



Weights and Measures Act 1985

1985 CHAPTER 72

PART IV

REGULATION OF TRANSACTIONS IN GOODS

Defences

37 Provisions as to testing.

- (1) If proceedings for an offence under this Part of this Act, or any instrument made under this Part, in respect of any deficiency or excess in the quantity—
- (a) of any goods made up for sale (whether by way of pre-packing or otherwise) in or on a container marked with an indication of quantity, or
 - (b) of any goods which have been pre-packed or otherwise made up in or on a container for sale or for delivery after sale, or which have been made for sale, and which are required by or under this Part of this Act [^{F1}or the FIC Regulation] to be pre-packed, or to be otherwise so made up, or to be so made, as the case may be, only in particular quantities,
- are brought with respect to any article, and it is proved that, at the time and place at which that article was tested, other articles of the same kind, being articles which, or articles containing goods which, had been sold by the person charged or were in that person's possession for sale or for delivery after sale, were available for testing, the person charged shall not be convicted of such an offence with respect to that article unless a reasonable number of those other articles was also tested.
- (2) In any proceedings for such an offence as is mentioned in subsection (1) above, the court—
- (a) if the proceedings are with respect to one or more of a number of articles tested on the same occasion, shall have regard to the average quantity in all the articles tested,
 - (b) if the proceedings are with respect to a single article, shall disregard any inconsiderable deficiency or excess, and
 - (c) shall have regard generally to all the circumstances of the case.

Changes to legislation: There are currently no known outstanding effects for the Weights and Measures Act 1985, Section 37. (See end of Document for details)

- (3) Subsections (1) and (2) above shall apply with the necessary modifications to proceedings for an offence in respect of the size, capacity or contents of a container as they apply to proceedings for an offence in respect of the excess or deficiency in the quantity of certain goods.
- (4) Where by virtue of section 32 above a person is charged with an offence with which some other person might have been charged, the reference in subsection (1) above to articles or goods sold by or in the possession of the person charged shall be construed as a reference to articles or goods sold by or in the possession of that other person.

Textual Amendments

- F1** Words in s. 37(1)(b) inserted (13.12.2014) by [The Weights and Measures \(Food\) \(Amendment\) Regulations 2014 \(S.I. 2014/2975\)](#), regs. 1, **8**

Changes to legislation:

There are currently no known outstanding effects for the Weights and Measures Act 1985, Section 37.