

*Status: Point in time view as at 27/06/1991.*

*Changes to legislation: There are currently no known outstanding effects for the Property Misdescriptions Act 1991, SCHEDULE. (See end of Document for details)*

## SCHEDULE **U.K.**

Section 3.

### ENFORCEMENT

#### *Enforcement authority*

- 1 (1) Every local weights and measures authority in Great Britain shall be an enforcement authority for the purposes of this Act, and it shall be the duty of each such authority to enforce the provisions of this Act within their area.
- (2) The Department of Economic Development in Northern Ireland shall be an enforcement authority for the purposes of this Act, and it shall be the duty of the Department to enforce the provisions of this Act within Northern Ireland.

#### *Prosecutions*

- 2 (1) In section 130(1) of the <sup>M1</sup>Fair Trading Act 1973 (notice to Director General of Fair Trading of intended prosecution by local weights and measures authority in England and Wales), after the words “the <sup>M2</sup>Consumer Protection Act 1987,” there shall be inserted the words “ or for an offence under section 1 of, or paragraph 6 of the Schedule to, the Property Misdescriptions Act 1991, ”.
- (2) Nothing in paragraph 1 above shall authorise a local weights and measures authority to bring proceedings in Scotland for an offence.

#### **Marginal Citations**

- M1** 1973 c. 41.  
**M2** 1987 c. 43.

#### *Powers of officers of enforcement authority*

- 3 (1) If a duly authorised officer of an enforcement authority has reasonable grounds for suspecting that an offence under section 1 of this Act has been committed, he may—
  - (a) require a person carrying on or employed in a business to produce any book or document relating to the business, and take copies of it or any entry in it, or
  - (b) require such a person to produce in a visible and legible documentary form any information so relating which is contained in a computer, and take copies of it,for the purpose of ascertaining whether such an offence has been committed.
- (2) Such an officer may inspect any goods for the purpose of ascertaining whether such an offence has been committed.
- (3) If such an officer has reasonable grounds for believing that any documents or goods may be required as evidence in proceedings for such an offence, he may seize and detain them.
- (4) An officer seizing any documents or goods in the exercise of his power under sub-paragraph (3) above shall inform the person from whom they are seized.

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- (5) The powers of an officer under this paragraph may be exercised by him only at a reasonable hour and on production (if required) of his credentials.
- (6) Nothing in this paragraph—
- (a) requires a person to produce a document if he would be entitled to refuse to produce it in proceedings in a court on the ground that it is the subject of legal professional privilege or, in Scotland, that it contains a confidential communication made by or to an advocate or a solicitor in that capacity, or
  - (b) authorises the taking possession of a document which is in the possession of a person who would be so entitled.
- 4 (1) A duly authorised officer of an enforcement authority may, at a reasonable hour and on production (if required) of his credentials, enter any premises for the purpose of ascertaining whether an offence under section 1 of this Act has been committed.
- (2) If a justice of the peace, or in Scotland a justice of the peace or a sheriff, is satisfied—
- (a) that any relevant books, documents or goods are on, or that any relevant information contained in a computer is available from, any premises, and that production or inspection is likely to disclose the commission of an offence under section 1 of this Act, or
  - (b) that such an offence has been, is being or is about to be committed on any premises,
- and that any of the conditions specified in sub-paragraph (3) below is met, he may by warrant under his hand authorise an officer of an enforcement authority to enter the premises, if need be by force.
- (3) The conditions referred to in sub-paragraph (2) above are—
- (a) that admission to the premises has been or is likely to be refused and that notice of intention to apply for a warrant under that sub-paragraph has been given to the occupier,
  - (b) that an application for admission, or the giving of such a notice, would defeat the object of the entry,
  - (c) that the premises are unoccupied, and
  - (d) that the occupier is temporarily absent and it might defeat the object of the entry to await his return.
- (4) In sub-paragraph (2) above “relevant”, in relation to books, documents, goods or information, means books, documents, goods or information which, under paragraph 3 above, a duly authorised officer may require to be produced or may inspect.
- (5) A warrant under sub-paragraph (2) above may be issued only if—
- (a) in England and Wales, the justice of the peace is satisfied as required by that sub-paragraph by written information on oath,
  - (b) in Scotland, the justice of the peace or sheriff is so satisfied by evidence on oath, or
  - (c) in Northern Ireland, the justice of the peace is so satisfied by complaint on oath.
- (6) A warrant under sub-paragraph (2) above shall continue in force for a period of one month.
- (7) An officer entering any premises by virtue of this paragraph may take with him such other persons as may appear to him necessary.

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- (8) On leaving premises which he has entered by virtue of a warrant under sub-paragraph (2) above, an officer shall, if the premises are unoccupied or the occupier is temporarily absent, leave the premises as effectively secured against trespassers as he found them.
- (9) In this paragraph “premises” includes any place (including any vehicle, ship or aircraft) except premises used only as a dwelling.

#### *Obstruction of officers*

- 5 (1) A person who—
- (a) intentionally obstructs an officer of an enforcement authority acting in pursuance of this Schedule,
  - (b) without reasonable excuse fails to comply with a requirement made of him by such an officer under paragraph 3(1) above, or
  - (c) without reasonable excuse fails to give an officer of an enforcement authority acting in pursuance of this Schedule any other assistance or information which the officer may reasonably require of him for the purpose of the performance of the officer’s functions under this Schedule,
- shall be guilty of an offence.
- (2) A person guilty of an offence under sub-paragraph (1) above shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (3) If a person, in giving any such information as is mentioned in sub-paragraph (1)(c) above,—
- (a) makes a statement which he knows is false in a material particular, or
  - (b) recklessly makes a statement which is false in a material particular,
- he shall be guilty of an offence.
- (4) A person guilty of an offence under sub-paragraph (3) above shall be liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum, and
  - (b) on conviction on indictment, to a fine.

#### *Impersonation of officers*

- 6 (1) If a person who is not a duly authorised officer of an enforcement authority purports to act as such under this Schedule he shall be guilty of an offence.
- (2) A person guilty of an offence under sub-paragraph (1) above shall be liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum, and
  - (b) on conviction on indictment, to a fine.

#### *Disclosure of information*

- 7 (1) If a person discloses to another any information obtained by him by virtue of this Schedule he shall be guilty of an offence unless the disclosure was made—
- (a) in or for the purpose of the performance by him or any other person of any function under this Act, or

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(b) for a purpose specified in section 38(2)(a), (b) or (c) of the <sup>M3</sup>Consumer Protection Act 1987.

(2) A person guilty of an offence under sub-paragraph (1) above shall be liable—

- (a) on summary conviction, to a fine not exceeding the statutory maximum, and
- (b) on conviction on indictment, to a fine.

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**Modifications etc. (not altering text)**

**C1** Sch. para. 7(1): Disclosure powers extended (14.12.2001) by 2001 c. 24, ss. 17, 127(2), **Sch. 4 Pt. 1 para. 30**

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**Marginal Citations**

**M3** 1987 c. 43.

*Privilege against self-incrimination*

8 Nothing in this Schedule requires a person to answer any question or give any information if to do so might incriminate him.

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