



Consumer Protection Act 1987

1987 CHAPTER 43

PART IV

ENFORCEMENT OF PARTS II AND III

27 Enforcement

- (1) Subject to the following provisions of this section—
 - (a) it shall be the duty of every weights and measures authority in Great Britain to enforce within their area the safety provisions and the provisions made by or under Part III of this Act; and
 - (b) it shall be the duty of every district council in Northern Ireland to enforce within their area the safety provisions.
- (2) The Secretary of State may by regulations—
 - (a) wholly or partly transfer any duty imposed by subsection (1) above on a weights and measures authority or a district council in Northern Ireland to such other person who has agreed to the transfer as is specified in the regulations;
 - (b) relieve such an authority or council of any such duty so far as it is exercisable in relation to such goods as may be described in the regulations.
- (3) The power to make regulations under subsection (2) above shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament and shall include power—
 - (a) to make different provision for different cases; and
 - (b) to make such supplemental, consequential and transitional provision as the Secretary of State considers appropriate.
- (4) Nothing in this section shall authorise any weights and measures authority, or any person on whom functions are conferred by regulations under subsection (2) above, to bring proceedings in Scotland for an offence.

28 Test purchases

- (1) An enforcement authority shall have power, for the purpose of ascertaining whether any safety provision or any provision made by or under Part III of this Act has been contravened in relation to any goods, services, accommodation or facilities—
 - (a) to make, or to authorise an officer of the authority to make, any purchase of any goods; or
 - (b) to secure, or to authorise an officer of the authority to secure, the provision of any services, accommodation or facilities.
- (2) Where—
 - (a) any goods purchased under this section by or on behalf of an enforcement authority are submitted to a test; and
 - (b) the test leads to—
 - (i) the bringing of proceedings for an offence in respect of a contravention in relation to the goods of any safety provision or of any provision made by or under Part III of this Act or for the forfeiture of the goods under section 16 or 17 above; or
 - (ii) the serving of a suspension notice in respect of any goods; and
 - (c) the authority is requested to do so and it is practicable for the authority to comply with the request,

the authority shall allow the person from whom the goods were purchased or any person who is a party to the proceedings or has an interest in any goods to which the notice relates to have the goods tested.
- (3) The Secretary of State may by regulations provide that any test of goods purchased under this section by or on behalf of an enforcement authority shall—
 - (a) be carried out at the expense of the authority in a manner and by a person prescribed by or determined under the regulations; or
 - (b) be carried out either as mentioned in paragraph (a) above or by the authority in a manner prescribed by the regulations.
- (4) The power to make regulations under subsection (3) above shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament and shall include power—
 - (a) to make different provision for different cases; and
 - (b) to make such supplemental, consequential and transitional provision as the Secretary of State considers appropriate.
- (5) Nothing in this section shall authorise the acquisition by or on behalf of an enforcement authority of any interest in land.

29 Powers of search etc.

- (1) Subject to the following provisions of this Part, a duly authorised officer of an enforcement authority may at any reasonable hour and on production, if required, of his credentials exercise any of the powers conferred by the following provisions of this section.
- (2) The officer may, for the purpose of ascertaining whether there has been any contravention of any safety provision or of any provision made by or under Part III of this Act, inspect any goods and enter any premises other than premises occupied only as a person's residence.

Status: This is the original version (as it was originally enacted).

- (3) The officer may, for the purpose of ascertaining whether there has been any contravention of any safety provision, examine any procedure (including any arrangements for carrying out a test) connected with the production of any goods.
- (4) If the officer has reasonable grounds for suspecting that any goods are manufactured or imported goods which have not been supplied in the United Kingdom since they were manufactured or imported he may—
 - (a) for the purpose of ascertaining whether there has been any contravention of any safety provision in relation to the goods, require any person carrying on a business, or employed in connection with a business, to produce any records relating to the business;
 - (b) for the purpose of ascertaining (by testing or otherwise) whether there has been any such contravention, seize and detain the goods;
 - (c) take copies of, or of any entry in, any records produced by virtue of paragraph (a) above.
- (5) If the officer has reasonable grounds for suspecting that there has been a contravention in relation to any goods of any safety provision or of any provision made by or under Part III of this Act, he may—
 - (a) for the purpose of ascertaining whether there has been any such contravention, require any person carrying on a business, or employed in connection with a business, to produce any records relating to the business;
 - (b) for the purpose of ascertaining (by testing or otherwise) whether there has been any such contravention, seize and detain the goods;
 - (c) take copies of, or of any entry in, any records produced by virtue of paragraph (a) above.
- (6) The officer may seize and detain—
 - (a) any goods or records which he has reasonable grounds for believing may be required as evidence in proceedings for an offence in respect of a contravention of any safety provision or of any provision made by or under Part III of this Act;
 - (b) any goods which he has reasonable grounds for suspecting may be liable to be forfeited under section 16 or 17 above.
- (7) If and to the extent that it is reasonably necessary to do so to prevent a contravention of any safety provision or of any provision made by or under Part III of this Act, the officer may, for the purpose of exercising his power under subsection (4), (5) or (6) above to seize any goods or records—
 - (a) require any person having authority to do so to open any container or to open any vending machine; and
 - (b) himself open or break open any such container or machine where a requirement made under paragraph (a) above in relation to the container or machine has not been complied with.

30 Provisions supplemental to s. 29

- (1) An officer seizing any goods or records under section 29 above shall inform the following persons that the goods or records have been so seized, that is to say—
 - (a) the person from whom they are seized; and

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- (b) in the case of imported goods seized on any premises under the control of the Commissioners of Customs and Excise, the importer of those goods (within the meaning of the Customs and Excise Management Act 1979).
- (2) If a justice of the peace—
- (a) is satisfied by any written information on oath that there are reasonable grounds for believing either—
 - (i) that any goods or records which any officer has power to inspect under section 29 above are on any premises and that their inspection is likely to disclose evidence that there has been a contravention of any safety provision or of any provision made by or under Part III of this Act; or
 - (ii) that such a contravention has taken place, is taking place or is about to take place on any premises; and
 - (b) is also satisfied by any such information either—
 - (i) that admission to the premises has been or is likely to be refused and that notice of intention to apply for a warrant under this subsection 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 premises are unoccupied or that the occupier is temporarily absent and it might defeat the object of the entry to await his return,

the justice may by warrant under his hand, which shall continue in force for a period of one month, authorise any officer of an enforcement authority to enter the premises, if need be by force.
- (3) An officer entering any premises by virtue of section 29 above or a warrant under subsection (2) above may take with him such other persons and such equipment as may appear to him necessary.
- (4) On leaving any premises which a person is authorised to enter by a warrant under subsection (2) above, that person shall, if the premises are unoccupied or the occupier is temporarily absent, leave the premises as effectively secured against trespassers as he found them.
- (5) If any person who is not an officer of an enforcement authority purports to act as such under section 29 above or this section he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (6) Where any goods seized by an officer under section 29 above are submitted to a test, the officer shall inform the persons mentioned in subsection (1) above of the result of the test and, if—
- (a) proceedings are brought for an offence in respect of a contravention in relation to the goods of any safety provision or of any provision made by or under Part III of this Act or for the forfeiture of the goods under section 16 or 17 above, or a suspension notice is served in respect of any goods; and
 - (b) the officer is requested to do so and it is practicable to comply with the request, the officer shall allow any person who is a party to the proceedings or, as the case may be, has an interest in the goods to which the notice relates to have the goods tested.
- (7) The Secretary of State may by regulations provide that any test of goods seized under section 29 above by an officer of an enforcement authority shall—
- (a) be carried out at the expense of the authority in a manner and by a person prescribed by or determined under the regulations; or

- (b) be carried out either as mentioned in paragraph (a) above or by the authority in a manner prescribed by the regulations.
- (8) The power to make regulations under subsection (7) above shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament and shall include power—
 - (a) to make different provision for different cases; and
 - (b) to make such supplemental, consequential and transitional provision as the Secretary of State considers appropriate.
- (9) In the application of this section to Scotland, the reference in subsection (2) above to a justice of the peace shall include a reference to a sheriff and the references to written information on oath shall be construed as references to evidence on oath.
- (10) In the application of this section to Northern Ireland, the references in subsection (2) above to any information on oath shall be construed as references to any complaint on oath.

31 Power of customs officer to detain goods

- (1) A customs officer may, for the purpose of facilitating the exercise by an enforcement authority or officer of such an authority of any functions conferred on the authority or officer by or under Part II of this Act, or by or under this Part in its application for the purposes of the safety provisions, seize any imported goods and detain them for not more than two working days.
- (2) Anything seized and detained under this section shall be dealt with during the period of its detention in such manner as the Commissioners of Customs and Excise may direct.
- (3) In subsection (1) above the reference to two working days is a reference to a period of forty-eight hours calculated from the time when the goods in question are seized but disregarding so much of any period as falls on a Saturday or Sunday or on Christmas Day, Good Friday or a day which is a bank holiday under the Banking and Financial Dealings Act 1971 in the part of the United Kingdom where the goods are seized.
- (4) In this section and section 32 below "customs officer" means any officer within the meaning of the Customs and Excise Management Act 1979.

32 Obstruction of authorised officer

- (1) Any person who—
 - (a) intentionally obstructs any officer of an enforcement authority who is acting in pursuance of any provision of this Part or any customs officer who is so acting; or
 - (b) intentionally fails to comply with any requirement made of him by any officer of an enforcement authority under any provision of this Part; or
 - (c) without reasonable cause fails to give any officer of an enforcement authority who is so acting any other assistance or information which the officer may reasonably require of him for the purposes of the exercise of the officer's functions under any provision of this Part,

shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

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- (2) A person shall be guilty of an offence if, in giving any information which is required of him by virtue of subsection (1)(c) above—
 - (a) he makes any statement which he knows is false in a material particular; or
 - (b) he recklessly makes a statement which is false in a material particular.
- (3) A person guilty of an offence under subsection (2) above shall be liable—
 - (a) on conviction on indictment, to a fine;
 - (b) on summary conviction, to a fine not exceeding the statutory maximum.

33 Appeals against detention of goods

- (1) Any person having an interest in any goods which are for the time being detained under any provision of this Part by an enforcement authority or by an officer of such an authority may apply for an order requiring the goods to be released to him or to another person.
- (2) An application under this section may be made—
 - (a) to any magistrates' court in which proceedings have been brought in England and Wales or Northern Ireland—
 - (i) for an offence in respect of a contravention in relation to the goods of any safety provision or of any provision made by or under Part III of this Act; or
 - (ii) for the forfeiture of the goods under section 16 above;
 - (b) where no such proceedings have been so brought, by way of complaint to a magistrates' court; or
 - (c) in Scotland, by summary application to the sheriff.
- (3) On an application under this section to a magistrates' court or to the sheriff, an order requiring goods to be released shall be made only if the court or sheriff is satisfied—
 - (a) that proceedings—
 - (i) for an offence in respect of a contravention in relation to the goods of any safety provision or of any provision made by or under Part III of this Act; or
 - (ii) for the forfeiture of the goods under section 16 or 17 above,
 have not been brought or, having been brought, have been concluded without the goods being forfeited; and
 - (b) where no such proceedings have been brought, that more than six months have elapsed since the goods were seized.
- (4) Any person aggrieved by an order made under this section by a magistrates' court in England and Wales or Northern Ireland, or by a decision of such a court not to make such an order, may appeal against that order or decision—
 - (a) in England and Wales, to the Crown Court;
 - (b) in Northern Ireland, to the county court;

and an order so made may contain such provision as appears to the court to be appropriate for delaying the coming into force of the order pending the making and determination of any appeal (including any application under section 111 of the Magistrates' Courts Act 1980 or Article 146 of the Magistrates' Courts (Northern Ireland) Order 1981 (statement of case)).

34 Compensation for seizure and detention

- (1) Where an officer of an enforcement authority exercises any power under section 29 above to seize and detain goods, the enforcement authority shall be liable to pay compensation to any person having an interest in the goods in respect of any loss or damage caused by reason of the exercise of the power if—
 - (a) there has been no contravention in relation to the goods of any safety provision or of any provision made by or under Part III of this Act; and
 - (b) the exercise of the power is not attributable to any neglect or default by that person.
- (2) Any disputed question as to the right to or the amount of any compensation payable under this section shall be determined by arbitration or, in Scotland, by a single arbiter appointed, failing agreement between the parties, by the sheriff.

35 Recovery of expenses of enforcement

- (1) This section shall apply where a court—
 - (a) convicts a person of an offence in respect of a contravention in relation to any goods of any safety provision or of any provision made by or under Part III of this Act; or
 - (b) makes an order under section 16 or 17 above for the forfeiture of any goods.
- (2) The court may (in addition to any other order it may make as to costs or expenses) order the person convicted or, as the case may be, any person having an interest in the goods to reimburse an enforcement authority for any expenditure which has been or may be incurred by that authority—
 - (a) in connection with any seizure or detention of the goods by or on behalf of the authority; or
 - (b) in connection with any compliance by the authority with directions given by the court for the purposes of any order for the forfeiture of the goods.