

SCHEDULE 3

Regulation 23

ENFORCEMENT

Enforcement authority

1.—(1) Every local weights and measures authority in Great Britain shall be an enforcement authority for the purposes of regulations 5, 7, 8, 16 and 22 of these Regulations (“the relevant regulations”), and it shall be the duty of each such authority to enforce those provisions within their area.

(2) The Department of Economic Development in Northern Ireland shall be an enforcement authority for the purposes of the relevant regulations, and it shall be the duty of the Department to enforce those provisions within Northern Ireland.

Prosecutions

2.—(1) Where an enforcement authority in England or Wales proposes to institute proceedings for an offence under any of the relevant regulations, it shall as between the enforcement authority and the Director General of Fair Trading be the duty of the enforcement authority to give to the Director General of Fair Trading notice of the intended proceedings, together with a summary of the facts on which the charges are to be founded, and to postpone institution of the proceedings until either—

- (a) twenty-eight days have elapsed since the giving of that notice; or
- (b) the Director General of Fair Trading has notified the enforcement authority that he has received the notice and the summary of the facts.

(2) Nothing in paragraph 1 above shall authorise a local weights and measures authority to bring proceedings in Scotland for an offence.

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 has been committed under any of the relevant regulations, he may—

- (a) require a person whom he believes on reasonable grounds to be engaged in the organisation or retailing of packages to produce any book or document relating to the activity 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 subparagraph (3) above shall inform the person from whom they are seized.

(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

Status: This is the original version (as it was originally made).

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 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 any of the relevant regulations 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 the relevant regulations; or
- (b) that any 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 subparagraph 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.

(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 level 5 on the standard scale; 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 level 5 on the standard scale; 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 the relevant regulations; or
- (b) for a purpose specified in section 38(2)(a), (b) or (c) of the Consumer Protection Act 1987⁽¹⁾.

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

- (a) on summary conviction, to a fine not exceeding level 5 on the standard scale; and
- (b) on conviction on indictment, to a fine.

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.

(1) 1987 c. 43.