



Weights and Measures Act 1985

1985 CHAPTER 72

PART IV

REGULATION OF TRANSACTIONS IN GOODS

Defences

35 Subsequent deficiency.

- (1) This subsection applies to any proceedings for an offence under this Part of this Act, or any instrument made under this Part, by reason of the quantity—
- (a) of any goods made up for sale or for delivery after sale (whether by way of pre-packing or otherwise) in or on a container marked with an indication of quantity.
 - (b) of any goods which, in connection with their sale or an agreement for their sale, have associated with them a document purporting to state the quantity of the goods, or
 - (c) of any goods required by or under this Part of this Act to be pre-packed, or to be otherwise made up in or on a container for sale or for delivery after sale, or to be made for sale, only in particular quantities,
- being less than that marked on the container or stated in the document in question or than the relevant particular quantity, as the case may be.
- (2) In any proceedings to which subsection (1) above applies, it shall be a defence for the person charged to prove that the deficiency arose—
- (a) in a case falling within paragraph (a) of subsection (1) above, after the making up of the goods and the marking of the container,
 - (b) in a case falling within paragraph (b) of that subsection, after the preparation of the goods for delivery in pursuance of the sale or agreement and after the completion of the document,
 - (c) in a case falling within paragraph (c) of that subsection, after the making up or making, as the case may be, of the goods for sale,

Changes to legislation: There are currently no known outstanding effects for the Weights and Measures Act 1985, Section 35. (See end of Document for details)

and was attributable wholly to factors for which reasonable allowance was made in stating the quantity of the goods in the marking or document or in making up or making the goods for sale, as the case may be.

- (3) In the case of a sale by retail of food, other than food pre-packed in a container which is, or is required by or under this Part of this Act [^{F1}or the FIC Regulation] to be, marked with an indication of quantity, in any proceedings for an offence under this Part of this Act or any instrument made under this Part, by reason of the quantity delivered to the buyer being less than that purported to be sold, it shall be a defence for the person charged to prove that the deficiency was due wholly to unavoidable evaporation or drainage since the sale and that due care and precaution were taken to minimise any such evaporation or drainage.
- (4) If in any proceedings for an offence under this Part of this Act or any instrument made under this Part, being an offence in respect of any deficiency in the quantity of any goods sold, it is shown that between the sale and the discovery of the deficiency the goods were with the consent of the buyer subjected to treatment which could result in a reduction in the quantity of those goods for delivery to, or to any person nominated in that behalf by, the buyer, the person charged shall not be found guilty of that offence unless it is shown that the deficiency cannot be accounted for by the subjecting of the goods to that treatment.

Textual Amendments

- F1** Words in s. 35(3) inserted (13.12.2014) by [The Weights and Measures \(Food\) \(Amendment\) Regulations 2014 \(S.I. 2014/2975\)](#), regs. 1, 7

Changes to legislation:

There are currently no known outstanding effects for the Weights and Measures Act 1985, Section 35.