



Weights and Measures Act 1985

1985 CHAPTER 72

PART V

PACKAGED GOODS

Enforcement of control

50 Offences, etc.

- (1) A person who fails to perform a duty imposed on him by section 47, 48 or 49 above shall be guilty of an offence.
- (2) If a person purports to comply with his duty under—
 - (a) sub-paragraph (ii) of subsection (1)(b) of section 49 above, or
 - (b) that sub-paragraph as applied by subsection (2)(a) of that section,by making a record which he knows is false in a material particular, he shall be guilty of an offence.
- (3) If a person purports to comply with his duty under section 49 (2)(b) above by reference to a document containing information which he knows is false in a material particular, he shall be guilty of an offence.
- (4) If a person, with intent to deceive, alters—
 - (a) any record kept for the purposes of section 48(2) or 49(1)(b)(ii) above or section 49(1)(b)(ii) above as applied by section 49(2)(a) above, or
 - (b) any document kept for the purposes of section 49 (2)(b) above,he shall be guilty of an offence.
- (5) If a person has in his possession for sale, agrees to sell or sells a regulated package which is inadequate and either—
 - (a) he is the packer or importer of the package, or
 - (b) he knows that the package is inadequate,he shall be guilty of an offence.

- (6) If the packer of a regulated package which is inadequate and which was made up by him in the course of carrying out arrangements with another person for the packer to make up packages delivers the package to or to the order of a person to whom it falls to be delivered in pursuance of the arrangements, the packer shall be guilty of an offence.
- (7) No action shall lie in respect of a failure to perform a duty imposed by section 47, 48 or 49 above.

51 Defences to certain charges under section 50

- (1) Where a person is charged with an offence under section 50(1) above of failing to perform the duty imposed on him by section 47(1) above in respect of any packages, it shall be a defence to prove that the test in question took place when the packages were not in his possession and by reference to a nominal quantity which was not on the packages when they were in his possession.
- (2) Where the importer of packages is charged with an offence under section 50(1) above of failing to perform the duty imposed on him by section 47(1) above in respect of the packages, it shall be a defence to prove—
- (a) that in respect of the packages the accused performed the duty imposed on him by paragraph (b) of section 49(2) above, and
 - (b) that within the prescribed period after obtaining the documents mentioned in that paragraph relating to the packages he took all reasonable steps to verify the information contained in the documents and that when the relevant test in pursuance of section 47(1) above began he believed and had no reason to disbelieve that the information was true, and
 - (c) that before the beginning of the period of seven days ending with the date when the hearing of the charge began he served on the prosecutor a copy of the said documents and a notice which stated that the accused intended to rely on them in proving a defence under this subsection, and
 - (d) that he took all reasonable steps to ensure that the quantity of goods in each of the packages did not alter while the packages were in his possession.
- (3) Where a person is charged with an offence under section 50(1) above of failing to perform the duty imposed on him by paragraph (b) of section 48(1) above in respect of a package, it shall be a defence to prove—
- (a) that the container included in the package was marked at the time and in the manner mentioned in that subsection with a mark as to which he had, before that time, given notice to an inspector stating that the mark indicated a name and address specified in the notice, and
 - (b) that at that time the name and address were such as are mentioned in relation to him in that paragraph.
- (4) Where a person is charged with—
- (a) an offence under subsection (1) of section 50 above, or
 - (b) an offence alleged to have been committed by him, as the packer or importer of a package, under subsection (5) or (6) of that section,
- it shall be a defence to prove that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.

52 Enforcement of Part V by local weights and measures authority

- (1) It shall be the duty of a local weights and measures authority to enforce the provisions of this Part of this Act within the area of the authority.
- (2) Nothing in subsection (1) above authorises a local weights and measures authority to institute proceedings in Scotland for an offence.

53 Powers of inspectors and local weights and measures authority under Part V

Schedule 8 to this Act shall have effect.