



Consumer Protection Act 1987

1987 CHAPTER 43

PART V U.K.

MISCELLANEOUS AND SUPPLEMENTAL

39 Defence of due diligence. U.K.

- (1) Subject to the following provisions of this section, in proceedings against any person for an offence to which this section applies it shall be a defence for that person to show that he took all reasonable steps and exercised all due diligence to avoid committing the offence.
- (2) Where in any proceedings against any person for such an offence the defence provided by subsection (1) above involves an allegation that the commission of the offence was due—
 - (a) to the act or default of another; or
 - (b) to reliance on information given by another,that person shall not, without the leave of the court, be entitled to rely on the defence unless, not less than seven clear days before the hearing of the proceedings, he has served a notice under subsection (3) below on the person bringing the proceedings.
- (3) A notice under this subsection shall give such information identifying or assisting in the identification of the person who committed the act or default or gave the information as is in the possession of the person serving the notice at the time he serves it.
- (4) It is hereby declared that a person shall not be entitled to rely on the defence provided by subsection (1) above by reason of his reliance on information supplied by another, unless he shows that it was reasonable in all the circumstances for him to have relied on the information, having regard in particular—
 - (a) to the steps which he took, and those which might reasonably have been taken, for the purpose of verifying the information; and
 - (b) to whether he had any reason to disbelieve the information.

Changes to legislation: There are currently no known outstanding effects for the Consumer Protection Act 1987, Section 39. (See end of Document for details)

- (5) This section shall apply to an offence under section ^{F1}. . . 12(1), (2) or (3), 13(4), [^{F2}or 14(6)] above.

Textual Amendments

- F1** Word in s. 39(5) omitted (1.10.2005) by virtue of [The General Product Safety Regulations 2005](#) (S.I. 2005/1803), [reg. 46\(6\)](#) (with [regs. 42, 43](#))
- F2** Words in s. 39(5) substituted (26.5.2008) by [The Consumer Protection from Unfair Trading Regulations 2008](#) (S.I. 2008/1277), [reg. 30\(1\)](#), [Sch. 2 para. 35](#) (with [reg. 28\(2\)\(3\)](#))

Modifications etc. (not altering text)

- C1** S. 39 applied by [S.I. 1991/199](#), [reg. 8\(2\)\(b\)](#).
- C2** S. 39 applied (with modifications) (1.1.1993) by [S.I. 1992/3073](#), [reg. 28](#), [Sch. 6 para. 3\(c\)\(d\)](#).
S. 39 applied (with modifications) (1.7.1997) by [S.I. 1997/831](#), [reg. 19\(1\)-\(4\)](#), [Sch. 15 para. 2\(c\)](#) (with [Sch. 15 para. 7](#))
- C3** S. 39 applied (18.5.1992) by [S.I. 1992/737](#), [reg. 9\(3\)\(b\)](#)
S. 39 applied (20.2.1995) by [S.I. 1994/3248](#), [reg. 8\(2\)\(b\)](#)
S. 39 applied (with modifications) (31.5.1998) by [S.I. 1998/1165](#), [reg. 13\(2\)\(b\)](#) (which said S.I. was revoked (25.8.2003) by [S.I. 2003/1941](#), [reg. 1\(2\)](#))
S. 39 applied (with modifications) (26.4.1999) by [S.I. 1999/1053](#), [reg. 16\(3\)\(b\)](#)
S. 39 applied (with modifications) (8.4.2000) by [S.I. 2000/730](#), [reg. 18\(1\)](#), [Sch. 9 para. 1\(3\)](#)
S. 39 applied (25.8.2003) by [S.I. 2003/1941](#), [reg. 8](#), [Sch. IV para. 2\(b\)](#)
S. 39 applied (with modifications) (E.W.S) (28.11.2003 for certain purposes and 15.7.2004 for certain further purposes and otherwise prosp.) by [Fireworks Act 2003](#) (c. 22), [ss. 11\(7\), 18](#) (with s. 2(8)); [S.I. 2003/3084](#), [art. 2](#), [Sch.](#); [S.I. 2004/1831](#), {art. 2}, [Sch.](#)
- C4** S. 39 applied (1.10.2015) by [The Packaging \(Essential Requirements\) Regulations 2015](#) (S.I. 2015/1640), [reg. 1](#), [Sch. 4 para. 1\(1\)\(b\)](#) (with [reg. 3\(5\)](#))

Changes to legislation:

There are currently no known outstanding effects for the Consumer Protection Act 1987, Section 39.