



Horticulture Act (Northern Ireland) 1966

1966 CHAPTER 15

PART I

FRESH HORTICULTURAL PRODUCE

GRADING OF PRODUCE

5 Pleading of warranty as defence.

- (1) Subject to the provisions of this section, where in proceedings for an offence in relation to any produce under [^{F1} section 3(1)(2)(5) or (6)] it would have been a defence for the person charged to prove that the produce conformed to a prescribed grade, it shall be a defence for him to prove—
 - (a) that he brought or took delivery of the produce as being of a quality falling within that grade, and with a written warranty to that effect; and
 - (b) that at the time of the commission of the offence he had no reason to believe the statement contained in the warranty to be inaccurate, that he then did believe in its accuracy and that he had taken such steps, if any, as were reasonably practicable to check its accuracy; and
 - (c) that he took all reasonable steps to ensure that the quality of the produce was the same at the time of the commission of the offence as when it left the possession of the person from whom the warranty was received.
- (2) Where the proceedings are in respect of an offence committed by the person charged in the course of his employment, it shall be a defence for him to prove—
 - (a) that if his employer had been charged the employer would have had a defence under subsection (1) in respect of a warranty; and
 - (b) that at the time of the commission of the offence the person charged had no reason to believe the statement contained in the warranty to be inaccurate.
- (3) Where the person charged intends to set up a defence under this section he shall, not later than three days before the date of the hearing,—

*Changes to legislation: There are currently no known outstanding effects for the
Horticulture Act (Northern Ireland) 1966, Section 5. (See end of Document for details)*

- (a) send 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 by whom it is alleged to have been given; and
 - (b) send to the last-mentioned person a notice giving the date and place of the hearing and stating that he intends to rely on the warranty.
- (4) The person by whom the warranty is alleged to have been given shall be entitled to appear at the hearing and give evidence.
- (5) If the person charged in any such proceedings as aforesaid wilfully attributes to any produce a warranty given in relation to any goods not including that produce, he shall be guilty of an offence.
- ^{F1}(6) For the purposes of this section any grade or standard of quality entered in an invoice or certificate relating to any produce or indicated by a label affixed to the produce or a package or freight container containing the produce shall be deemed to be a written warranty that the produce conforms to the standard of quality so entered or indicated.]

F1 SRO (NI) 1973/19

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