



# Weights and Measures Act 1985

## 1985 CHAPTER 72

### 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 any 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 are on any premises, or that any offence under this Act or any instrument made

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under it (except an 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 other 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 workplace 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.

- (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 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.

## **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 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—

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- (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.
- (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), 43(2), 62, 69(4) or 94(2) or paragraph 7 of Schedule 11, or
  - (b) regulations under section 9 or Part V of this Act,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), 43(2), 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.

### **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,
 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 Food Act 1984 shall not extend to the marking of such food with a statement of its quantity by weight or other measurement or by number.

## **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;

" 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;

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" drugs " and " food " have the same meanings respectively as for the purposes of the Food Act 1984 or, in Scotland, the Food and Drugs (Scotland) Act 1956 ;

" 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 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 ;

" standard scale " has the meaning given by section 75 of the Criminal Justice Act 1982 ;

" statutory maximum " has the meaning given by section 74 of that Act;

" 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.

## **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.
- (2) The re-enactment—
  - (a) in section 84(3) of, and Part IV of Schedule 5 to, this Act, of provisions contained in the 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 Units of Measurement Regulations 1978 and the 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 Interpretation Act 1978 (which relate to the effect of repeals).

## **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.

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- (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) Except as provided by section 43(2) above, this Act shall come into force at the end of the period of three months beginning with the day on which it is passed.