



# Weights and Measures Act 1985

## 1985 CHAPTER 72

### PART VII

#### GENERAL

#### *Enforcement and legal proceedings*

#### **79 General powers of inspection and entry**

- (1) Subject to the production if so requested of his credentials, an inspector may, within the area for which he was appointed inspector, at all reasonable times—
  - (a) inspect and test any weighing or measuring equipment which is, or which he has reasonable cause to believe to be, used for trade or in the possession of any person or upon any premises for such use,
  - (b) inspect any goods to which any of the provisions of Part IV of this Act or any instrument made under that Part for the time being applies or which he has reasonable cause to believe to be such goods, and
  - (c) enter any premises at which he has reasonable cause to believe there to be any such equipment or goods, not being premises used only as a private dwelling-house.
- (2) Subject to the production if so requested of his credentials, an inspector may at any time within the area for which he was appointed inspector seize and detain—
  - (a) any article which he has reasonable cause to believe is liable to be forfeited under Part II or IV of this Act, and
  - (b) any document or goods which the inspector has reason to believe may be required as evidence in proceedings for an offence under this Act (except an offence under Part V).
- (3) If a justice of the peace, on sworn information in writing—
  - (a) is satisfied that there is reasonable ground to believe that any such equipment, goods, articles or documents as are mentioned in subsection (1) or (2) above are on any premises, or that any offence under this Act or any instrument made

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under it (except an offence under Part V or any instrument made under that Part) has been, is being or is about to be committed on any premises, and

- (b) is also satisfied either—
- (i) that admission to the premises has been refused, or a refusal is apprehended, and that notice of the intention to apply for a warrant has been given to the occupier, or
  - (ii) that an application for admission, or the giving of such a notice, would defeat the object of the entry, or that the case is one of urgency, or that the premises are unoccupied or the occupier temporarily absent,
- the justice may by warrant under his hand, which shall continue in force for a period of one month, authorise an inspector to enter the premises, if need be by force.

- (4) In the application of subsection (3) above to Scotland, " justice of the peace " includes a sheriff.
- (5) An inspector entering any premises by virtue of this section may take with him such other persons and such equipment as may appear to him necessary.
- (6) An inspector who leaves premises which he has entered by virtue of a warrant under subsection (3) above and which are unoccupied or from which the occupier is temporarily absent shall leave the premises as effectively secured against trespassers as he found them.
- (7) If any inspector or other person who enters any workplace by virtue of this section discloses to any person any information obtained by him in the work-place with regard to any secret manufacturing process or trade secret, he shall, unless the disclosure was made in the performance of his duty, be guilty of an offence.
- (8) In exercising his functions under this Act at any mine of coal, stratified ironstone, shale or fire-clay, an inspector shall so exercise those functions as not to impede or obstruct the working of the mine.
- (9) Nothing in this Act shall authorise any inspector to stop any vehicle on a highway.

## **80 Obstruction of inspectors**

Any person who wilfully obstructs an inspector acting in pursuance of this Act shall be guilty of an offence.

## **81 Failure to provide assistance or information**

- (1) Any person who—
  - (a) wilfully fails to comply with any requirement properly made of him by an inspector under section 38, 39 or 40 above, or
  - (b) without reasonable cause fails to give to any inspector acting in pursuance of this Act any other assistance or information which the inspector may reasonably require of him for the purposes of the performance by the inspector of his functions under Part II, III, IV or VI of this Act or under this Part of this Act,
 shall be guilty of an offence.

- (2) If any person, in giving to an inspector any such information as is mentioned in subsection (1) above, gives any information which he knows to be false, he shall be guilty of an offence.
- (3) Nothing in this section shall be construed as requiring a person to answer any question or give any information if to do so might incriminate him.
- (4) Subsection (1) of section 14 of the Civil Evidence Act 1968 (which relates to the privilege against self-incrimination) shall apply to the right conferred by subsection (3) above as it applies to the right described in subsection (1) of that section; but this subsection does not extend to Scotland.

## **82 Offences by corporations**

- (1) Where an offence under, or under any instrument made under, this Act which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any such capacity, he as well as the body corporate shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.
- (2) In subsection (1) above "director" in relation to any body corporate established by or under any enactment for the purpose of carrying on under national ownership any industry or part of an industry or undertaking, being a body corporate whose affairs are managed by its members, means a member of that body corporate.

## **83 Prosecution of offences**

- (1) Subject to subsection (2) below, in England and Wales, proceedings for any offence under this Act or any instrument made under this Act, other than proceedings for an offence under section 64, shall not be instituted except by or on behalf of a local weights and measures authority or the chief officer of police for a police area.
- (2) Proceedings for an offence under section 57(2) above shall not be instituted in England or Wales except by or on behalf of the Director of Public Prosecutions or the National Metrological Co-ordinating Unit.
- (3) Proceedings for an offence under any provision contained in, or having effect by virtue of, Part IV or V of this Act, other than proceedings for an offence under section 33(6), 57(2) or 64 or proceedings by virtue of section 32, shall not be instituted—
  - (a) unless there has been served on the person charged a notice in writing of the date and nature of the offence alleged and, except in the case of an offence under section 50, 54 or 63 or Schedule 8, where the proceedings are in respect of one or more of a number of articles of the same kind tested on the same occasion, of the results of the tests of all those articles; or
  - (b) except where the person charged is a street trader, unless the said notice was served before the expiration of the period of thirty days beginning with the date when evidence which the person proposing to institute the proceedings considers is sufficient to justify a prosecution for the offence came to his knowledge; or
  - (c) after the expiration of the period—

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- (i) of twelve months beginning with the date mentioned in paragraph (a) above, or
  - (ii) of three months beginning with the date mentioned in paragraph (b) above,
- whichever first occurs.
- (4) Such a notice as is mentioned in subsection (3)(a) above may be served on any person either by serving it on him personally or by sending it to him by post at his usual or last known residence or place of business in the United Kingdom or, in the case of a company, at the company's registered office.
- (5) For the purposes of subsection (3) above—
- (a) a certificate of a person who institutes proceedings for an offence mentioned in that subsection which states that evidence came to his knowledge on a particular date shall be conclusive evidence of that fact; and
  - (b) a document purporting to be a certificate of such a person and to be signed by him or on his behalf shall be presumed to be such a certificate unless the contrary is proved.

## **84 Penalties**

- (1) A person guilty of an offence under any of the provisions of this Act specified in subsection (2) below shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (2) The provisions of this Act to which subsection (1) above refers are—
- section 8(4);
  - section 9(4);
  - section 10(2);
  - section 11(3);
  - section 11(14);
  - section 13(1);
  - section 13(2);
  - section 13(3);
  - section 14(3);
  - section 14(5);
  - section 15(3);
  - section 15(5);
  - section 18(3);
  - section 20(2);
  - section 20(4);
  - section 20(7);
  - section 20(8);
  - paragraphs 4 and 5 of Schedule 4;
  - paragraph 28(3) of Schedule 5.
- (3) A person guilty of an offence under paragraph 24(4) of Schedule 5 to this Act shall be liable on summary conviction to a fine not exceeding £2,000.
- (4) A person guilty of an offence—

- (a) under section 17(3), 20(3)(b) or 50(2), (3) or (4) above, or
  - (b) under paragraph 10 of Schedule 5 to this Act,
- shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale or to imprisonment for a term not exceeding six months or to both.
- (5) A person guilty of an offence under section 64 or 79(7) above shall be liable, on summary conviction, to a fine not exceeding the statutory maximum and, on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both.
  - (6) A person guilty of an offence under any provision of this Act other than those mentioned in subsections (1) to (5) above shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.
  - (7) The Secretary of State may by order alter the penalty imposed by subsection (3) above but such an order shall not impose any penalty exceeding that provided by subsection (6) above.

## **85 Determination of certain questions by Secretary of State**

- (1) Where in any proceedings for an offence under this Act or any instrument made under it, except proceedings for an offence under Part V or any instrument made under that Part, any question arises as to the accuracy of any weighing or measuring equipment, the court shall at the request of any party to the proceedings, and may if it thinks fit without any such request, refer the question to the Secretary of State, whose decision shall be final.
- (2) Except where in any particular proceedings the Secretary of State waives his rights under this subsection, any expenses incurred by the Secretary of State in making any test for the purpose of determining any question referred to him under subsection (1) above shall be paid by such of the parties to the proceedings as the court may by order direct.