



Weights and Measures Act 1985

1985 CHAPTER 72

PART IV

REGULATION OF TRANSACTIONS IN GOODS

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 [^{F1}or the FIC Regulation] 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 [^{F2}or the FIC Regulation] 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 [^{F3}or the FIC Regulation] to be made for sale only in particular quantities, or

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- (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—
 - (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 [^{F4}or the FIC Regulation] 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 reseat it with a label certifying that all such requirements have been complied with, and
 - (b) if he does not so reseat 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)

F5

Textual Amendments	
F1	Words in s. 38(1)(b) inserted (13.12.2014) by The Weights and Measures (Food) (Amendment) Regulations 2014 (S.I. 2014/2975) , regs. 1, 9
F2	Words in s. 38(1)(c)(i) inserted (13.12.2014) by The Weights and Measures (Food) (Amendment) Regulations 2014 (S.I. 2014/2975) , regs. 1, 9
F3	Words in s. 38(1)(c)(iii) inserted (13.12.2014) by The Weights and Measures (Food) (Amendment) Regulations 2014 (S.I. 2014/2975) , regs. 1, 9
F4	Words in s. 38(3) inserted (13.12.2014) by The Weights and Measures (Food) (Amendment) Regulations 2014 (S.I. 2014/2975) , regs. 1, 9
F5	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

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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.

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 ^{F6}... and of any instrument made under those provisions are duly observed.

Textual Amendments

- F6** Words in s. 40(3) omitted (6.4.2006) by virtue of [The Weights and Measures \(Packaged Goods\) Regulations 2006 \(S.I. 2006/659\)](#), reg. 1(1), [Sch. 1 Pt. 2\(5\)](#) (with reg. 21)

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