to this Act, or
 - (v) a person appointed by the Secretary of State in pursuance of section 59(4)(b) (iii) above,
- he shall be guilty of an offence unless the disclosure was made in the performance of his duty as a member, inspector or other person mentioned in paragraph (b) above, or, in the case of an inspector, was made [^{F35}to the Secretary of State in consequence of a request by him.]
- (2) For the purposes of subsection (1) above information disclosing the identity of the packer of a package or the identity of the person who arranged with the packer of a package for the package to be made up shall be treated as a trade secret unless the information has previously been disclosed in a manner which made it available to the public.

Textual Amendments

F34 S. 64(1)(b)(i), (ii) repealed by S.I. 1987/2187, art. 2(b), Sch. para. 8(a)

F35 Words substituted by S.I. 1987/2187, art. 2(b), Sch. para. 8(b)

65 Power to modify Part V.

Regulations may provide—

- (a) that in relation to packages of a prescribed kind the provisions of this Part of this Act, except this section, shall have effect with prescribed modifications;
- (b) for the said provisions to apply, with prescribed modifications, to goods of a prescribed kind which are not comprised in packages.

66 Regulations under Part V.

Without prejudice to section 86(1) below, any power to make regulations conferred by this Part of this Act includes power—

- (a) to make provision relating only to specified circumstances,
- (b) to make provision by reference to documents which do not form part of the regulations, and
- (c) to include in the regulations such supplemental and incidental provisions as the Secretary of State considers appropriate.

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67 Service of documents.

- (1) Any document required or authorised by virtue of this Part of this Act to be served on a person may be so served—
- (a) by delivering it to him or by leaving it at his proper address or by sending it by post to him at that address, or
 - (b) if the person is a body corporate, by serving it in accordance with paragraph (a) above on the secretary or clerk of that body, or
 - (c) if the person is a partnership, by serving it in accordance with paragraph (a) above on a partner or on a person having the control or management of the partnership business.
- (2) for the purposes of subsection (1) above and of section 7 of the ^{M11}Interpretation Act 1978 (which relates to the service of documents by post) in its application to that subsection, the proper address of any person on whom a document is to be served by virtue of this Part of this Act shall be his last known address except that—
- (a) in the case of service on a body corporate or its secretary or clerk, it shall be the address of the registered or principal office of the body, and
 - (b) in the case of service on a partnership or a partner or a person having the control or management of a partnership business, it shall be the principal office of the partnership;

and for the purposes of this subsection, the principal office of a company registered outside the United Kingdom or a partnership carrying on business outside the Kingdom is its principal office within the United Kingdom.

Marginal Citations

M11 1978 c. 30.

68 Interpretation of Part V.

- (1) In this Part of this Act—
- “container” includes any wrapping;
- “goods”, in relation to a package, excludes the container included in the package;
- “importer”, in relation to a package, means, subject to section 54(3), above, the person by whom or on whose behalf the package is entered for customs purposes on importation;
- “modifications” includes additions, omissions and alterations;
- “nominal quantity”, in relation to a package, means the units of weight or volume prescribed for the package and the number of them in the statement of quantity marked on the container included in the package (any other matter in the statement being disregarded);
- “notice” means notice in writing;
- “package” means, subject to section 54(1) above, a container containing prescribed goods together with the goods in the container in a case where—
- (a) the goods are placed for sale in the container otherwise than in the presence of a person purchasing the goods, and
 - (b) none of the goods can be removed from the container without opening it;

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“packer” means, in relation to a package, the person who placed in the container included in the package the goods included in it;

“regulated package” means any package which—

- (a) was made up in the United Kingdom on or after the date on which the goods in the package became prescribed goods, or
- (b) was imported on or after that date;

“regulations” means regulations made by the Secretary of State by virtue of this Part of this Act;

“the Unit” means the National Metrological Co-ordinating Unit.

- (2) For the purposes of this Part of this Act a package—
 - (a) is non-standard if the quantity of the goods it contains is less by more than a prescribed amount than the nominal quantity on the package, and
 - (b) is inadequate if the quantity of the goods it contains is less by more than twice that amount than the nominal quantity on the package.
- (3) Regulations may make provision, in relation to a package which contains more than one container or goods of more than one kind, as to which of the containers or goods shall be disregarded for the purposes of prescribed provisions of this Part of this Act.
- (4) If two or more different nominal quantities are marked on a package, each of those quantities except the one which indicates the larger or largest quantity shall be disregarded for the purposes of this Part of this Act.

PART VI

ADMINISTRATION

Local administration

69 Local weights and measures authorities.

- (1) In England, the local weights and measures authority shall be—
 - (a) for each non-metropolitan county, metropolitan district and London borough, the council of that county, district or borough,
 - (b) for the City of London and the Inner and Middle Temples, the Common Council of the City of London, and
 - (c) for the Isles of Scilly, the Council of the Isles of Scilly.
- (2) In Wales, the local weights and measures authority for each county shall be the county council [^{F36}and for each county borough shall be the county borough council].
- (3) In Scotland, the local weights and measures authority for [^{F37}the area of each council constituted under section 2 of the Local Government etc. (Scotland) Act 1994 shall be the council for that area].
- (4) The Secretary of State, after consultation with any local weights and measures authority appearing to him to be concerned, may by order provide that the area of any local weights and measures authority specified in the order shall, for the purposes of their functions as such an authority, be deemed to include such area consisting of inland waters or of territorial waters of the United Kingdom adjacent to any part of

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Great Britain as may be so specified, being an area which would otherwise not fall within the area of any local weights and measures authority.

(5) A local weights and measures authority may make, or assist in the making of, arrangements to provide advice to or for the benefit of consumers of goods and services within the area of the authority.

(6) F38

<p>Textual Amendments</p> <p>F36 Words in s. 69(2) added (1.4.1996) by 1994 c. 19, s. 66(6), Sch. 16 para. 75; S.I. 1996/396, art. 4, Sch. 2</p> <p>F37 Words in s. 69(3) substituted (S.)(1.4.1996) by 1994 c. 39, s. 180(1), Sch. 13 para. 144; S.I. 1996/323, art. 4</p> <p>F38 S. 69(6) repealed by Statute Law (Repeals) Act 1989 (c. 43), s. 1(1), Sch. 1 Pt. IV</p>
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70 Annual reports by local weights and measures authorities.

- (1) Each local weights and measures, authority shall, in respect of each financial year of the authority, make to the Secretary of State by such date as he may direct a report on the operation during that year of the arrangements made to give effect in that authority’s area—
 - (a) to the purposes of this Act, and
 - (b) to functions relating to weights and measures which are conferred on the authority otherwise than by or under this Act and which are specified, in a notice in writing given to the authority by the Secretary of State and not withdrawn, as functions to which this paragraph applies.
- (2) Any report under subsection (1) above shall be in such form and contain such particulars of such matters as the Secretary of State may direct.
- (3) Any report made to the Secretary of State under this section may be published by the local weights and measures authority by whom it is made.
- (4) The Secretary of State may include the whole or any part of, or any information contained in, any such report, whether published or not, in any statement which may be made or published by the Secretary of State with respect to such arrangements as are mentioned in subsection (1) above either generally or in any particular area.

71 Inspection of local weights and measures arrangements.

- (1) The Secretary of State may from time to time cause an inspection to be made of, or of any part of, any such arrangements as are mentioned in section 70 above.
- (2) Any such inspection shall be carried out by an officer of the Secretary of State authorised in that behalf by the Secretary of State.
- (3) The officer—
 - (a) may examine any equipment or records kept in connection with those arrangements,
 - (b) may require any inspector having duties under those arrangements to give such assistance and information as the officer may reasonably specify, and

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- (c) may make reasonable enquiries of any person who appears to the officer likely to be able to give him information concerning the operation of those arrangements.
- (4) The officer by whom any inspection under this section is made shall report its results in writing to the Secretary of State.
- (5) The Secretary of State shall send a copy of the report to any local weights and measures authority concerned and to any chief inspector responsible for the operation of all or any of the arrangements inspected.
- (6) The Secretary of State may, if he thinks fit, publish any such report in whole or in part.

Inspectors of weights and measures

72 Appointment of inspectors.

- (1) Each local weights and measures authority shall from time to time appoint from among persons holding certificates of qualification under section 73 below, and reasonably remunerate—
 - (a) a chief inspector of weights and measures, and
 - (b) such number of other inspectors of weights and measures, if any (who may, if the authority so desire, include a deputy chief inspector), as may be necessary for the efficient discharge in the authority's area of the functions conferred or imposed on inspectors by or under this Act.
- (2) Any person appointed under subsection (1) above shall hold office during the pleasure of the authority by whom he was appointed.
- (3) A chief inspector shall be responsible to the local weights and measures authority for the custody and maintenance of the local standards, working standards and testing and stamping equipment provided for the area for which he was appointed and generally for the operation of the arrangements made to give effect in that area to the purposes of this Act.
- (4) A deputy chief inspector may perform any functions of the chief inspector for the area for which he was appointed in any case where it appears to the local weights and measures authority to be desirable or necessary in the interests of the efficient operation of the said arrangements to authorise him so to do, and when so authorised shall have all the powers of a chief inspector.

73 Certificate of qualification to act as inspector.

- (1) The Secretary of State shall provide for the holding of examinations for the purpose of ascertaining whether persons possess sufficient skill and knowledge for the proper performance of the functions of an inspector, and for the grant of certificates of qualification to persons who pass such examinations.
- (2) The Secretary of State may if he thinks fit arrange with some other person for that person to hold examinations for the purpose mentioned in subsection (1) above.
- (3) The Secretary of State shall not grant a certificate of qualification to any person while he is under twenty-one years of age.

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- (4) There shall be charged in respect of any examination which is held by the Secretary of State under this section such fees as the Secretary of State may from time to time with the approval of the Treasury determine.

74 Performance by inspectors of additional functions.

- (1) The arrangements made by a local weights and measures authority to give effect in their area to the purposes of this Act may include the provision under the supervision of the chief inspector for their area of a service for the adjustment of weights and measures, but not of other weighing or measuring equipment.
- (2) Where a service is provided under subsection (1) above, the local weights and measures authority shall charge such reasonable fees as they may determine in connection with it.
- (3) No person holding office as an inspector who is employed in the inspection of weighing or measuring equipment for the purposes of its use for trade shall also undertake, whether as part of a service provided under subsection (1) above or otherwise, the adjustment for those purposes of weighing or measuring equipment of any description.
- (4) Without prejudice to the functions of local weights and measures authorities or inspectors under any other provision of this Act, a local weights and measures authority may make arrangements whereby an inspector may, at the request of any person and subject to payment by that person of such fee, if any, as the authority may think fit, carry out and submit to that person a report on—
- (a) a weighing or other measurement of any goods submitted for the purpose by that person at such place as the authority may direct or approve;
 - (b) a test of the accuracy of any weighing or measuring equipment so submitted.

75 Offences in connection with office of inspector.

- (1) Any inspector who—
- (a) stamps any weighing or measuring equipment in contravention of any provision of this Act or of any instrument made under this Act or without duly testing it, or
 - (b) derives any profit from, or is employed in, the making, adjusting or selling of weighing or measuring equipment, or
 - (c) knowingly commits any breach of any duty imposed on him by or under this Act or otherwise misconducts himself in the execution of his office,
- shall be guilty of an offence.
- (2) If any person who is not an inspector acts or purports to act as an inspector, he shall be guilty of an offence.

Fees

76 Fees for performance of Community obligations.

A local weights and measures authority may charge such reasonable fees as they may determine—

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- (a) for services or facilities provided by them, or by the inspectors appointed for their area, in pursuance of a Community obligation, and
- (b) for authorisations, certificates or other documents issued by the authority or any such inspector in pursuance of a Community obligation.

77 Reduction of fees.

Where a person gives assistance in connection with the inspection, testing or stamping of weighing or measuring equipment by an inspector, the local weights and measures authority may reduce, by sum which the authority considers is reasonable by reference to the assistance, the amount of any payment falling to be made by that person to the inspector in respect of the inspection, testing or stamping.

78 Fees received by inspectors.

Every inspector shall, at such times as the local weights and measures authority may direct, account for and pay over to that authority or as they may direct all fees taken by him for the performance of his duties.

PART VII

GENERAL

Enforcement and legal proceedings

79 General powers of inspection and entry.

- (1) Subject to the production if so requested of his credentials, an inspector may, within the area for which he was appointed inspector, at all reasonable times—
 - (a) inspect and test any weighing or measuring equipment which is, or which he has reasonable cause to believe to be, used for trade or in the possession of any person or upon an premises for such use,
 - (b) inspect any goods to which any of the provisions of Part IV of this Act or any instrument made under that Part for the time being applies or which he has reasonable cause to believe to be such goods, and
 - (c) enter any premises at which he has reasonable cause to believe there to be any such equipment or goods, not being premises used only as a private dwelling-house
- (2) Subject to the production if so requested of his credentials, an inspector may at any time within the area for which he was appointed inspector seize and detain—
 - (a) any article which he has reasonable cause to believe is liable to be forfeited under Part II or IV of this Act, and
 - (b) any document or goods which the inspector has reason to believe may be required as evidence in proceedings for an offence under this Act (except an offence under Part V).
- (3) If a justice of the peace, on sworn information in writing—
 - (a) is satisfied that there is reasonable ground to believe that any such equipment, goods, articles or documents as are mentioned in subsection (1) or (2) above

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are on any premises, or that any offence under this Act or any instrument made under it (except offence under Part V or any instrument made under that Part) has been, is being or is about to be committed on any premises, and

- (b) is also satisfied either—
- (i) that admission to the premises has been refused, or a refusal is apprehended and that notice of the intention to apply for a warrant has been given to the occupier, or
 - (ii) that an application for admission, or the giving of such a notice, would defeat the object of the entry, or that the case is one of urgency, or that the premises are unoccupied or the occupier temporarily absent,

the justice may by warrant under his hand, which shall continue in force for a period of one month, authorise an inspector to enter the premises, if need be by force.

- (4) In the application of subsection (3) above to Scotland, “justice of the peace” includes a sheriff.
- (5) An inspector entering any premises by virtue of this section may take with him such persons and such equipment as may appear to him necessary.
- (6) An inspector who leaves premises which he has entered by virtue of a warrant under subsection (3) above and which are unoccupied or from which the occupier is temporarily absent shall leave the premises as effectively secured against trespassers as he found them.
- (7) If any inspector or other person who enters any work-place by virtue of this section discloses to any person any information obtained by him in the work-place with regard to any secret manufacturing process or trade secret, he shall, unless the disclosure was made in the performance of his duty, be guilty of an offence.
- (8) In exercising his functions under this Act at any mine of coal, stratified ironstone, shale or fire-clay, an inspector shall so exercise those functions as not to impede or obstruct the working of the mine.
- (9) Nothing in this Act shall authorise any inspector to stop any vehicle on a highway.

80 Obstruction of inspectors.

Any person who wilfully obstructs an inspector acting in pursuance of this Act shall be guilty of an offence.

81 Failure to provide assistance or information.

- (1) Any person who—
- (a) wilfully fails to comply with any requirement properly made of him by an inspector under section 38, 39 or 40 above, or
 - (b) without reasonable cause fails to give to any inspector acting in pursuance of this Act any other assistance or information which the inspector may reasonably require of him for the purposes of the performance by the inspector of his functions under Part II, III, IV or VI of this Act or under this Part of this Act,
- shall be guilty of an offence.

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- (2) If any person, in giving to an inspector any such information as is mentioned in subsection (1) above, gives any information which he knows to be false, he shall be guilty of an offence.
- (3) Nothing in this section shall be construed as requiring a person to answer any question or give any information if to do so might incriminate him.
- (4) Subsection (1) of section 14 of the ^{M12}Civil Evidence Act 1968 (which relates to the privilege against self-incrimination) shall apply to the right conferred by subsection (3) above as it applies to the right described in subsection (1) of that section; but this subsection does not extend to Scotland.

Marginal Citations

M12 1968 c. 64.

82 Offences by corporations.

- (1) Where an offence under, or under any instrument made under, this Act which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any such capacity, he as well as the body corporate shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.
- (2) In subsection (1) above “director” in relation to any body corporate established by or under any enactment for the purpose of carrying on under national ownership any industry or part of an industry or undertaking, being a body corporate whose affairs are managed by its members, means a member of that body corporate.

83 Prosecution of offences.

- (1) Subject to subsection (2) below, in England and Wales, proceedings for any offence under this Act or any instrument made under this Act, other than proceedings for an offence under section 64, shall not be instituted except by or on behalf of a local weights and measures authority or the chief officer of police for a police area.
- (2) Proceedings for an offence under section 57(2)

above shall not be instituted in England or Wales except by or on behalf of the Director of Public Prosecutions or the National Metrological Co-ordinating Unit.
- (3) Proceedings for an offence under any provision contained in, or having effect by virtue of, Part IV or V of this Act, other than proceedings for an offence under section 33(6), 57(2) or 64 or proceedings by virtue of section 32, shall not be instituted—
 - (a) unless there has been served on the person charged a notice in writing of the date and nature of the offence alleged and, except in the case of an offence under section 50, 54 or 63 or Schedule 8, where the proceedings are in respect of one or more of a number of articles of the same kind tested on the same occasion, of the results of the tests of all those articles; or
 - (b) except where the person charged is a street trader, unless the said notice was served before the expiration of the period of thirty days beginning with the

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date when evidence which the person proposing to institute the proceedings considers is sufficient to justify a prosecution for the offence came to his knowledge; or

- (c) after the expiration of the period—
 - (i) of twelve months beginning with the date mentioned in paragraph (a) above, or
 - (ii) of three months beginning with the date mentioned in paragraph (b) above,

whichever first occurs.

- (4) Such a notice as is mentioned in subsection (3)(a) above may be served on any person either by serving it on him personally or by sending it to him by post at his usual or last known residence or place of business in the United Kingdom or, in the case of a company, at the company's registered office.
- (5) For the purposes of subsection (3) above—
 - (a) a certificate of a person who institutes proceedings for an offence mentioned in that subsection which states that evidence came to his knowledge on a particular date shall be conclusive evidence of that fact; and
 - (b) a document purporting to be a certificate of such a person and to be signed by him or on his behalf shall be presumed to be such a certificate unless the contrary is proved.

84 Penalties.

- (1) A person guilty of an offence under any of the provisions of this Act specified in subsection (2) below shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (2) The provisions of this Act to which subsection (1) above refers are—
 - section 8(4);
 - section 9(4);
 - section 10(2);
 - section 11(3);
 - section 11(14);
 - section 13(1);
 - section 13(2);
 - section 13(3);
 - section 14(3);
 - section 14(5);
 - section 15(3);
 - section 15(5);
 - section 18(3);
 - section 20(2);
 - section 20(4);
 - section 20(7);
 - section 20(8);
 - paragraphs 4 and 5 of Schedule 4;
 - paragraph 28(3) of Schedule 5.

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- (3) A person guilty of an offence under paragraph 24(4) of Schedule 5 to this Act shall be liable on summary conviction to a fine not exceeding £2,000.
- (4) A person guilty of an offence—
 - (a) under section 17(3), 20(3)(b) or 50(2), (3) or (4) above, or
 - (b) under paragraph 10 of Schedule 5 to this Act,shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale or to imprisonment for a term not exceeding six months or to both.
- (5) A person guilty of an offence under section 64 or 79(7) above shall be liable, on summary conviction, to a fine not exceeding the statutory maximum and, on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both.
- (6) A person guilty of an offence under any provision of this Act other than those mentioned in subsections (1) to (5) above shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (7) The Secretary of State may by order alter the penalty imposed by subsection (3) above but such an order shall not impose any penalty exceeding that provided by subsection (6) above.

85 Determination of certain questions by Secretary of State.

- (1) Where in any proceedings for an offence under this Act or any instrument made under it, except proceedings for an offence under Part V or any instrument made under that Part, any question arises as to the accuracy of any weighing or measuring equipment, the court shall at the request of any party to the proceedings, and may if it thinks fit without any such request, refer the question to the Secretary of State, whose decision shall be final.
- (2) Except where in any particular proceedings the Secretary of State waives his rights under this subsection, any expenses incurred by the Secretary of State in making any test for the purpose of determining any question referred to him under subsection (1) above shall be paid by such of the parties to the proceedings as the court may by order direct.

Miscellaneous and supplementary

86 Regulations and orders.

- (1) Any power to make orders or regulations conferred on the Secretary of State by this Act shall be exercisable by statutory instrument, and any such order or regulations may make different provision for different circumstances.
- (2) Before making—
 - (a) an order under any provision of this Act except section 11(16), ^{F39} . . . 62, 69(4) or 94(2) or paragraph 7 of Schedule 11, or
 - (b) regulations under section 9 or Part V of this Act,

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the Secretary of State shall consult such organisations as appear to him to be representative of interests substantially affected by the order or regulations.

- (3) In the case of an order made under section 1(3) or 8(6) above which relates to imperial units, measures or weights, the Secretary of State in acting under subsection (2) above shall have particular regard to the need to consult organisations representative of the interests of consumers.
- (4) Before making an order under section 62 above, the Secretary of State shall consult an organisation which in his opinion represents such local authorities (within the meaning of section 55(3) above) as he considers appropriate in connection with the proposal.
- (5) An order under any provision of this Act except section 11(16), ^{F39} . . . 69(4) or 94(2) or paragraph 7 of Schedule 11 shall not be made unless a draft of the order has been laid before, and approved by a resolution of, each House of Parliament.
- (6) Any statutory instrument containing regulations made under this Act shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Textual Amendments

F39 Words in s. 86(2)(a)(5) repealed (1.1.1996) by 1994 c. 40, s. 81, **Sch. 17**; S.I. 1995/2835, **art. 2**

87 Secretary of State to report to Parliament.

The Secretary of State shall from time to time, and in any event not less than once in every five years, lay before each House of Parliament a report on the exercise of his functions under this Act, except Part V.

88 Application to Crown.

- (1) Her Majesty may by Order in Council provide for the application to the Crown of such of the provisions of this Act or of any instrument made under it as may be specified in the Order, with such exceptions, adaptations and modifications as may be so specified.
- (2) Without prejudice to the generality of subsection (1) above, an Order in Council under this section may make special provision for the enforcement of any provisions applied by the Order, and, in particular, as to the person liable to be proceeded against for any offence under any such provision.
- (3) A statutory instrument containing an Order in Council made under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

89 Saving for use of certain units in wholesale transactions.

- (1) Except as the Secretary of State may by order otherwise provide, and subject to subsection (2) below, nothing in this Act shall make unlawful the use in any transaction, by agreement between the parties to that transaction, of any unit of measurement which—
 - (a) was customarily used for trade in the like transactions immediately before 31st July 1963, and
 - (b) is not inconsistent with anything for the time being contained in Schedule 1 to this Act,

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notwithstanding that the unit in question is not included in Parts I to V of that schedule.

- (2) Subsection (1) above shall not apply in relation to—
- (a) any retail transaction, or
 - (b) any transaction with respect to which provision to the contrary effect is made by or under Part IV of this Act.

90 Saving for certain rights in City of London.

- (1) Subject to subsection (2) below, nothing in this Act shall affect any rights of the mayor and commonalty and citizens of the City of London or of the Lord Mayor of the City of London for the time being with respect to the stamping or sealing of weights and measures, or with respect to the gauging of wine or oil or other gaugeable liquors.
- (2) A person using weighing or measuring equipment within the City of London shall not be required to have that equipment passed or stamped by more than one authority.

91 Validity of contracts.

No contract for the sale or carriage for reward of any goods shall be void by reason only of a contravention of any provision contained in or made under this Act with respect to any document which is, or is required by that provision to be, associated with the goods.

92 Spelling of “gram”, etc.

No provision contained in or made under this or any other Act prevents the use of “gram” or “gramme” as alternative ways of spelling that unit, and the same applies for other units in the metric system which are compounds of “gram”.

93 Powers under other Acts with respect to marking of food.

Any power to make provision by statutory instrument with respect to the marking of any food which is conferred on any person other than the Secretary of State by any Act passed before 31st July 1963 or by the ^{F40}Food Safety Act 1990 shall not extend to the marking of such food with a statement of its quantity by weight or other measurement or by number.

Textual Amendments

F40 Words substituted by [Food Safety Act 1990 \(c.16, SIF 53:1, 2\), s. 59\(1\), Sch. 3 para. 34](#)

94 General interpretation.

- (1) Except where the context otherwise requires, in this Act—
- “capacity measurement” means measurement in terms of a unit of measurement included in Part IV of Schedule 1 to this Act;
 - “check-weighed”, in relation to any vehicle, means weighed with its load by means of the nearest suitable and available weighing equipment, and weighed again after it has been unloaded by means of the same or other suitable weighing equipment;

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“chief inspector” means a chief inspector of weights and measures appointed under section 72(1) above;

“container” except in Part V, includes any form of packaging of goods for sale as a single item, whether by way of wholly or partly enclosing the goods or by way of attaching the goods to, or winding the goods round, some other article, and in particular includes a wrapper or confining band;

“contravention”, in relation to any requirement, includes a failure to comply with that requirement, and cognate expressions shall be construed accordingly;

“credentials”, in relation to an inspector, means authority in writing from the local weights and measures authority who appointed him for the exercise by that inspector of powers conferred on inspectors by this Act:

“Department of Trade and Industry standards” means the secondary, tertiary and coinage standards maintained by the Secretary of State under section 3 above;

“drugs” and “food” have the same meanings respectively as for the purposes of the [F41 Food Safety Act 1990];

“gross weight”, in relation to any goods, means the aggregate weight of the goods and any container in or on which they are made up;

“indication of quantity”, in relation to any container in or on which goods are made up, means a statement in writing to the effect that those goods are of, or of not less than, a specified quantity by net weight, gross weight or other measurement or by number, as the case may require;

“industrial use”, in relation to any goods, means the use of those goods in the manufacture of, or for incorporation in, goods of a different description in the course of the carrying on of a business;

“inspector” means an inspector of weights and measures appointed under section 72(1) above;

“intoxicating liquor” means spirits, beer, wine, made-wine or cider as defined in section 1 of the M13 Alcoholic Liquor Duties Act 1979;

“local standard” means a standard maintained under section 4 above;

“mark” includes label;

“occupier”, in relation to any stall, vehicle, ship or aircraft or in relation to the use of any place for any purpose, means the person for the time being in charge of the stall, vehicle, ship or aircraft or, as the case may be, the person for the time being using that place for that purpose;

“premises”, except in section 45 above, includes any place and any stall, vehicle, ship or aircraft;

“pre-packed” means made up in advance ready for retail sale in or on a container;

“prescribed” means prescribed by the Secretary of State by regulations;

“secondary standard” means a standard maintained under section 3(2) above;

“ship” includes any boat and any other description of vessel used in navigation;

“stamp” means a mark for use as evidence of the passing of weighing or measuring equipment as fit for use for trade, whether applied by impressing, casting, engraving, etching, branding, or otherwise, and cognate expressions shall be construed accordingly;

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F42 . . .
F42 . . .

“tertiary standard” means a standard maintained under section 3(3) above;
“testing equipment” means testing equipment maintained under section 5 above;

“United Kingdom primary standard” means a standard maintained under section 2 above;

“use for trade” shall be construed in accordance with section 7 above;

“weighing or measuring equipment” means equipment for measuring in terms of length, area, volume, capacity, weight or number, whether or not the equipment is constructed to give an indication of the measurement made or other information determined by reference to that measurement;

“working standard” means a standard maintained under section 5 above.

(2) In any provision of this Act “designated country” means such, if any, of the following, that is to say, Northern Ireland, any of the Channel Islands and the Isle of Man, as the Secretary of State, having regard to the law for the time being in force there, thinks it proper to designate for the purposes of that provision by order.

(3) On any premises where articles of any description are—

(a) made up in advance ready for retail sale in or on a container, or

(b) kept or stored for sale after being so made up,

any article of that description found made up in or on a container shall be deemed to be pre-packed unless the contrary is proved; and it shall not be sufficient proof of the contrary to show that the container has not been marked in accordance with the requirements of this Act or any instrument made under it with respect to the pre-packing of such articles.

(4) Except where the context otherwise requires, any reference in this Act to any person, other than a reference to an inspector, shall be construed as a reference to that person or some other person acting on his behalf in the matter in question.

Textual Amendments

F41 Words substituted by [Food Safety Act 1990 \(c.16, SIF 53:1, 2\)](#), s. 59(1), [Sch. 3 para. 34](#)

F42 Definitions of "standard scale" and "statutory maximum" in s. 94(1) repealed (5.11.1993) by [1993 c. 50, s. 1\(1\)](#), [Sch. 1 Pt. XIV](#)

Marginal Citations

M13 [1979 c. 4](#).

95 Application to Northern Ireland.

Schedule 10 to this Act shall have effect in relation to Northern Ireland but, except as provided in that Schedule, this Act shall not extend to Northern Ireland.

96 Transitional provisions and savings.

(1) Schedule 11 to this Act (which contains transitional provisions and savings) shall have effect.

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(2) The re-enactment—

- (a) in section 84(3) of, and Part IV of Schedule 5 to, this Act, of provisions contained in the ^{M14}Weights and Measures (Solid Fuel) (Carriage by Rail) Order 1966, and
- (b) in paragraphs 12 to 17, 22 and 25 of Schedule 11 to this Act, of provisions contained in the ^{M15}Units of Measurement Regulations 1978 and the ^{M16}Units of Measurement Regulations 1980,

shall be without prejudice to the validity of those provisions; and any question as to the validity of any of those provisions shall be determined as if the re-enacting provision of this Act were contained in a statutory instrument made under the powers under which the original provision was made.

- (3) The provisions of Schedule 11 to this Act are without prejudice to the operation of sections 16 and 17 of the ^{M17}Interpretation Act 1978 (which relate to the effect of repeals).

Marginal Citations

- M14** S.I. 1966/238.
- M15** S.I. 1978/484.
- M16** S.I. 1980/1070.
- M17** 1978 c. 30.

97 Consequential amendments.

Schedule 12 to this Act shall have effect.

98 Repeals and revocations.

- (1) The enactments specified in Part I of Schedule 13 to this Act are hereby repealed to the extent specified in the third column of that Schedule.
- (2) The instruments specified in Part II of Schedule 13 to this Act are hereby revoked to the extent specified in the third column of that Schedule.

99 Short title and commencement.

- (1) This Act may be cited as the Weights and Measures Act 1985.
- (2) ^{F43} . . . this Act shall come into force at the end of the period of three months beginning with the day on which it is passed.

Textual Amendments

- F43** Words in s. 99(2) repealed (1.1.1996) by 1994 c. 40, s. 81, **Sch. 17**; S.I. 1995/2835, **art. 2**

Status:

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Changes to legislation:

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