



Weights and Measures Act 1985

1985 CHAPTER 72

PART IV

REGULATION OF TRANSACTIONS IN GOODS

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—

- (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

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Changes to legislation: There are currently no known outstanding effects for the Weights and Measures Act 1985, Section 33. (See end of Document for details)

- (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.
- (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.

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