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STATUTORY INSTRUMENTS

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**1995 No. 1907**

**The Non-automatic Weighing Instruments  
(EEC Requirements) Regulations 1995**

**PART IV**

**GENERAL**

**Powers of inspection and entry**

**38.**—(1) Subject to the production if so requested of his credentials, an authorised person may for the purposes of these Regulations, within the area of the local weights and measures authority by which he is appointed, at all reasonable times—

- (a) inspect and test any instrument in such manner as he considers appropriate;
- (b) inspect and take copies of any document relating to an instrument and of the documentation of any relevant quality system; and
- (c) enter any premises at which he has reasonable cause to believe there to be any instrument or such document, not being premises used only as a private dwelling house.

(2) production if so requested of his credentials, an authorised person may, at any time, within the area of the local weights and measures authority by which he is appointed, seize and detain—

- (a) any instrument which he has reasonable cause to believe is liable to be forfeited under regulation 4(3) or (5), 16(3) or 23(4) and
- (b) any document, implement or goods which the authorised person has reason to believe may be required as evidence in proceedings for an offence under Part I or Part II.

(3) If a justice of the peace, by information on oath—

- (a) is satisfied that there is reasonable ground to believe that any such instrument, goods or document as is mentioned in paragraph (1) or (2) above is on any premises, or that any offence under Part I or Part II 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 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 is temporarily absent,

the justice may by warrant under his hand, which shall continue in force for the period of one month, authorise an authorised person to enter the premises, if need be by force.

(4) In the application of paragraph (3) above to Scotland, “justice of the peace” includes a sheriff.

(5) An authorised person entering any premises by virtue of this regulation may take with him such other person and such equipment as may appear to him to be necessary; and on leaving any

premises which he has entered by virtue of a warrant under paragraph (3) above, being premises which are unoccupied or the occupier of which is temporarily absent, he shall leave them as effectively secured against trespassers as he found them.

(6) If any authorised person or other person who enters any work-place by virtue of this regulation 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.

(7) Nothing in this regulation shall authorise any authorised person to stop any vehicle on a highway.

(8) In this regulation, “credentials” means authority in writing from a local weights and measures authority for the exercise by an authorised person of the powers conferred on him by this regulation.

### **Obstruction of authorised persons etc**

**39.**—(1) Any person who—

- (a) wilfully obstructs an authorised person in the execution of any of his duties or functions under any provision of these Regulations; or
- (b) without reasonable cause fails to give an authorised person acting as aforesaid any assistance or information which the authorised person may reasonably require of him for the purpose of the performance by the authorised person of his functions under these Regulations,

shall be guilty of an offence.

(2) If any person, in giving an authorised person any such information as is mentioned in paragraph (1)(b) above, gives any information which he knows to be false, he shall be guilty of an offence.

(3) Nothing in these Regulations shall be construed as requiring a person to answer any question or give any information if to do so might incriminate him.

### **Offences and penalties**

**40.**—(1) Any person guilty of an offence—

- (a) under regulation 4(3)(a) and (5), 16(3)(a), 17(4), 18(8), 23(1) or (3) 26(5), 38(6) or 39(1) or (2) shall be liable, on summary conviction, to a fine not exceeding level 5 on the standard scale;
- (b) under regulation 4(3)(b) shall be liable, on summary conviction, to a fine not exceeding level 1 on the standard scale.

(2) Where the commission by any person of an offence under the provisions mentioned in paragraph (1) above is due to the act or default of some other person, that other person shall be guilty of the offence, and a person may be charged with and convicted of the offence by virtue of this regulation whether or not proceedings are taken against the first-mentioned person.

### **Offences by corporations**

**41.**—(1) Where an offence 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 purporting to act in any such capacity, he as well as the body corporate shall be deemed guilty of the offence.

(2) Where the affairs of a body corporate are managed by its members, paragraph (1) above shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

### **Prosecutions**

**42.** Proceedings for any offence under these Regulations shall not, in England and Wales, be instituted save by or on behalf of a local weights and measures authority or the chief officer of police for a police area.

### **Adaptations for Northern Ireland**

**43.** In their application to Northern Ireland, these Regulations shall have effect subject to Schedule 5.