



Isle of Man

Ellan Vannin

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WEIGHTS AND MEASURES ACT 1989



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**Isle of Man***Ellan Vannin*

WEIGHTS AND MEASURES ACT 1989

Received Royal Assent: 21 February 1989
Passed: 21 February 1989
Commenced: 1 July 1990

AN ACT to re-enact with amendments the Weights and Measures Acts 1971 and 1978; to make further provision with respect to weights and measures; and for connected purposes.

GENERAL NOTE: The maximum fines in this Act are as increased by the *Criminal Justice (Penalties, Etc.) Act 1993* s 1.

PART I – UNITS AND STANDARDS OF MEASUREMENT

1 Units of Measurement

[P1985/72/1; 1971/36/1; 1978/10/1]

- (1) The yard or the metre shall be the unit of measurement of length and the pound or the kilogram shall be the unit of measurement of mass by reference to which any measurement involving a measurement of length or mass shall be made in the Island; and —
 - (a) the yard shall be 0.9144 metre exactly;
 - (b) the pound shall be 0.453 592 37 kilogram exactly.
- (2) Schedule 1 shall have effect for defining for the purposes of measurements falling to be made in the Island the units of measurement set out in that Schedule; and for the purposes of any measurement of weight falling to be so made, the weight of any thing may be expressed, by reference to the units of measurement set out in Part V of that Schedule, the same terms as its mass.
- (3) The Isle of Man Office of Fair Trading (in this Act referred to as “**the Board**”) may by order amend Schedule 1 by adding to or removing from Parts I to VI of that Schedule any unit of measurement of length, of area, of volume, of capacity, or of mass or weight, as the case may be.¹

2 **Manx standards**

[P1985/72/4; 1971/36/2-4; SI79/1436]

- (1) There shall be maintained by the Board such standards (in this Act referred to as “**Manx standards**”) of such of the measures and weights set out in Schedule 2 as the Board consider proper and sufficient for the purposes of this Act.
- (2) Manx standards —
- (a) shall be of material and form approved by the Secretary of State under section 4(2)(a) of the Weights and Measures Act 1985 (an Act of Parliament), and
- (b) shall be kept in such manner and under such conditions at such premises as may be approved by the Board.
- (3) A Manx standard of any linear or capacity measure —
- (a) shall be provided either as a separate standard or by means of divisions marked on a standard of a larger measure, and
- (b) shall either be marked in whole or in part with sub-divisions representing any smaller unit of measurement or multiples or fractions of such a unit or have no such markings,
- as the Board may from time to time direct.
- (4) No article shall be used as a Manx standard unless there is for the time being in force a certificate of its fitness for the purpose issued by the Secretary of State under section 4 of the Weights and Measures Act 1985 (an Act of Parliament).
- (5) A certificate referred to in subsection (4) shall cease to be in force at the end of the following period running from the date of issue of the certificate —
- | <i>Manx standard</i> | <i>Period</i> |
|--|---------------|
| Weight | 5 years |
| Length up to and including 3 metres or 10 feet | 10 years |
| Length over 3 metres or 10 feet | 5 years |
| Capacity up to and including 500 millilitres or 1 pint | 10 years |
| Capacity over 500 millilitres or one pint | 5 years |
- (6) The Board may by order vary any of the periods specified in subsection (5) (or such period as may for the time being be substituted therefor by a previous order under this subsection).
- (7) The Board shall as and when necessary cause any Manx standard to be submitted to the Secretary of State to have its value or values determined or redetermined by comparison with the appropriate standards of the United Kingdom and to have issued in respect thereof a certificate of its fitness.

- (8) A certificate referred to in subsection (4) in respect of any Manx standard shall be kept by the Board and shall be conclusive evidence of the truth and accuracy of the Manx standard to which it refers.

3 Working standards and testing and stamping equipment

[P1985/72/5; 1971/36/5]

- (1) Subject to subsection (3), the Board shall provide for use by the inspectors and maintain or from time to time replace —
- (a) such standards (in this Act referred to as “**working standards**”) of such of the measures and weights set out in Schedule 2,
 - (b) such testing equipment, and
 - (c) such stamping equipment,
- as are proper and sufficient for the efficient discharge by the inspectors of their functions.
- (2) The Board may —
- (a) provide a particular working standard or item of equipment as required by subsection (1) by making arrangements with another person for the standard or item to be made available by him, and
 - (b) make arrangements with another person for standards or equipment provided by the Board under subsection (1), except stamping equipment, to be made available to the other person.
- (3) If the Board are of opinion —
- (a) that any particular description of testing equipment is proper and sufficient for the efficient discharge of the functions of the inspectors, but
 - (b) that, having regard to the expenditure involved and the frequency with which such equipment is likely to be used by the inspectors, it would not be reasonable for the Board to provide and maintain such equipment,
- the Board may request the Secretary of State to provide and maintain such equipment and to make it available for hire to the Board.
- (4) Working standards and testing and stamping equipment provided under subsection (1) shall be of material and form approved by the Secretary of State under section 5(5) of the Weights and Measures Act 1985 (an Act of Parliament).
- (5) A working standard of a linear or capacity measure —
- (a) shall be provided either as a separate standard or by means of divisions marked on a standard of a larger measure, and
 - (b) shall either be marked in whole or in part with sub-divisions representing any smaller unit of measurement or multiples or fractions of such a unit or have no such markings,

as the Board may from time to time direct.

- (6) The Board shall by regulations make provision —
- (a) for working standards to be from time to time tested by comparison with, and if necessary adjusted to within such limits of error as may be specified in the regulations by reference to, the Manx standards or other working standards more recently tested, and
 - (b) with respect to the testing, adjustment and limits of error of testing equipment provided under subsection (1).
- (7) No article shall be used by an inspector as a working standard or as testing equipment provided under subsection (1) unless the relevant requirements of regulations under subsection (6) are for the time being satisfied with respect to it.

PART II – WEIGHING AND MEASURING FOR TRADE

General

4 Meaning of “use for trade”

[P1985/72/7; P1985/36/10 and 16; 1978/10/2]

- (1) In this Act “**use for trade**” means, subject to subsection (3), use in the Island in connection with, or with a view to, a transaction falling within subsection (2) where —
- (a) the transaction is by reference to quantity or is a transaction for the purposes of which there is made or implied a statement of the quantity of goods to which the transaction relates, and
 - (b) the use is for the purpose of the determination or statement of that quantity.
- (2) A transaction falls within this subsection if it is a transaction for —
- (a) the transferring or rendering of money or money’s worth in consideration of money or money’s worth, or
 - (b) the making of a payment in respect of any toll or duty.
- (3) Use for trade does not include use in a case where —
- (a) the determination or statement is a determination or statement of the quantity of goods required for dispatch to a destination outside the Island, Great Britain and any designated country, and
 - (b) the transaction is not a sale by retail, and
 - (c) no transfer or rendering of money or money’s worth is involved other than the passing of the title to the goods and the consideration for them.

- (4) The following equipment —
- (a) any weighing or measuring equipment which is made available in the Island for use by the public, whether on payment or otherwise, and
 - (b) any equipment which is used in the Island for the grading by reference to their weight, for the purposes of trading transactions by reference to that grading, of hens' eggs in shell which are intended for human consumption,

shall be treated for the purposes of this Part as weighing or measuring equipment in use for trade, whether or not it would apart from this subsection be so treated.

- (5) Where any weighing or measuring equipment is found in the possession of any person carrying on trade or on any premises which are used for trade, that person or, as the case may be, the occupier of those premises shall be deemed for the purposes of this Act, unless the contrary is proved, to have that equipment in his possession for use for trade.

5 Units etc lawful for use for trade

[P1985/72/8; 1971/36/7 and 10A; 1978/10/3; SI80/1070/9]

- (1) No person shall —
- (a) use for trade any unit of measurement which is not included in Parts I to V of Schedule 1, or
 - (b) use for trade, or have in his possession for use for trade, any linear, square, cubic or capacity measure which is not included in Schedule 2, or any weight which is not so included.
- (2) No person shall use for trade —
- (a) the ounce troy, except for the purposes of transactions in, or articles made from, gold, silver or other precious metals, including transactions in gold or silver thread, lace or fringe, or
 - (b) the carat (metric), except for the purposes of transactions in precious stones or pearls, or
 - (c) a capacity measure of 125, 150 or 175 millilitres, except for the purposes of transactions in intoxicating liquor.
- (3) Subsection (1)(a) shall not apply to the prescribing of, or the dispensing of a prescription for, drugs.
- (4) A person who contravenes subsection (1) or (2) shall be guilty of an offence, and any measure or weight used, or in any person's possession for use, in contravention of that subsection shall be liable to be forfeited.
- (5) The preceding provisions of this section have effect subject to sections 6 and 65; and an indication of quantity expressed in a unit of measurement which is not authorised by subsections (1) and (2) shall not be taken as a

contravention of either of those subsections if it is used in conjunction with an indication of quantity in a unit of measurement which is so authorised, provided that the former indication is not in characters larger than the latter.

- (6) The Board may by order —
 - (a) amend Schedule 2 by adding to or removing from it any linear, square, cubic or capacity measure, or any weight;
 - (b) add to, vary or remove from subsection (2) any restriction on the cases or circumstances in which, or the conditions subject to which, a unit of measurement, measure or weight may be used for trade or possessed for use for trade.
- (7) An order under subsection (6) may contain such transitional or other supplemental or incidental provisions as appear to the Board expedient.
- (8) In this section “unit of measurement” means a unit of measurement of length, area, volume, capacity, mass or weight.

6 Dual marking and conversion charts

[P1985/72/9; 1971/36/10B; 1978/10/3]

- (1) The Board may make regulations —
 - (a) requiring or authorising a person who uses a metric unit for trade to afford, for explanatory purposes, information giving the equivalent in the imperial system of the relevant quantity in the metric system, and
 - (b) specifying the manner in which the information is to be given, and in particular specifying the cases in which any obligation to give information in metric units is to be extended to include the same information in imperial units.
- (2) The Board may make regulations requiring or authorising the display on premises where metric units are used for trade of conversion tables or other material for converting metric units into imperial units.
- (3) Regulations under this section —
 - (a) may prescribe the form and manner in which any information or other material is to be given or displayed,
 - (b) may prescribe appropriate conversion factors by reference to which, in prescribed cases or circumstances, an amount expressed in imperial units is to be treated as equivalent to a given amount expressed in metric units,
 - (c) may prescribe the persons to whom, and the cases and circumstances in which, the regulations apply and may make different provision for different persons, cases or circumstances,

- (d) may contain such consequential, incidental or supplementary provisions as appear to the Board to be expedient.
- (4) A person contravening regulations made under this section shall be guilty of an offence.
- (5) In this section “unit” in the expressions “metric unit” and “imperial unit” means any unit of measurement of length, area, volume, capacity, mass or weight.
- (6) Regulations under this section imposing obligations apply whether or not the relevant imperial unit may lawfully be used for trade, and regulations authorising, but not requiring, anything to be done authorise it to be done notwithstanding that the relevant imperial unit may not be lawfully used for trade, but do not in any other respect authorise what is unlawful.

7 Multiples and fractions of measures and units

[P1985/72/10; 1971/36/11]

- (1) Except as may be prescribed, and subject to any regulations made under section 9 —
 - (a) a linear measure specified in Part I of Schedule 2 may be marked in whole or in part with divisions and sub-divisions representing any shorter length or lengths; but
 - (b) no capacity measure specified in Part IV of that Schedule shall be used for trade by means of any division or sub-division marked on it as a capacity measure of any lesser quantity.
- (2) Any person who contravenes subsection (1)(b) shall be guilty of an offence, and any measure used, or in any person’s possession for use, in contravention of that paragraph, shall be liable to be forfeited.
- (3) The Board may by regulations prescribe what may be treated for the purposes of use for trade as the equivalent of, or of any multiple or fraction of, any unit of measurement included in Schedule 1 in terms of any other such unit.
- (4) Nothing in any regulations under subsection (3) shall apply to any transaction in drugs.
- (5) The Department of Health may by regulations, which shall have effect notwithstanding anything in, or in any instrument made under, any other enactment —
 - (a) prescribe what may be treated for the purposes of dealings with drugs as the equivalent of, or of any multiple or fraction of, any unit of measurement which is included in Schedule 1 in terms of any other such unit; and
 - (b) require that any person carrying out any such dealing with drugs as is specified in the regulations for the purposes of which the

quantity of the drugs is expressed in terms of any such unit which is so specified shall carry out that dealing in terms of such equivalent quantity prescribed under paragraph (a) as is so specified.²

Weighing or measuring equipment for use for trade

8 Certain equipment to be passed and stamped by inspector

[P1985/72/11; 1971/36/12]

- (1) The provisions of this section shall apply to the use for trade of weighing or measuring equipment of such classes or descriptions as may be prescribed.
- (2) No person shall use any article for trade as equipment to which this section applies, or have any article in his possession for such use, unless that article, or equipment to which this section applies in which that article is incorporated or to the operation of which the use of that article is incidental —
 - (a) has been passed by an inspector as fit for such use, and
 - (b) except as otherwise expressly provided by or under this Act, bears a stamp indicating that it has been so passed which remains undefaced otherwise than by reason of fair wear and tear.
- (3) If any person contravenes subsection (2), he shall be guilty of an offence and any article in respect of which the offence was committed shall be liable to be forfeited.
- (4) Any person requiring any equipment to which this section applies to be passed as fit for use for trade shall submit the equipment, in such manner as the Board may direct, to an inspector who (subject to the provisions of this Act and of any regulations under section 9) shall —
 - (a) test the equipment by means of such working standards and testing equipment as he considers appropriate or, subject to any conditions which may be prescribed, by means of other equipment which has already been tested and which the Inspector considers suitable for the purpose,
 - (b) if the equipment submitted falls within the prescribed limits of error and by virtue of subsection (10) is not required to be stamped as mentioned in paragraph (c), give to the person submitting it a statement in writing to the effect that it is passed as fit for use for trade, and
 - (c) except as otherwise expressly provided by or under this Act, cause it to be stamped with the prescribed stamp.
- (5) There shall be charged in respect of any test carried out under subsection (4) such fees as may be prescribed.

- (6) An inspector shall keep a record of every test carried out by him under subsection (4).
- (7) Except as otherwise expressly provided by or under this Act, no weight or measure shall be stamped as mentioned in subsection (4)(c) unless it has been marked in the prescribed manner with its purported value.
- (8) Subject to subsection (9), where any equipment submitted to an inspector under subsection (4) is of a pattern in respect of which a certificate of approval granted or deemed to be granted under section 12 of the Weights and Measures Act 1985 (an Act of Parliament) is for the time being in force, the inspector shall not refuse to pass or stamp the equipment on the ground that it is not suitable for use for trade.
- (9) If the inspector is of opinion that the equipment is intended for use for a particular purpose for which it is not suitable, he may refuse to pass or stamp it until the matter has been referred to the Board, whose decision shall be final.
- (10) The requirements of subsections (2), (4) and (7) with respect to stamping and marking shall not apply to any weight or measure which is too small to be stamped or marked in accordance with those requirements.
- (11) Where a person submits equipment to an inspector under this section, the inspector may require the person to provide the inspector with such assistance in connection with the testing of the equipment as the inspector reasonably considers it necessary for the person to provide and shall not be obliged to proceed with the test until the person provides it; but a failure to provide the assistance shall not constitute an offence under section 58.
- (12) If an inspector refuses to pass as fit for use for trade any equipment submitted to him under this section and is requested by the person by whom the equipment was submitted to give reasons for the refusal, the inspector shall give to that person a statement of those reasons in writing.
- (13) In the case of any equipment which is required by regulations made under section 9 to be passed and stamped under this section only after it has been installed at the place where it is to be used for trade, if after the equipment has been so passed and stamped it is dismantled and reinstalled, whether in the same or some other place, it shall not be used for trade after being so reinstalled until it has again been passed under this section.
- (14) If any person —
 - (a) knowingly uses any equipment in contravention of subsection (13), or
 - (b) knowingly causes or permits any other person so to use it, or

- (c) knowing that the equipment is required by virtue of subsection (13) to be again passed under this section, disposes of it to some other person without informing him of that requirement,
- he shall be guilty of an offence and the equipment shall be liable to be forfeited.
- (15) Subject to subsection (13), any equipment to which this section applies and which has been duly stamped in accordance with section 11 of the Weights and Measures Act 1985 (an Act of Parliament), or treated for the purposes of that Act as if duly stamped in accordance with that section, shall be treated for the purposes of this Act as if it had been duly stamped in accordance with this section.
- (16) If at any time the Board is satisfied that, having regard to the law for the time being in force in Northern Ireland or any of the Channel Islands, it is proper so to do, it may by order provide for any equipment to which this section applies duly stamped in accordance with that law, or treated for the purposes of that law as if duly stamped in accordance with it, to be treated for the purposes of this Act as if it had been duly stamped under this section.

Miscellaneous

9 Regulations relating to weighing or measuring for trade

[P1985/72/15; 1971/36/13; 1978/10/4]

- (1) The Board may make regulations with respect to —
- (a) the materials and principles of construction of weighing or measuring equipment for use for trade,
- (b) the inspection, testing, passing as fit for use for trade and stamping of such equipment, including —
- (i) the prohibition of the stamping of such equipment in such circumstances as may be specified in the regulations,
- (ii) the circumstances in which an inspector may remove or detain any such equipment for inspection or testing,
- (iii) the marking of any such equipment found unfit for use for trade,
- (c) the circumstances in which, conditions under which and manner in which stamps may be destroyed, obliterated or defaced,
- (d) where any stamp on weighing or measuring equipment is lawfully destroyed, obliterated or defaced, the circumstances in which, and conditions subject to which, the equipment may be used for trade without contravening section 8(2),
- (e) the purposes for which particular types of weighing or measuring equipment may be used for trade,

- (f) the manner of erection or use of weighing or measuring equipment used for trade,
 - (g) the abbreviations of or symbols for units of measurement which may be used for trade, and
 - (h) the manner in which the tare weight of road vehicles, or of road vehicles of any particular class or description, is to be determined.
- (2) Regulations under subsection (1) with respect to the testing of equipment may provide —
- (a) that where a group of items of equipment of the same kind is submitted for testing and prescribed conditions are satisfied with respect to the group, the testing may be confined to a number of items determined by or under the regulations and selected in the prescribed manner, and
 - (b) that if items so selected satisfy the test other items in the group shall be treated as having satisfied it.
- (3) Subject to subsection (5), if any person contravenes any regulation made by virtue of subsection (1)(e), (f), (g) or (h), he shall be guilty of an offence, and any weighing or measuring equipment in respect of which the contravention was committed shall be liable to be forfeited.
- (4) If any difference arises between an inspector and any other person as to the interpretation of any regulations made under this section or as to the method of testing any weighing or measuring equipment, that difference may with the consent of that other person, and shall at the request of that other person, be referred to the Board, whose decision shall be final.
- (5) Where in the special circumstances of any particular case it appears to be impracticable or unnecessary that any requirement of any regulations made under this section should be complied with, the Board may if it thinks fit dispense with the observance of that requirement subject to compliance with such conditions, if any, as it thinks fit to impose; and if any person knowingly contravenes any condition imposed with respect to any equipment by virtue of this subsection he shall be guilty of an offence and the equipment shall be liable to be forfeited.

10 Offences in connection with stamping equipment

[P1985/72/16; 1971/36/14]

- (1) Subject to subsection (2), any person who, in the case of any weighing or measuring equipment used or intended to be used for trade —
- (a) not being an inspector or a person acting under the instructions of an inspector, marks in any manner any plug or seal used or designed for use for the reception of a stamp,
 - (b) forges, counterfeits or, except as permitted by or under this Act, in any way alters or defaces any stamp,

- (c) removes any stamp and inserts it into any other such equipment,
- (d) makes any alteration in the equipment after it has been stamped such as to make it false or unjust, or
- (e) severs or otherwise tampers with any wire, cord or other thing by means of which a stamp is attached to the equipment,

shall be guilty of an offence.

- (2) Subsection (1)(a) and (b) shall not apply to the destruction or obliteration of any stamp, plug or seal, and subsection (1)(e) shall not apply to anything done, in the course of the adjustment or repair of weighing or measuring equipment by, or by the duly authorised agent of, a person who is a manufacturer of, or regularly engaged in the business of repairing, such equipment.
- (3) Any person who uses for trade, sells, or exposes or offers for sale any weighing or measuring equipment which to his knowledge —
 - (a) bears a stamp which is a forgery or counterfeit, or which has been transferred from other equipment, or which has been altered or defaced otherwise than as permitted by or under this Act, or
 - (b) is false or unjust as the result of an alteration made in the equipment after it has been stamped,shall be guilty of an offence.
- (4) Any weighing or measuring equipment in respect of which an offence under this section is committed, and any stamp or stamping implement used in the commission of the offence, shall be liable to be forfeited.

11 Offences relating to false or unjust equipment or fraud

[P1985/72/17; 1971/36/15]

- (1) If any person uses for trade, or has in his possession for use for trade, any weighing or measuring equipment which is false or unjust, he shall be guilty of an offence and the equipment shall be liable to be forfeited.
- (2) Without prejudice to the liability of any equipment to be forfeited, it shall be a defence for any person charged with an offence under subsection (1) in respect of the use for trade of any equipment to show —
 - (a) that he used the equipment only in the course of his employment by some other person, and
 - (b) that he neither knew, nor might reasonably have been expected to know, nor had any reason to suspect, the equipment to be false or unjust.
- (3) If any fraud is committed in the using of any weighing or measuring equipment for trade, the person committing the fraud and any other person party to it shall be guilty of an offence and the equipment shall be liable to be forfeited.

PART III – PUBLIC WEIGHING OR MEASURING EQUIPMENT

12 Keepers of public equipment to hold certificates

[P1985/72/18; 1971/36/17]

- (1) No person shall attend to any weighing or measuring by means of weighing or measuring equipment available for use by the public, being a weighing or measuring demanded by a member of the public and for which a charge is made, other than a weighing or measuring of a person, unless he holds a certificate from the chief inspector that he has sufficient knowledge for the proper performance of his duties.
- (2) Any person refused such a certificate by the chief inspector may appeal against the refusal to the Board, who may if it thinks fit direct the chief inspector to grant the certificate.
- (3) Any person who contravenes, or who causes or permits any other person to contravene, subsection (1) shall be guilty of an offence.

13 Provision of public equipment by local authorities

[P1985/72/19; 1971/36/17]

- (1) Without prejudice to any functions conferred or imposed by any other enactment, any local authority may provide and maintain within their district for use by the public such weighing or measuring equipment as may appear to the authority to be expedient.
- (2) Except in the case of a weighing or measuring for which, under any other Act, the charge falls to be regulated from time to time by some other person, a local authority by whom any weighing or measuring equipment is provided for use by the public may make such charges for any weighing or measuring by means of that equipment as they may from time to time think fit.

14 Offences in connection with public equipment

[P1985/72/20; 1971/36/19]

- (1) Subsection (2) shall apply where any article, vehicle (whether loaded or unloaded) or animal has been brought for weighing or measuring by means of weighing or measuring equipment which is available for use by the public and is provided for the purpose of weighing or measuring articles, vehicles or animals of the description in question.
- (2) If any person appointed to attend to weighing or measuring by means of the equipment in question –
 - (a) without reasonable cause fails to carry out the weighing or measuring on demand,
 - (b) carries out the weighing or measuring unfairly,

- (c) fails to deliver to the person demanding the weighing or measuring or to his agent a statement in writing of the weight or other measurement found, or
- (d) fails to make a record of the weighing or measuring, including the time and date of it and, in the case of the weighing of a vehicle, such particulars of the vehicle and of any load on the vehicle as will identify that vehicle and that load,

he shall be guilty of an offence.

- (3) If in connection with any such equipment as is mentioned in subsection (1) —

- (a) any person appointed to attend to weighing or measuring by means of the equipment delivers a false statement of any weight or other measurement found or makes a false record of any weighing or measuring, or
- (b) any person commits any fraud in connection with any, or any purported, weighing or measuring by means of that equipment,

he shall be guilty of an offence.

- (4) If, in the case of a weighing or measuring of any article, vehicle or animal carried out by means of any such equipment as is mentioned in subsection (1), the person bringing the article, vehicle or animal for weighing or measuring, on being required by the person attending to the weighing or measuring to give his name and address, fails to do so or gives a name or address which is incorrect, he shall be guilty of an offence.
- (5) The person making any weighing or measuring equipment available for use by the public (“the responsible person”) shall retain for a period of not less than 2 years any record of any weighing or measuring by means of that equipment made by any person appointed to attend to the weighing or measuring.
- (6) An inspector, subject to the production of his credentials if so requested, may require the responsible person to produce any such record as is mentioned in subsection (5) for inspection at any time while it is retained by him.
- (7) If the responsible person fails to retain any such record as is mentioned in subsection (5) in accordance with that subsection or fails to produce it in accordance with subsection (6), he shall be guilty of an offence.
- (8) If any person wilfully destroys or defaces any such record as is mentioned in subsection (5) before the expiration of 2 years from the date when it was made, he shall be guilty of an offence.

PART IV – REGULATION OF TRANSACTIONS IN GOODS

Transactions in particular goods

15 Orders relating to transactions in particular goods

[P1985/72/22; 1971/36/20 (2)-(3B); 1978/10/5]

- (1) The Board may by order make provision with respect to any goods specified in the order for all or any of the following purposes, that is to say, to ensure that, except in such cases or in such circumstances as may be so specified, the goods in question –
- (a) are sold only by quantity expressed in such manner as may be so specified,
 - (b) are pre-packed, or are otherwise made up in or on a container for sale or for delivery after sale, only if the container is marked with such information as to the quantity of the goods as may be so specified,
 - (c) are pre-packed, or are otherwise made up for sale or for delivery after sale, only in or on a container of a size or capacity so specified,
 - (d) are sold, or are pre-packed, or are otherwise made up in or on a container for sale or for delivery after sale, or are made for sale, only in such quantities as may be so specified,
 - (e) are not sold without the quantity sold expressed in such manner as may be so specified being made known to the buyer at or before such time as may be so specified,
 - (f) are sold by means of, or are offered or exposed for sale in, a vending machine only if there is displayed on or in the machine –
 - (i) such information as to the quantity of the goods in question comprised in each item for sale by means of that machine as may be so specified, and
 - (ii) a statement of the name and address of the seller,
 - (g) are carried for reward only in pursuance of an agreement made by reference to the quantity of the goods in question expressed in such manner as may be so specified,
 - (h) in such circumstances as may be so specified, have associated with them in such manner as may be so specified a document containing a statement of the quantity of the goods in question expressed in such manner, and a statement of such other particulars, if any, as may be so specified, or
 - (i) when carried on a road vehicle along a highway are accompanied by a document containing such particulars determined in such

manner as may be so specified as to the weight of the vehicle and its load apart from the goods in question.

- (2) An order under subsection (1) may be made with respect to any goods, and may —
- (a) make provision for any of the purposes mentioned in subsection (1) in such manner, whether by means of amending, or of applying with or without modifications, or of excluding the application in whole or in part of, any of the provisions of this Act (except Part V) or of any previous order under subsection (1) or otherwise,
 - (b) make such, if any, different provision for retail and other sales respectively, and
 - (c) contain such consequential, incidental or supplementary provision, whether by such means as mentioned in paragraph (a) or otherwise,

as may appear to the Board to be expedient, and may in particular make provision, in respect of contraventions of the order for which no penalty is provided by this Act, for the imposition of penalties not exceeding those provided by section 61(4) for an offence under this Act.

- (3) Without prejudice to the generality of the powers conferred by paragraph (c) of subsection (1), an order made by virtue of that paragraph —
- (a) may require a container to be marked with such information concerning it or its contents as is specified in the order, and
 - (b) in order to prevent size or capacity from giving a false impression of the quantity of the goods in a container, may prescribe a minimum quantity for the goods in a container of a given capacity.
- (4) The minimum quantity referred to in subsection (3)(b) may be expressed in the order by weight or volume, by percentage of the capacity of the container or in any other manner.
- (5) An order under subsection (1) made with respect to goods of any class or description may assign a meaning to any expression used in this Part in relation to goods of the same class or description.

16 Regulations as to information

[P1985/72/23; 1971/36/20(4); 1978/10/5]

- (1) The Board may make regulations —
- (a) as to the manner in which any container required by any provision of any order under section 15 to be marked with information (including in particular information as to quantity or capacity) is to be so marked,

- (b) as to the manner in which any information required by any such provision to be displayed on or in a vending machine is to be so displayed,
 - (c) as to the conditions which must be satisfied in marking with information as to the quantity of goods made up in it the container in or on which any goods are made up for sale (whether by way of pre-packing or otherwise) where those goods are goods on a sale of which (whether any sale or a sale of any particular description) the quantity of the goods sold is required by any such provision to be made known to the buyer at or before a particular time,
 - (d) as to the units of measurement to be used in marking any such container or machine with any information,
 - (e) for securing, in the case of pre-packed goods, that the container is so marked as to enable the packer to be identified,
 - (f) as to the method by which and conditions under which quantity is to be determined in connection with any information relating to quantity required by or under section 15, and
 - (g) permitting, in the case of such goods and in such circumstances as may be specified in the regulations, the weight of such articles used in making up the goods for sale as may be so specified to be included in the net weight of the goods for the purposes of this Part.
- (2) Any person who contravenes any regulation made under subsection (1) otherwise than by virtue of subsection (1)(f) or (g) shall be guilty of an offence.

17 Exemption from requirements imposed under section 15 or 16

[P1985/72/24; 1971/36/20 (5)]

- (1) The Board may by order grant, with respect to goods or sales of such descriptions as may be specified in the order, exemption, either generally or in such circumstances as may be so specified, from all or any of the requirements imposed by or under section 15 or 16.
- (2) Until otherwise provided by an order under subsection (1), the following shall be exempted from all requirements imposed by or under section 15 or 16, that is to say –
 - (a) goods made up in or on a container for sale only for use by Her Majesty's forces or by a visiting force within the meaning of any of the provisions of Part I of the Visiting Forces Act 1952 (an Act of Parliament), as it has effect in the Island, and not sold or offered, exposed or in any person's possession for sale for any other use,

- (b) any sale of goods in the case of which the buyer gives notice in writing to the seller before the sale is completed that the goods are being bought —
 - (i) for despatch to a destination outside the Island, Great Britain and any designated country, or
 - (ii) for use as stores within the meaning of the *Customs and Excise Management Act 1986* in a ship or aircraft on a voyage or flight to an eventual destination outside the United Kingdom and the Island,
- (c) any goods sold for, or offered, exposed or in any person's possession for sale only for, use or consumption at the premises of the seller, not being intoxicating liquor, and
- (d) any assortment of articles of food pre-packed together for consumption together as a meal and ready for such consumption without being cooked, heated or otherwise prepared.

18 Offences relating to transactions in particular goods

[P1985/72/25; 1971/36/21; 1978/10/6]

- (1) Subject to section 37, where any goods are required, when not pre-packed, to be sold only by quantity expressed in a particular manner or only in a particular quantity, any person who —
 - (a) whether on his own behalf or on behalf of another person, offers or exposes for sale, sells or agrees to sell, or
 - (b) causes or suffers any other person to offer or expose for sale, sell or agree to sell on his behalf,

those goods otherwise than by quantity expressed in that manner or, as the case may be, otherwise than in that quantity, shall be guilty of an offence.

- (2) Any person who —
 - (a) whether on his own behalf or on behalf of another person, has in his possession for sale, sells or agrees to sell,
 - (b) except in the course of carriage of the goods for reward, has in his possession for delivery after sale, or
 - (c) causes or suffers any other person to have in his possession for sale or for delivery after sale, sell or agree to sell on behalf of the first-mentioned person,

any goods to which subsection (3) applies, whether the sale is, or is to be, by retail or otherwise, shall be guilty of an offence.

- (3) This subsection applies to any goods —
 - (a) which are required to be pre-packed only in particular quantities but are not so pre-packed,

- (b) which are required to be otherwise made up in or on a container for sale or for delivery after sale only in particular quantities but are not so made up,
 - (c) which are required to be made for sale only in particular quantities but are not so made,
 - (d) which are required to be pre-packed only if the container is marked with particular information but are pre-packed otherwise than in or on a container so marked,
 - (e) which are required to be otherwise made up in or on a container for sale or for delivery after sale only if the container is marked with particular information but are so made up otherwise than in or on a container so marked,
 - (f) which are required to be pre-packed only in or on a container of a particular description but are not pre-packed in or on a container of that description, or
 - (g) which are required to be otherwise made up in or on a container for sale or for delivery after sale only in or on a container of a particular description but are not so made up in or on a container of that description.
- (4) In the case of any sale where the quantity of the goods sold expressed in a particular manner is required to be made known to the buyer at or before a particular time and that quantity is not so made known, the person by whom, and any other person on whose behalf, the goods were sold shall be guilty of an offence.
- (5) Where any goods required to be sold by means of, or to be offered or exposed for sale in, a vending machine only if certain requirements are complied with are so sold, offered or exposed without those requirements being complied with, the seller or person causing the goods to be offered or exposed shall be guilty of an offence.
- (6) The preceding provisions of this section shall have effect subject to sections 26 to 30.
- (7) For the purposes of this section the quantity of the goods in a regulated package (as defined by section 50(1)) shall be deemed to be the nominal quantity (as so defined) on the package.
- (8) In this section “required” means required by or under this Part.

Quantity to be stated in writing

19 Quantity to be stated in certain cases

[P1985/72/26; 1971/36/22(1)-(3)]

- (1) Subject to section 20, the provisions of this section shall have effect on any sale of goods —

- (a) which is required by or under this Part to be a sale by quantity expressed in a particular manner,
 - (b) in the case of which the quantity of the goods sold expressed in a particular manner is so required to be made known to the buyer at or before a particular time, or
 - (c) which, being a sale by retail not falling within paragraph (a) or (b) is, or purports to be, a sale of quantity expressed in a particular manner other than by number.
- (2) Subject to subsections (4) to (6), unless the quantity of the goods sold expressed in the manner in question is made known to the buyer at the premises of the seller and the goods are delivered to the buyer at those premises on the same occasion as, and at or after the time when, that quantity is so made known to him, a statement in writing of that quantity shall be delivered to the consignee at or before delivery of the goods to him.
- (3) If subsection (2) is contravened then, subject to sections 26 to 30, the person by whom, and any other person on whose behalf, the goods were sold shall be guilty of an offence.
- (4) If at the time when the goods are delivered the consignee is absent, it shall be sufficient compliance with subsection (2) if the statement is left at some suitable place at the premises at which the goods are delivered.
- (5) Subsection (2) shall not apply to any sale otherwise than by retail where, by agreement with the buyer, the quantity of the goods sold is to be determined after their delivery to the consignee.
- (6) Where any liquid goods are sold by capacity measurement and the quantity sold is measured at the time of delivery and elsewhere than at the premises of the seller, subsection (2) shall not apply but, unless the quantity by capacity measurement of the goods sold is measured in the presence of the buyer, the person by whom the goods are delivered shall immediately after the delivery hand to the buyer, or if the buyer is not present leave at some suitable place at the premises at which the goods are delivered, a statement in writing of the quantity by capacity measurement delivered, and if without reasonable cause he fails so to do he shall be guilty of an offence.

20 Exemption from requirements of section 19

[P1985/72/27; 1971/36/22 (4)]

- (1) The Board may by order grant, with respect to goods or sales of such descriptions as may be specified in the order, exemption, either generally or in such circumstances as may be so specified, from all or any of the requirements of section 19.
- (2) Until otherwise provided by an order under subsection (1), nothing in section 19 shall apply to —

- (a) sale by retail from a vehicle of —
 - (i) any of the following in a quantity not exceeding 224 pounds, that is to say, any solid fuel and wood fuel, or
 - (ii) any of the following in a quantity not exceeding 5 gallons, that is to say, liquid fuel, lubricating oil, and any mixture of such fuel and oil,
- (b) a sale by retail of bread,
- (c) goods made up for sale (whether by way of prepacking or otherwise) in or on a container marked with a statement in writing with respect to the quantity of the goods expressed in the manner in question, being a container which is delivered with the goods,
- (d) a sale of goods in the case of which a document stating the quantity of the goods expressed in the manner in question is required to be delivered to the buyer or consignee of the goods by or under any other provision of this Part,
- (e) any such goods or sales as are mentioned in section 17(2)(a) to (d),
- (f) a sale of intoxicating liquor for consumption at the premises of the seller,
- (g) a sale by means of a vending machine, or
- (h) goods delivered at premises of the buyer by means of an installation providing a connection of a permanent nature between those premises and premises of the seller.

General offences

21 Short weight etc

[P1985/72/28; 1971/36/23(1), (8) and (9)(a)]

- (1) Subject to sections 26 to 30, any person who, in selling or purporting to sell any goods by weight or other measurement or by number, delivers or causes to be delivered to the buyer —
 - (a) a lesser quantity than that purported to be sold, or
 - (b) a lesser quantity than corresponds with the price charged, shall be guilty of an offence.
- (2) For the purposes of this section —
 - (a) the quantity of the goods in a regulated package (as defined by section 50 (1)) shall be deemed to be the nominal quantity (as so defined) on the package, and
 - (b) any statement, whether oral or in writing, as to the weight of any goods shall be taken, unless otherwise expressed, to be a statement as to the net weight of the goods.

- (3) Nothing in this section shall apply in relation to any such goods or sales as are mentioned in section 17(2)(a) or (b).

22 Misrepresentation

[P1985/36/23(2) and (9)(a)]

- (1) Subject to sections 26 to 30, any person who —
- (a) on or in connection with the sale or purchase of any goods,
 - (b) in exposing or offering any goods for sale,
 - (c) in purporting to make known to the buyer the quantity of any goods sold, or
 - (d) in offering to purchase any goods,
- makes any misrepresentation whether oral or otherwise as to the quantity of the goods, or does any other act calculated to mislead a person buying or selling the goods as to the quantity of the goods, shall be guilty of an offence.
- (2) Section 21(2) shall have effect for the purposes of this section as it has effect for the purposes of section 21.
- (3) Nothing in this section shall apply in relation to any such goods or sales as are mentioned in section 17(2)(a) or (b).

23 Quantity less than stated

[P1985/72/30; 1971/36/23(3)-(6), (8) and (9)(a)]

- (1) If, in the case of any goods pre-packed in or on a container marked with a statement in writing with respect to the quantity of the goods, the quantity of the goods is at any time found to be less than that stated, then, subject to sections 26 to 30 —
- (a) any person who has those goods in his possession for sale shall be guilty of an offence, and
 - (b) if it is shown that the deficiency cannot be accounted for by anything occurring after the goods had been sold by retail and delivered to, or to a person nominated in that behalf by, the buyer, any person by whom or on whose behalf those goods have been sold or agreed to be sold at any time while they were pre-packed in or on the container in question, shall be guilty of an offence.
- (2) If —
- (a) in the case of a sale of or agreement to sell any goods which, not being pre-packed, are made up for sale or for delivery after sale in or on a container marked with a statement in writing with respect to the quantity of the goods, or

- (b) in the case of any goods which, in connection with their sale or an agreement for their sale, have associated with them a document containing such a statement,

the quantity of the goods is at any time found to be less than that stated, then, if it is shown that the deficiency cannot be accounted for by anything occurring after the goods had been delivered to, or to a person nominated in that behalf by, the buyer, and subject to sections 26 to 30 the person by whom, and any other person on whose behalf, the goods were sold or agreed to be sold shall be guilty of an offence.

- (3) Subsections (1) and (2) shall have effect notwithstanding that the quantity stated is expressed to be the quantity of the goods at a specified time falling before the time in question, or is expressed with some other qualification of whatever description, except where —
 - (a) that quantity is so expressed in pursuance of an express requirement of this Part or any instrument made under this Part, or
 - (b) the goods, although falling within subsection (1) or (2)(a) —
 - (i) are not required by or under this Part to be pre-packed as mentioned in subsection (1) or, as the case may be, to be made up for sale or for delivery after sale in or on a container only if the container is marked as mentioned in subsection (2)(a), and
 - (ii) are not goods on a sale of which (whether any sale or a sale of any particular description) the quantity sold is required by or under any provision of this Part other than section 19, to be made known to the buyer at or before a particular time, or
 - (c) the goods, although falling within subsection (2)(b), are not required by or under this Part to have associated with them such a document as is mentioned in that provision.
- (4) In any case to which, by virtue of subsection (3)(a), (b) or (c), the provisions of subsection (1) or (2) do not apply, if it is found at any time that the quantity of the goods in question is less than that stated and it is shown that the deficiency is greater than can be reasonably justified on the ground justifying the qualification in question, then, subject to sections 26 to 30 —
 - (a) in the case of goods such as are mentioned in subsection (1), if it is further shown as mentioned in that subsection, then —
 - (i) where the container in question was marked in the Island, the person by whom, and any other person on whose behalf, the container was marked, or

- (ii) where the container in question was marked outside the Island, the person by whom, and any other person on whose behalf, the goods were first sold in the Island, shall be guilty of an offence;
 - (b) in the case of goods such as are mentioned in subsection (2), the person by whom, and any other person on whose behalf, the goods were sold or agreed to be sold shall be guilty of an offence if, but only if, he would, but for subsection (3)(a), (b) or (c) have been guilty of an offence under subsection (2).
- (5) Section 21(2) shall have effect for the purposes of this section as it has effect for the purposes of section 21.
- (6) Nothing in this section shall apply in relation to any such goods or sales as are mentioned in section 17(2)(a) or (b).

24 Incorrect statements

[P1985/72/31; 1971/36/23(7) and (9)(a)]

- (1) Without prejudice to section 23(2) to (4), if in the case of any goods required by or under this Part to have associated with them a document containing particular statements, that document is found to contain any such statement which is materially incorrect, any person who, knowing or having reasonable cause to suspect that statement to be materially incorrect, inserted it or caused it to be inserted in the document, or used the document for the purposes of this Part while that statement was contained in the document, shall be guilty of an offence.
- (2) Section 21(2) shall have effect for the purposes of this section as it has effect for the purposes of section 21.
- (3) Nothing in this section shall apply in relation to any such goods or sales as are mentioned in section 17(2)(a) or (b).

25 Offences due to default of third person

[P1985/72/32; 1971/36/26(1)]

Where the commission by any person of an offence under this Part or an instrument made under this Part is due to the act or default of some other person, the other person shall be guilty of the offence and may be charged with and convicted of the offence whether or not proceedings are taken against the first-mentioned person.

*Defences***26 Warranty**

[P1985/72/33; 1971/36/24]

- (1) Subject to the following provisions of this section, in any proceedings for an offence under this Part or any instrument made under this Part, being an offence relating to the quantity or pre-packing of any goods, it shall be a defence for the person charged to prove —
- (a) that he bought the goods from some other person —
 - (i) as being of the quantity which the person charged purported to sell or represented, or which was marked on any container or stated in any document to which the proceedings relate, or
 - (ii) as conforming with the statement marked on any container to which the proceedings relate, or with the requirements with respect to the pre-packing of goods of this Part or any instrument made under this Part,as the case may require, and
 - (b) that he so bought the goods with a written warranty from that other person that they were of that quantity or, as the case may be, did so conform, and
 - (c) that at the time of the commission of the offence he did in fact believe the statement contained in the warranty to be accurate and had no reason to believe it to be inaccurate, and
 - (d) if the warranty was given by a person who at the time he gave it was resident outside the Island, Great Britain and any designated country, that the person charged had taken reasonable steps to check the accuracy of the statement contained in the warranty, and
 - (e) in the case of proceedings relating to the quantity of any goods, that he took all reasonable steps to ensure that, while in his possession, the quantity of the goods remained unchanged and, in the case of such or any other proceedings, that apart from any change in their quantity the goods were at the time of the commission of the offence in the same state as when he bought them.
- (2) A warranty shall not be a defence in any such proceedings as are mentioned in subsection (1) unless, not later than 3 days before the date of the hearing, the person charged has sent to the prosecutor a copy of the warranty with a notice stating that he intends to rely on it and specifying the name and address of the person from whom the warranty was received, and has also sent a like notice to that person.

- (3) Where the person charged is the employee of a person who, if he had been charged, would have been entitled to plead a warranty as a defence under this section, subsection (1) shall have effect —
 - (a) with the substitution, for any reference (however expressed) in paragraphs (a), (b), (d) and (e) to the person charged, of a reference to his employer, and
 - (b) with the substitution for paragraph (c) of the following —
 - “(c) that at the time of the commission of the offence his employer did in fact believe the statement contained in the warranty to be accurate and the person charged had no reason to believe it to be inaccurate.”.
- (4) The person by whom the warranty is alleged to have been given shall be entitled to appear at the hearing and to give evidence.
- (5) If the person charged in any such proceedings as are mentioned in subsection (1) wilfully attributes to any goods a warranty given in relation to any other goods, he shall be guilty of an offence.
- (6) A person who, in respect of any goods sold by him in respect of which a warranty might be pleaded under this section, gives to the buyer a false warranty in writing shall be guilty of an offence unless he proves that when he gave the warranty he took all reasonable steps to ensure that the statements contained in it were, and would continue at all relevant times to be, accurate.
- (7) For the purposes of this section, any statement with respect to any goods which is contained in any document required by or under this Part to be associated with the goods or in any invoice, and, in the case of goods made up in or on a container for sale or for delivery after sale, any statement with respect to those goods with which that container is marked, shall be taken to be a written warranty of the accuracy of that statement.

27 Reasonable precautions and due diligence

[P1985/72/34; P1971/36/25 (1) and 27(2)]

- (1) In any proceedings for an offence under this Part or any instrument made under this Part, it shall be a defence for the person charged to prove that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.
- (2) If in any case the defence provided by subsection (1) involves an allegation that the commission of the offence in question was due to the act or default of another person or due to reliance on information supplied by another person, the person charged shall not, without the leave of the court, be entitled to rely on the defence unless, before the beginning of the period of 7 days ending with the date when the hearing of the charge began, he served on the prosecutor a notice giving such

information identifying or assisting in the identification of the other person as was then in his possession.

28 Subsequent deficiency

[P1985/72/35; 1971/36/25(2), (3) and (5)]

- (1) This subsection applies to any proceedings for an offence under this Part, or any instrument made under this Part, by reason of the quantity —
 - (a) of any goods made up for sale or for delivery after sale (whether by way of pre-packing or otherwise) in or on a container marked with an indication of quantity,
 - (b) of any goods which, in connection with their sale or an agreement for sale, have associated with them a document purporting to state the quantity of the goods, or
 - (c) of any goods required by or under this Part to be pre-packed, or to be otherwise made up in or on a container for sale or for delivery after sale, or to be made for sale, only in particular quantities,

being less than that marked on the container or stated in the document in question or than the relevant particular quantity, as the case may be.

- (2) In any proceedings to which subsection (1) applies, it shall be a defence for the person charged to prove that the deficiency arose —
 - (a) in a case falling within subsection (1)(a), after the making up of the goods and the marking of the container,
 - (b) in a case falling within subsection (1)(b), after the preparation of the goods for delivery in pursuance of the sale or agreement and after the completion of the document,
 - (c) in a case falling within subsection (1)(c), after the making up or making, as the case may be, of the goods for sale,

and was attributable wholly to factors for which reasonable allowance was made in stating the quantity of the goods in the marking or document or in making up or making the goods for sale, as the case may be.

- (3) In the case of a sale by retail of food, other than food pre-packed in a container which is, or is required by or under this Part to be, marked with an indication of quantity, in any proceedings for an offence under this Part or any instrument made under this Part, by reason of the quantity delivered to the buyer being less than that purported to be sold, it shall be a defence for the person charged to prove that the deficiency was due wholly to unavoidable evaporation or drainage since the sale and that due care and precaution were taken to minimise any such evaporation or drainage.

- (4) If in any proceedings for an offence under this Part or any instrument made under this Part, being an offence in respect of any deficiency in the quantity of any goods sold, it is shown that between the sale and the discovery of the deficiency the goods were with the consent of the buyer subjected to treatment which could result in a reduction in the quantity of those goods for delivery to, or to any person nominated in that behalf by, the buyer, the person charged shall not be found guilty of that offence unless it is shown that the deficiency cannot be accounted for by the subjecting of the goods to that treatment.

29 Excess due to precautions

[P1985/72/36; 1971/36/25(6)]

In any proceedings for an offence under this Part or any instrument made under this Part, being an offence in respect of any excess in the quantity of any goods, it shall be a defence for the person charged to prove that the excess was attributable to the taking of measures reasonably necessary in order to avoid the commission of an offence in respect of a deficiency in those or other goods.

30 Provisions as to testing

[P1985/72/37; 1971/36/25 (7) and (8) and 26 (4); 1978/10/6]

- (1) If proceedings for an offence under this Part, or any instrument made under this Part, in respect of any deficiency or excess in the quantity —
- (a) of any goods made up for sale (whether by way of pre-packing or otherwise) in or on a container marked with an indication of quantity, or
 - (b) of any goods which have been pre-packed or otherwise made up in or on a container for sale or for delivery after sale, or which have been made for sale, and which are required by or under this Part to be pre-packed, or to be otherwise so made up, or to be so made, as the case may be, only in particular quantities,

are brought with respect to any article, and it is proved that, at the time and place at which that article was tested, other articles of the same kind, being articles which, or articles containing goods which, had been sold by the person charged or were in that person's possession for sale or for delivery after sale, were available for testing, the person charged shall not be convicted of such an offence with respect to that article unless a reasonable number of those other articles was also tested.

- (2) In any proceedings for such an offence as is mentioned in subsection (1), the court —
- (a) if the proceedings are with respect to one or more of a number of articles tested on the same occasion, shall have regard to the average quantity in all the articles tested,

- (b) if the proceedings are with respect to a single article, shall disregard any inconsiderable deficiency or excess, and
 - (c) shall have regard generally to all the circumstances of the case.
- (3) Subsections (1) and (2) shall apply with the necessary modifications to proceedings for an offence in respect of the size, capacity or contents of a container as they apply to proceedings for an offence in respect of the excess or deficiency in the quantity of certain goods.
- (4) Where by virtue of section 25 a person is charged with an offence with which some other person might have been charged, the reference in subsection (1) to articles or goods sold by or in the possession of the person charged shall be construed as a reference to articles or goods sold by or in the possession of that other person.

Powers of inspectors

31 Special powers of inspectors with respect to certain goods

[P1985/72/38; 1971/36/28; 1978/10/6]

- (1) Subsection (2) applies where any person —
- (a) makes in any manner any representation as to the quantity of any goods offered or exposed for sale by him, or
 - (b) has in his possession or charge awaiting or in the course of delivery to the buyer any goods which have been sold or agreed to be sold, and the sale is, or purports to be, or is required by or under this Part to be, by quantity expressed in a particular manner, or is such that the quantity of the goods sold is required by or under any provision of this Part other than section 19 to be made known to the buyer at or before a particular time, or
 - (c) has in his possession or charge for sale, or awaiting or in the course of delivery to a buyer after they have been sold or agreed to be sold —
 - (i) any goods pre-packed or otherwise made up in or on a container for sale or for delivery after sale which are required by or under this Part to be pre-packed, or to be otherwise so made up, as the case may be, only in particular quantities or only if the container is marked with particular information, or
 - (ii) any goods pre-packed in or on a container marked with an indication of quantity, or
 - (iii) any goods required by or under this Part to be made for sale only in particular quantities, or
 - (d) has in his possession or charge for sale, or awaiting or in the course of delivery to a buyer after they have been sold or agreed

to be sold, any goods subject to a requirement imposed by virtue of section 15(1)(c).

- (2) Where this subsection applies, the powers of an inspector under section 56 shall, subject to subsection (4), include power to require the person referred to in subsection (1) either to do in the presence of the inspector, or to permit the inspector to do, all or any of the following things, that is to say —
- (a) weigh or otherwise measure or count the goods,
 - (b) weigh or otherwise measure any container in or on which the goods are made up,
 - (c) in the case of goods within subsection (1)(d), do anything else as respects the goods or container which is reasonably necessary to ascertain whether the requirement there mentioned is complied with, and which does not damage or depreciate the goods or container,
 - (d) if necessary for any of the purposes of paragraphs (a) to (c), break open any container of goods, or open any vending machine in which goods are offered or exposed for sale,

and, in the case of any of the goods which are not already sold, power to require that person to sell any of them to the inspector.

- (3) Where any container of goods is broken open under subsection (2) and all requirements of, and of any instrument made under, this Part which are applicable to those goods are found to have been complied with, then —
- (a) if the container can be resealed without injury to the contents, the inspector may reseal it with a label certifying that all such requirements have been complied with, and
 - (b) if he does not so reseal it or it cannot be so resealed without injury to the contents, the inspector shall at the request of the person referred to in subsection (1) buy the goods on behalf of the Board.
- (4) [Repealed]³

32 Powers of inspectors with respect to certain documents

[P1985/72/39; 1971/38/29(1) and (2)]

- (1) Subject to the production if so requested of his credentials, an inspector may require the person in charge of any document required by or under this Part to be associated with any goods to produce that document for inspection.
- (2) If the inspector has reasonable cause to believe that any document produced to him under subsection (1) contains any inaccurate statement, he may either —

- (a) seize and detain the document, giving in exchange a copy with an endorsement signed by him certifying that the original has been seized and giving particulars of any inaccuracy alleged, or
- (b) without prejudice to any proceedings which may be taken by reason of any inaccuracy alleged, make on the document an endorsement signed by him giving particulars of any such inaccuracy;

and, except where the context otherwise requires, any reference in this Part to any such document includes a reference to a copy given in pursuance of paragraph (a).

33 Powers of inspectors with respect to goods carried on road vehicles

[P1985/72/40; 1971/36/29(3)]

- (1) Subsection (2) applies where, in the case of any goods being carried on a road vehicle, —
 - (a) the whole of the vehicle's load is being carried for sale to, or for delivery after sale to, the same person, and
 - (b) any document produced in pursuance of section 32(1) by the person in charge of the vehicle purports, or is required by or under this Part to state the quantity of the goods.
- (2) Where this subsection applies, the inspector may, for the purpose of the exercise of his powers under section 31(2), do all or any of the following things —
 - (a) require the goods to which the document relates to be unloaded from the vehicle;
 - (b) require the vehicle to be taken to the nearest suitable and available weighing or measuring equipment;
 - (c) require the person in charge of the vehicle to have it check-weighed.
- (3) The powers conferred by subsection (2) shall be exercised only to such extent as may appear to the inspector reasonably necessary in order to secure that the provisions of this Act (apart from Part V) and of any instrument made under those provisions are duly observed.

Miscellaneous and supplementary

34 Check-weighing of certain road vehicles

[P1985/72/41; 1971/36/30]

Where any road vehicle is loaded with goods for sale by weight to a single buyer of the whole of the vehicle's load, or for delivery to the buyer after they have been so sold, the buyer or seller of the goods, or any inspector who shows that he is authorised so to do by the buyer or seller of the goods, may require

the person in charge of the vehicle to have it check-weighed, and if that person fails without reasonable cause to comply with any such requirement he shall be guilty of an offence.

35 Power to make test purchases

[P1985/72/31; 1971/36/31]

The Board may make, or authorise an inspector to make on their behalf, such purchases of goods as may appear expedient for the purpose of determining whether or not the provisions of this Part and any instrument made under this Part, and the provisions of Parts II and III and any instrument made under either of those Parts, are being complied with.

36 Beer and cider

[P1985/72/43]

In ascertaining the quantity of any beer or cider for any of the purposes of section 18 or sections 21 to 24, or of any order under section 15(1) relating to beer or cider, the gas comprised in any foam on the beer or cider shall be disregarded; and for the purposes of this subsection “beer” and “cider” have the meanings given by section 1 of the *Alcoholic Liquor Duties Act 1986*.

37 Selling by quantity

[P1985/72/44; 1971/36/32(1)]

Where any goods are required by or under this Part to be sold only by quantity expressed in a particular manner —

- (a) it shall be a sufficient compliance with that requirement in the case of any sale of, or agreement to sell, any such goods if the quantity of the goods expressed in the manner in question is made known to the buyer before the purchase price is agreed; and
- (b) no person shall be guilty of an offence under section 18(1) by reason of the exposing or offering for sale of such goods at any time if both the quantity of the goods expressed in the manner in question and the price at which they are exposed or offered for sale are made known at that time to any prospective buyer.

38 Making quantity known to a person

[P1985/72/45; P1971/36/32(2) and (3)]

- (1) For the purposes of this Part, without prejudice to any other method of making known to a person the quantity of any goods expressed in a particular manner, that quantity shall be taken to be made known to that person —
 - (a) if the goods are weighed or otherwise measured or counted, as the case may require, in the presence of that person,

- (b) if the goods are made up in or on a container marked with a statement in writing of the quantity of the goods expressed in the manner in question and the container is readily available for inspection by that person, or
 - (c) upon such a statement in writing being delivered to that person.
- (2) The Board may by order provide that subsection (3) shall apply, in the case of such goods in such circumstances as are specified in the order, to any requirement so specified of, or of any instrument made under, this Part with respect to the making known to the buyer of the quantity by weight of such goods sold by retail.
- (3) In any case to which this subsection applies, the requirement specified in the order shall be taken to be satisfied if the goods are bought at premises at which weighing equipment of such description as may be prescribed —
 - (a) is kept available by the occupier of those premises for use without charge by any prospective buyer of such goods for the purpose of weighing for himself any such goods offered or exposed for sale by retail on those premises, and
 - (b) is so kept available in a position on those premises which is suitable and convenient for such use of the equipment, and
 - (c) is reserved for use for that purpose at all times while those premises are open for retail transactions,and a notice of the availability of the equipment for such use is displayed in a position on the premises where it may be readily seen by any such prospective buyer.

39 Weighing in presence of a person

[P1985/72/46; 1971/36/32(4)]

For the purposes of this Part, a person shall not be taken to weigh or otherwise measure or count any goods in the presence of any other person unless he causes any equipment used for the purpose to be so placed, and so conducts the operation of weighing or otherwise measuring or counting the goods, as to permit that other person a clear and unobstructed view of the equipment, if any, and of the operation, and of any indication of quantity given by any such equipment as the result for that operation.

PART V – PACKAGED GOODS

Quantity control

40 Duty of packers and importers as to quantity

[P1985/72/47]

- (1) It shall be the duty of a person who is the packer or importer of regulated packages to ensure that when a group of the packages marked with the same nominal quantity is selected in the prescribed manner and the packages in the group or such a portion of the group as is so selected are tested in the prescribed manner by an inspector –
 - (a) the total quantity of the goods shown by the test to be included in the packages tested divided by the number of those packages is not less than the nominal quantity on those packages, and
 - (b) the number of non-standard packages among those tested is not greater than the number prescribed as acceptable in relation to the number tested.
- (2) It is hereby declared that a person discharges the duty imposed on him by subsection (1) in respect of a group of packages if the quantity of goods in each package is or exceeds the nominal quantity on the package.
- (3) Regulations in pursuance of subsection (1) with respect to the manner of selecting or testing packages may, without prejudice to the generality of the powers to make regulations conferred by that subsection or to the generality of section 49(b), make provision by reference to a document other than the regulations (which may be or include a code of practical guidance issued by the Board or the Secretary of State).
- (4) Where, as a result of a test in respect of a group of packages which is carried out when the packages are in the possession of the packer or importer of the packages or another person, it is shown that the packer or importer of the packages has failed to perform the duty imposed on him by subsection (1) in respect of the packages, then, without prejudice to the liability of the packer or importer under section 43(1) in respect of the failure, it shall be the duty of the person in possession of the packages to keep them in his possession –
 - (a) except so far as he is authorised by or under regulations to dispose of them, or
 - (b) if he is the packer or importer of them, until he has performed his duty under subsection (1) in respect of the group.

41 Duty of packers and importers as to marking of containers

[P1985/72/48]

- (1) It shall be the duty of a person who is the packer or importer of a regulated package to ensure that the container included in the package is marked before the prescribed time and in the prescribed manner with —
 - (a) a statement of quantity in prescribed units either of weight or of volume, as regulations require, and
 - (b) his name and address or a mark which enables his name and address to be readily ascertained by an inspector, or
 - (i) if he is the packer of the package, the name and address of a person who arranged for him to make up the package or a mark which enables that name and address to be readily ascertained by an inspector,
 - (ii) if he is the importer of the package, the name and address of the packer of the package or of the person who arranged for the packer to make up the package or a mark which enables the name and address of the packer or that person to be readily ascertained by an inspector.
- (2) If at the time when a regulated package is made up or imported the container included in the package is not marked with such a statement as is mentioned in subsection (1)(a), it shall be the duty of the packer or, as the case may be, the importer of the package —
 - (a) to decide what statement he proposes to mark on the container in pursuance of subsection (1)(a), and
 - (b) to make at that time, and to maintain for the prescribed period, a record of the statement.
- (3) Until the time mentioned in subsection (1) or any earlier time at which the container is actually marked in the prescribed manner in pursuance of subsection (1)(a), it shall be treated for the purposes of this Part as marked with the statement in the record.
- (4) A statement applied to a package in pursuance of subsection (1)(a) shall be deemed not to be a trade description within the meaning of the *Consumer Protection (Trade Descriptions) Act 1970*.

42 Duties as to equipment checks and documentation

[P1985/72/49]

- (1) It shall be the duty of a person who makes up packages either —
 - (a) to use suitable equipment of the prescribed kind in an appropriate manner in making up the packages, or
 - (b) to carry out at the prescribed time a check which is adequate to show whether he has performed the duty imposed on him by section 40(1) in respect of the packages and —

- (i) to use suitable equipment of the prescribed kind in an appropriate manner in carrying out the check, and
 - (ii) to make, and to keep for the prescribed period, an adequate record of the check.
- (2) It shall be the duty of a person who is the importer of regulated packages —
 - (a) to carry out at the prescribed time such a check as is mentioned in paragraph (b) of subsection (1) and to comply with subparagraphs (i) and (ii) of that paragraph in connection with the check, or
 - (b) to obtain before the prescribed time, and to keep for the prescribed period, documents containing such information about the packages as is adequate to show that the person is likely to have complied with his duty under section 40(1) in relation to the packages.
- (3) Without prejudice to the generality of the powers to make regulations conferred by subsection (1) or (2), or of section 49, regulations may provide —
 - (a) for equipment not to be suitable equipment for the purposes of the subsection in question unless it is made from materials and on principles specified in the regulations and is inspected, tested and certified as provided by the regulations,
 - (b) for questions as to the suitability of equipment, the appropriate manner of using equipment and the adequacy of checks, records and information to be determined for those purposes by reference to documents other than the regulations (which may be or include codes or parts of codes of practical guidance issued or approved by the Board or the Secretary of State), and
 - (c) that the use and the possession for use, for the purposes of subsection (1) or (2), of a thing which is suitable equipment for the purpose of the subsection in question shall not constitute a contravention of section 5(1)(b).
- (4) Where regulations made by virtue of subsection (3)(a) provide for inspection, testing and certification of equipment the Board may charge such fees as may be prescribed for the inspection, testing and certification of the equipment.

Enforcement of control

43 Offences etc

[P1985/72/50]

- (1) A person who fails to perform a duty imposed on him by section 40, 41 or 42 shall be guilty of an offence.

- (2) If a person purports to comply with his duty under —
 - (a) sub-paragraph (ii) of section 42(1)(b),
 - (b) that sub-paragraph as applied by section 42(2)(a),by making a record which he knows is false in a material particular, he shall be guilty of an offence.
- (3) If a person purports to comply with his duty under section 42(2)(b) by reference to a document containing information which he knows is false in a material particular, he shall be guilty of an offence.
- (4) If a person, with intent to deceive, alters —
 - (a) any record kept for the purposes of section 41(2) or 42(1)(b)(ii), or section 42(1)(b)(ii) as applied by section 42(2)(a), or
 - (b) any document kept for the purposes of section 42(2)(b),he shall be guilty of an offence.
- (5) If a person has in his possession for sale, agrees to sell or sells a regulated package which is inadequate, he shall be guilty of an offence.
- (6) If the packer of a regulated package which is inadequate and which was made up by him in the course of carrying out arrangements with another person for the packer to make up packages delivers the package to or to the order of a person to whom it falls to be delivered in pursuance of the arrangements, the packer shall be guilty of an offence.
- (7) No action shall lie in respect of a failure to perform a duty imposed by section 40, 41 or 42.

44 Defences to certain charges under section 43

[P1985/72/51]

- (1) Where a person is charged with an offence under section 43(1) of failing to perform the duty imposed on him by section 40(1) in respect of any packages, it shall be a defence to prove that the test in question took place when the packages were not in his possession and by reference to a nominal quantity which was not on the packages when they were in his possession.
- (2) Where the importer of packages is charged with an offence under section 43(1) of failing to perform the duty imposed on him by section 40(1) in respect of the packages, it shall be a defence to prove —
 - (a) that in respect of the packages the accused performed the duty imposed on him by section 42(2)(b), and
 - (b) that within the prescribed period after obtaining the documents mentioned in section 42(2)(b) relating to the packages he took all reasonable steps to verify the information contained in the documents and that when the relevant test in pursuance of section

- 40(1) began he believed and had no reason to disbelieve that the information was true, and
- (c) that before the beginning of the period of 7 days ending with the date when the hearing of the charge began he served on the prosecutor a copy of the said documents and a notice which stated that the accused intended to rely on them in proving a defence under this subsection, and
 - (d) that he took all reasonable steps to ensure that the quantity of goods in each of the packages did not alter while the packages were in his possession.
- (3) Where a person is charged with an offence under section 43(1) of failing to perform the duty imposed on him by section 41(1)(b) in respect of a package, it shall be a defence to prove —
- (a) that the container included in the package was marked at the time and in the manner mentioned in section 41(1) with a mark as to which he had, before that time, given notice to an inspector stating that the mark indicated a name and address specified in the notice, and
 - (b) that at that time the name and address were such as are mentioned in relation to him in section 41(1)(b).
- (4) Where a person is charged with an offence under section 43(1), (5) or (6), it shall be a defence to prove that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.

45 Enforcement of Part V

- (1) It shall be the duty of the Board to enforce the provisions of this Part.
- (2) Schedule 3 shall have effect with respect to the powers of inspectors and the Board under this Part.

Special provision for certain packages

46 Special provision for certain packages

[P1985/72/54]

- (1) Subsections (2) to (7) apply only to packages containing goods of a prescribed quantity, and references to packages in those subsections shall be construed accordingly.
- (2) If in the course of carrying on a business —
 - (a) a person marks a package with the EEC mark and is neither the packer nor the importer of the package nor a person acting on behalf of the packer or importer of the package, or

- (b) a person marks a package with a mark so closely resembling the EEC mark as to be likely to deceive,
he shall be guilty of an offence.
- (3) For the purposes of this Part a person who brings a package marked with the EEC mark into the Island does not import the package if he shows that the package is from a member State of the European Economic Community in which it was liable to be tested under a law corresponding to section 40(1) and, except in such cases as are determined by or under regulations, has not since leaving that State been in a country which is not such a member State.
- (4) Subject to subsection (6), it shall be the duty of —
- (a) the packer of packages which are marked with the EEC mark and which he intends to export from the Island,
 - (b) a person who intends to import packages which are so marked and to export them from the Island to a place in another member State of the European Economic Community, and
 - (c) a person who intends to import packages, to mark them with the EEC mark and to export them as mentioned in paragraph (b),
- to give before the prescribed time and in the prescribed manner, to the Board a notice containing such information about the packages as is prescribed and, in the case of a person who has given such a notice in pursuance of paragraph (b) or (c), such further information about the packages in question as an inspector may specify in a notice served on the person by the inspector.
- (5) A person who fails without reasonable cause to perform a duty imposed on him by subsection (4) shall be guilty of an offence.
- (6) Regulations may enable an inspector to give notice to any person providing that, until an inspector informs the person in writing that the notice is cancelled, any paragraph of subsection (4) which is specified in the notice shall not apply to the person or shall not apply to him as respects packages of a kind specified in the notice or a place so specified.
- (7) In this section “the EEC mark” means such mark as may be prescribed; and, without prejudice to the generality of section 49, regulations prescribing a mark in pursuance of this subsection —
- (a) may contain such provisions as the Board considers appropriate with respect to the dimensions of the mark and the manner and position in which it is to be applied to the container included in a package, and
 - (b) may provide for a mark which is not in accordance with those provisions to be disregarded for the purposes of prescribed provisions of this section.

*Miscellaneous***47 Disclosure of information**

[P1985/72/64]

- (1) If a person discloses information which —
- (a) relates to a trade secret or secret manufacturing process, and
 - (b) was obtained by him by virtue of this Part when he was an inspector or a person who accompanied an inspector by virtue of paragraph 3(1) of Schedule 3,
- he shall be guilty of an offence unless the disclosure was made in the performance of his duty as an inspector or other person mentioned in paragraph (b).
- (2) For the purposes of subsection (1) information disclosing the identity of the packer of a package or the identity of the person who arranged with the packer of a package for the package to be made up shall be treated as a trade secret unless the information has previously been disclosed in a manner which made it available to the public.

48 Power to modify Part V etc

[P1985/72/65]

Regulations may provide —

- (a) that in relation to packages of a prescribed kind the following provisions —
 - (i) this Part, except this section, and
 - (ii) sections 18(7) and 21(2), including section 21(2) as applied by sections 22(2), 23(5) and 24(2),shall have effect with prescribed modifications;
- (b) for the said provisions to apply, with prescribed modifications, to goods of a prescribed kind which are not comprised in packages.

49 Regulations under Part V

[P1985/72/66]

Without prejudice to section 62(1), any power to make regulations conferred by this Part includes power —

- (a) to make provision relating only to specified circumstances,
- (b) to make provision by reference to documents which do not form part of the regulations, and
- (c) to include in the regulations such supplemental and incidental provisions as the Board considers appropriate.

50 Interpretation of Part V

[P1985/72/68]

(1) In this Part —

“**container**” includes any wrapping;

“**goods**”, in relation to a package, excludes the container included in the package;

“**importer**”, in relation to a package, means, subject to section 46(3), the person by whom or on whose behalf the package is entered for customs purposes on importation;

“**modifications**” includes additions, omissions and alterations;

“**nominal quantity**”, in relation to a package, means the units of weight or volume prescribed for the package and the number of them in the statement of quantity marked on the container included in the package (any other matter in the statement being disregarded);

“**notice**” means notice in writing;

“**package**” means, subject to section 46(1), a container containing prescribed goods together with the goods in the container in a case where —

- (a) the goods are placed for sale in the container otherwise than in the presence of a person purchasing the goods, and
- (b) none of the goods can be removed from the container without opening it;

“**packer**” means, in relation to a package, the person who placed in the container included in the package the goods included in it;

“**regulated package**” means any package which —

- (a) was made up in the Island on or after the date on which the goods in the package became prescribed goods, or
- (b) was imported on or after that date;

“**regulations**” means regulations made by the Board by virtue of this Part.

(2) For the purposes of his Part a package —

- (a) is non-standard if the quantity of the goods it contains is less by more than a prescribed amount than the nominal quantity on the package, and
- (b) is inadequate if the quantity of the goods it contains is less by more than twice that amount than the nominal quantity on the package.

(3) Regulations may make provision, in relation to a package which contains more than one container or goods of more than one kind, as to which of the containers or goods shall be disregarded for the purposes of prescribed provisions of this Part.

- (4) If 2 or more different nominal quantities are marked on a package, each of those quantities except the one which indicates the larger or largest quantity shall be disregarded for the purposes of this Part.

PART VI – ADMINISTRATION

Inspectors of weights and measures

51 Appointment of inspectors

[P1985/72/72; 1971/36/39]

- (1) There shall be appointed from among persons holding certificates of qualification under section 73 of the Weights and Measures Act 1985 (an Act of Parliament) —
- (a) a chief inspector of weights and measures, and
 - (b) such number of other inspectors of weights and measures, if any, as may be necessary for the efficient discharge of the functions conferred or imposed on inspectors by or under this Act.⁴
- (2) The chief inspector shall be responsible to the Board for the custody and maintenance of the Manx standards, working standards and testing and stamping equipment and generally for the operation of the arrangements made to give effect to the purposes of this Act.

52 Performance by inspectors of additional functions

[P1985/72/74; 1971/36/40]

- (1) The arrangements made by the Board to give effect to the purposes of this Act may include the provision under the supervision of the chief inspector of a service for the adjustment of weights and measures, but not of other weighing or measuring equipment.
- (2) Where a service is provided under subsection (1), the Board shall charge such reasonable fees as they may determine in connection with it.
- (3) No person holding office as an inspector who is employed in the inspection of weighing or measuring equipment for the purposes of its use for trade shall also undertake, whether as part of a service provided under subsection (1) or otherwise, the adjustment for those purposes of weighing or measuring equipment of any description.
- (4) Without prejudice to the functions of the Board or inspectors under any other provision of this Act the Board may make arrangements whereby an inspector may, at the request of any person and subject to payment by that person of such fee, if any, as the Board may think fit, carry out and submit to that person a report on —

- (a) a weighing or other measurement of any goods submitted for the purpose of that person at such place as the Board may direct or approve;
- (b) a test of the accuracy of any weighing or measuring equipment so submitted.

53 Offences in connection with office of inspector

[P1985/72/73; 1971/36/42]

- (1) Any inspector who —
 - (a) stamps any weighing or measuring equipment in contravention of any provision of this Act or of any instrument made under this Act or without duly testing it, or
 - (b) derives any profit from, or is employed in, the making, adjusting or selling of weighing or measuring equipment, or
 - (c) knowingly commits any breach of any duty imposed on him by or under this Act or otherwise misconducts himself in the execution of his office,shall be guilty of an offence.
- (2) If any person who is not an inspector acts or purports to act as an inspector, he shall be guilty of an offence.

Fees

54 Reduction of fees

[P1985/72/77]

Where a person gives assistance in connection with the inspection, testing or stamping of weighing or measuring equipment by an inspector, the Board may reduce, by a sum which the Board considers is reasonable by reference to the assistance, the amount of any payment falling to be made by that person to the inspector in respect of the inspection, testing or stamping.

55 Fees received by inspectors

[P1985/72/78]

Every inspector shall, at such times as the Treasury may direct, account for and pay over to the Treasury as they may direct all fees taken by him for the performance of his duties.

PART VII – GENERAL

Enforcement and legal proceedings

56 General powers of inspection and entry

[P1985/72/79; 1971/36/44]

- (1) Subject to the production if so requested of his credentials, an inspector may 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 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 seize and detain —
 - (a) any article which he has reasonable cause to believe is liable to be forfeited under Part II or IV, 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) are on any premises, or that any offence under this Act or any instrument made 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) 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.
- (5) An inspector who leaves premises which he has entered by virtue of a warrant under subsection (3) 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.
- (6) If any inspector or other person who enters any work-place 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.
- (7) Nothing in this Act shall authorise any inspector to stop any vehicle on a highway.

57 Obstruction of inspectors

[P1985/72/80; 1971/36/45(1)(a)]

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

58 Failure to provide assistance or information

[P1985/72/81; 1971/36/45(1)(b), (c), (2) and (3)]

- (1) Any person who —
 - (a) wilfully fails to comply with any requirement properly made of him by an inspector under section 31, 32 or 33, 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 or this Part,shall be guilty of an offence.
- (2) If any person, in giving to an inspector any such information as is mentioned in subsection (1), 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) Section 14(1) of the *Civil Evidence Act 1973* (privilege against self-incrimination) shall apply to the right conferred by subsection (3) as it applies to the right described in the said section 14(1).

59 Offences by corporations

[P1985/72/82; 1971/36/46]

- (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) “director” in relation to any body corporate whose affairs are managed by its members, means a member of that body corporate.

60 Prosecution of offences

[P1985/72/83; 1971/36/47]

- (1) Subject to subsection (2) proceedings for any offence under this Act or any instrument made under this Act, other than proceedings for an offence under section 47, shall not be instituted except by an inspector or by or on behalf of the Chief Constable.
- (2) Proceedings for an offence under any provision contained in, or having effect by virtue of, Part IV or V, other than proceedings for an offence under section 47, 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 43 or 46 or Schedule 3, 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 30 days beginning with the date when evidence which the person proposing to institute the proceedings considers is sufficient to justify a prosecution of the person charged for the offence came to his knowledge; or
- (c) after the expiration of the period —
- (i) of 12 months beginning with the date mentioned in paragraph (a), or

- (ii) of 3 months beginning with the date mentioned in paragraph (b), whichever first occurs.
- (3) For the purposes of subsection (2) —
 - (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.

61 Penalties

[P1985/72/84; 1971/36/49; 1978/10/3]

- (1) A person guilty of an offence under any of the following provisions of this Act —
 - section 5(4);
 - section 6(4);
 - section 7(2);
 - section 8(3);
 - section 8(14);
 - section 9(3);
 - section 9(5);
 - section 12(3);
 - section 14(2);
 - section 14(4);
 - section 14(7);
 - section 14(8),shall be liable on summary conviction to a fine not exceeding £1,000.
- (2) A person guilty of an offence under section 11(3), 14(3)(b) or 43(2), (3) or (4) shall be liable on summary conviction to a fine not exceeding £5,000 or to imprisonment for a term not exceeding 6 months or to both.
- (3) A person guilty of an offence under section 47(1) or 56(6) shall be liable, on summary conviction, to a fine not exceeding £5,000 and, on conviction on information, to imprisonment for a term not exceeding 2 years or to a fine or to both.
- (4) A person guilty of an offence under any provision of this Act other than those mentioned in subsections (1) to (3) shall be liable on summary conviction to a fine not exceeding £5,000.

*Miscellaneous and supplementary***62 Regulations and orders**

[P1985/72/86; 1971/36/50; 1978/10/7(1)]

- (1) No orders or regulations under this Act (except an order under section 71(2)) shall have effect unless they are approved by Tynwald.
- (2) Before making —
 - (a) an order under any provision of this Act except section 8(16), 63 or 71,
 - (b) regulations under section 6 or Part V,the Board shall consult such organisations as appear to it to be representative of interests substantially affected by the order or regulations.

63 Application of legislation under Community Treaties

[1971/36/9; 1981/9/2/16]

Without prejudice to any power to make orders or regulations conferred on the Board by any other provision of this Act, the Board may by order apply to the Island as part of the law of the Island any provision having effect in Great Britain of —

- (a) an Act of Parliament, or
- (b) a statutory instrument made under an Act of Parliament,

relating to weights and measures and made for the purpose of implementing any obligation of the Government of the United Kingdom under the Community Treaties.

64 Application to Crown

[P1985/72/88; 1971/26/52]

- (1) The Governor in Council may by order provide for the application to the Crown of such of the provisions of this Act or of any instrument made under it as may be specified in the order, with such exceptions, adaptations and modifications as may be so specified.
- (2) Without prejudice to the generality of subsection (1), an order under this section may make special provision for the enforcement of any provisions applied by the order, and, in particular, as to the person liable to be proceeded against for any offence under any such provision.

65 Saving for use of certain units in wholesale transactions

[P1985/72/89; 1971/36/54(1)]

- (1) Except as the Board may by order otherwise provide, and subject to subsection (2), nothing in this Act shall make unlawful the use in any

transaction, by agreement between the parties to that transaction, of any unit of measurement which —

- (a) was customarily used for trade in the like transactions immediately before the 15th February 1972, and
- (b) is not inconsistent with anything for the time being contained in Schedule 1,

notwithstanding that the unit in question is not included in Parts I to V of that Schedule.

- (2) Subsection (1) shall not apply in relation to —
 - (a) any retail transaction, or
 - (b) any transaction with respect to which provision to the contrary effect is made by or under Part IV.

66 Validity of contracts

[P1985/72/91; 1971/36/54(2)]

No contract for the sale or carriage for reward of any goods shall be void by reason only of a contravention of any provision contained in or made under this Act with respect to any document which is, or is required by that provision to be, associated with the goods.

67 Spelling of “gram”, etc

[P1985/72/92; 1978/10/1(5)]

No provision contained in or made under this or any other Act prevents the use of “gram” or “gramme” as alternative ways of spelling that unit, and the same applies for other units in the metric system which are compounds of “gram”.

68 General interpretation

[P1985/72/94; 1971/36/53]

- (1) In this Act —

“**the Board**” means the Isle of Man Office of Fair Trading;⁵

“**capacity measurement**” means measurement in terms of a unit of measurement included in Part IV of Schedule 1;

“**check-weighed**”, in relation to any vehicle, means weighed with its load by means of the nearest suitable and available weighing equipment, and weighed again after it has been unloaded by means of the same or other suitable weighing equipment;

“**the chief inspector**” means the chief inspector of weights and measures appointed under section 51(1);

“**the Community Treaties**” has the meaning given by section 1(1) of the *European Communities (Isle of Man) Act 1973*;

- “**container**”, except in Part V, includes any form of packaging of goods for sale as a single item, whether by way of wholly or partly enclosing the goods or by way of attaching the goods to, or winding the goods round, some other article, and in particular includes a wrapper or confining band;
- “**contravention**”, in relation to any requirement, includes a failure to comply with that requirement, and cognate expressions shall be construed accordingly;
- “**credentials**”, in relation to an inspector, means authority in writing from the Governor for the exercise by that inspector of powers conferred on inspectors by this Act;
- “**drugs**” and “**food**” have the same meanings respectively as for the purposes of the *Food Act 1996*;⁶
- “**gross weight**”, in relation to any goods, means the aggregate weight of the goods and any container in or on which they are made up;
- “**indication of quantity**”, in relation to any container in or on which goods are made up, means a statement in writing to the effect that those goods are of, or of not less than, a specified quantity by net weight, gross weight or other measurement or by number, as the case may require;
- “**industrial use**”, in relation to any goods, means the use of those goods in the manufacture of, or for incorporation in goods of a different description in the course of the carrying on of a business;
- “**inspector**” means an inspector of weights and measures appointed under section 51(1);
- “**intoxicating liquor**” means spirits, beer, wine, made-wine or cider as defined in section 1 of the *Alcoholic Liquor Duties Act 1986*;
- “**Manx standard**” means a standard maintained under section 2;
- “**mark**” includes label;
- “**occupier**”, in relation to any stall, vehicle, ship or aircraft or in relation to the use of any place for any purpose, means the person for the time being in charge of the stall, vehicle, ship or aircraft or, as the case may be, the person for the time being using that place for that purpose;
- “**premises**”, except in section 38, includes any place and any stall, vehicle, ship or aircraft;
- “**pre-packed**” means made up in advance ready for retail sale in or on a container;
- “**prescribed**” means prescribed by the Board by regulations;
- “**ship**” includes any boat and any other description of vessel used in navigation;
- “**stamp**” means a mark for use as evidence of the passing of weighing or measuring equipment as fit for use for trade, whether applied by

impressing, casting, engraving, etching, branding, or otherwise, and cognate expressions shall be construed accordingly;

“**testing equipment**” means testing equipment maintained under section 3;

“**use for trade**” shall be construed in accordance with section 4;

“**weighing or measuring equipment**” means equipment for measuring in terms of length, area, volume, capacity, weight or number, whether or not the equipment is construed to give an indication of the measurement made or other information determined by reference to that measurement;

“**working standard**” means a standard maintained under section 3.

(2) In any provision of this Act “**designated country**” means such of Northern Ireland and any of the Channel Islands as the Council of Ministers⁷, having regard to the law for the time being in force there, thinks it proper to designate for the purposes of that provision by order.

(3) On any premises where articles of any description are —

- (a) made up in advance ready for retail sale in or on a container, or
- (b) kept or stored for sale after being so made up,

any article of that description found made up in or on a container shall be deemed to be pre-packed unless the contrary is proved; and it shall not be sufficient proof of the contrary to show that the container has not been marked in accordance with the requirements of this Act or any instrument made under it with respect to the pre-packing of such articles.

(4) Except where the context otherwise requires, any reference in this Act to any person, other than a reference to an inspector, shall be construed as a reference to that person or some other person acting on his behalf in the matter in question.

69 Transitional provisions and savings

Schedule 4 to this Act (which contains transitional provisions and savings) shall have effect.

70 [Repealed]⁸

71 Short title and commencement

- (1) This Act may be cited as the Weights and Measures Act 1989.
- (2) This Act shall come into operation on such day as the Board may by order appoint.⁹

Schedule 1

DEFINITIONS OF UNITS OF MEASUREMENT

Sections 1(2) and 5(1)

PART I – MEASUREMENT OF LENGTH

Imperial units

Mile=1760 yards

YARD=0.9144 metre

Foot=1/3 yard

Inch=1/36 yard

Metric units

Kilometre=1000 metres

METRE=is the length of the path travelled by light in vacuum during a time interval of 1/299 792 458 of a second

Decimetre=1/10 metre

Centimetre=1/100 metre

Millimetre=1/1000 metre

PART II – MEASUREMENT OF AREA

Imperial units

Acre=4840 square yards

SQUARE YARD=a superficial area equal to that of a square each side of which measures one yard

Square foot=1/9 square yard

Metric units

Hectare=100 ares

Decare=10 ares

Are=100 square metres

SQUARE METRE=a superficial area equal to that of a square each side of which measures one metre

Square decimetre=1/100 square metre

Square centimetre=1/100 square decimetre

Square millimetre=1/100 square centimetre

PART III – MEASUREMENT OF VOLUME

Metric units

CUBIC METRE=a volume equal to that of a cube each edge of which measures one metre

Cubic decimetre= $1/1000$ cubic metre

Cubic centimetre= $1/1000$ cubic decimetre

Hectolitre=100 litres

LITRE=a cubic decimetre

Decilitre= $1/10$ litre

Centilitre= $1/100$ litre

Millilitre= $1/1000$ litre

PART IV – MEASUREMENT OF CAPACITY

Imperial units

GALLON= $4.546\ 09$ cubic decimetres

Quart= $1/4$ gallon

Pint= $1/2$ quart

Gill= $1/4$ pint

Fluid ounce= $1/20$ pint

Metric units

Hectolitre=100 litres

LITRE=a cubic decimetre

Decilitre= $1/10$ litre

Centilitre= $1/100$ litre

Millilitre= $1/1000$ litre

PART V – MEASUREMENT OF MASS OR WEIGHT

Imperial units

POUND= $0.453\ 592\ 37$ kilogram

Ounce= $1/16$ pound

Ounce troy= $12/175$ pound

Metric units

Tonne, metric tonne=1000 kilograms

KILOGRAM=is the unit of mass; it is equal to the mass of the international prototype of the kilogram

Hectogram= $1/10$ kilogram

Gram= $1/1000$ kilogram

Carat (metric)= $1/5$ gram

Milligram= $1/1000$ gram

PART VI – DEFINITIONS OF CERTAIN UNITS WHICH MAY NOT BE USED FOR TRADE

Measurement of length

Furlong=220 yards

Chain=22 yards

Measurement of area

Square mile=640 acres

Rood=1210 square yards

Square inch=1/144 square foot

Measurement of volume

Cubic yard=a volume equal to that of a cube each edge of which measure one yard

Cubic foot=1/27 cubic yard

Cubic inch=1/1728 cubic foot

Measurement of capacity

Bushel=8 gallons

Peck=2 gallons

Fluid drachm=1/8 fluid ounce

Minim=1/60 fluid drachm

Measurement of mass or weight

Ton=2240 pounds

Hundredweight=112 pounds

Cental=100 pounds

Quarter=28 pounds

Stone=14 pounds

Dram=1/16 ounce

Grain=1/7000 pound

Pennyweight=24 grains

Ounce apothecaries=480 grains

Drachm=1/8 ounce apothecaries

Scruple=1/3 drachm

Metric ton=1000 kilograms

Quintal=100 kilograms

PART VII – MEASUREMENT OF ELECTRICITY

1 (a) AMPERE is that constant current which, if maintained in 2 straight parallel conductors of infinite length, of negligible circular cross-section and placed 1 metre apart in a vacuum, would produce between these conductors a force equal to 2×10^{-7} newton per metre of length.

(b) OHM is the electric resistance between 2 points of a conductor when a constant potential difference of 1 volt, applied between the 2 points, produces in the conductor a current of 1 ampere, the conductor not being the seat of any electromotive force.

(c) VOLT is the difference of electric potential between two points of a conducting wire carrying a constant current of 1 ampere when the power dissipated between these points is equal to 1 watt.

(d) WATT is the power which in one second gives rise to energy of 1 joule.

2. Kilowatt= 1000 watts

Megawatt= one million watts

Schedule 2

MEASURES AND WEIGHTS LAWFUL FOR USE FOR TRADE

Section 5(1)

PART I – LINEAR MEASURES

Imperial system

1. Measures of —

100 feet	5 feet
66 feet	4 feet
50 feet	1 yard
33 feet	2 feet
20 feet	1 foot
10 feet	6 inches
8 feet	1 inch
6 feet	

Metric system

2. Measures of —

50 metres	2 metres
30 metres	1.5 metres
20 metres	1 metre
10 metres	0.5 metre
5 metres	1 decimetre
3 metres	1 centimetre

PART II – SQUARE MEASURES*Imperial system*

1. Measures of, or of any multiple of, 1 square foot

Metric system

2. Measures of, or of any multiple of, 1 square decimetre

PART III – CUBIC MEASURES*Metric system*

1. Measures of, or any multiple of, 0.1 cubic metre

2. Measures of —

any multiple of 10 litres

10 litres	100 millilitres
5 litres	50 millilitres
2.5 litres	25 millilitres
2 litres	20 millilitres
1 litre	10 millilitres
500 millilitres	5 millilitres
250 millilitres	2 millilitres
200 millilitres	1 millilitre

PART IV – CAPACITY MEASURES*Imperial system*

1. Measures of —

any multiple of 1 gallon

1 gallon	1 gill
1/2 gallon	4 fluid ounces
1 quart	1/2 gill
1 pint	2/5 gill
1/2 pint	1/3 gill
8 fluid ounces	1/4 gill
1/3 pint	1/5 gill

6 fluid ounces 1/6 gill

Metric system

2. Measures of —

any multiple of 10 litres

10 litres	125 millilitres
5 litres	100 millilitres
2.5 litres	50 millilitres
2 litres	25 millilitres
1 litre	20 millilitres
500 millilitres	10 millilitres
250 millilitres	5 millilitres
200 millilitres	2 millilitre
175 millilitres	1 millilitre
150 millilitres	

PART V – WEIGHTS

Imperial system

1. Weights of —

56 pounds	any of the following multiples or fractions of
50 pounds	1/7000 pound that is
28 pounds	to say: —
20 pounds	100
14 pounds	50
10 pounds	30
7 pounds	20
5 pounds	10
4 pounds	5
2 pounds	3
1 pound	2
8 ounces	1
4 ounces	0.5
2 ounces	0.3
1 ounce	0.2
1/2 ounce	0.1

1/4 ounce	0.05
1/8 ounce	0.03
1/16 ounce	0.02
1/32 ounce	0.01

2. Weights of —

500 ounces troy	0.4 ounce troy
400 ounces troy	0.3 ounce troy
300 ounces troy	0.2 ounce troy
200 ounces troy	0.1 ounce troy
100 ounces troy	0.05 ounce troy
50 ounces troy	0.04 ounce troy
40 ounces troy	0.03 ounce troy
30 ounces troy	0.025 ounce troy
20 ounces troy	0.02 ounce troy
10 ounces troy	0.01 ounce troy
5 ounces troy	0.005 ounce troy
4 ounces troy	0.004 ounce troy
3 ounces troy	0.003 ounce troy
2 ounces troy	0.002 ounce troy
1 ounce troy	0.001 ounce troy
0.5 ounce troy	

Metric system

3. Weights of —

25 kilograms	3 grams
20 kilograms	2 grams
10 kilograms	1 gram
5 kilograms	500 milligrams
2 kilograms	400 milligrams
1 kilogram	300 milligrams
500 grams	200 milligrams
200 grams	150 milligrams
100 grams	100 milligrams
50 grams	50 milligrams
20 grams	20 milligrams
15 grams	10 milligrams

10 grams	5 milligrams
5 grams	2 milligrams
4 grams	1 milligram

4. Weights of —

500 carats (metric)	1 carat (metric)
200 carats (metric)	0.5 carat (metric)
100 carats (metric)	0.25 carat (metric)
50 carats (metric)	0.2 carat (metric)
20 carats (metric)	0.1 carat (metric)
10 carats (metric)	0.05 carat (metric)
5 carats (metric)	0.02 carat (metric)
2 carats (metric)	0.01 carat (metric)

Schedule 3**POWERS OF INSPECTORS AND THE BOARD UNDER PART V**

Section 45(2)

Powers of entry and inspection

1. An inspector may, on production if so requested of his credentials, at all reasonable times —
 - (a) enter any premises (except premises used only as a private dwelling-house) as to which he has reasonable cause to believe that packages are made up on the premises or that imported packages belonging to the importer of them are on the premises or that regulated packages intended for sale are on the premises;
 - (b) inspect and test any equipment which he has reasonable cause to believe is used in making up packages in the Island or carry out a check mentioned in section 42(1) and (2);
 - (c) inspect and measure in such manner as he thinks fit, any thing which he has reasonable cause to believe is or contains or is contained in a package and, if he considers it necessary to do so for the purpose of inspecting the thing or anything in it, break it open;
 - (d) inspect and take copies of, or of any thing purporting to be, a record, document or certificate mentioned in section 41(2) and section 42(1) and (2);
 - (e) require any person on premises which the inspector is authorised to enter by virtue of sub-paragraph (a) to provide such assistance as the inspector reasonably considers necessary to enable the

- inspector to exercise effectively any power conferred on him by sub-paragraphs (a) to (d);
- (f) require any person to give to the inspector such information as the person possesses about the name and address of the packer and of any importer of a package which the inspector finds on premises he has entered by virtue of this paragraph or paragraph 2.
2. If a justice of the peace, on sworn information in writing —
- (a) is satisfied that there is reasonable ground to believe that —
- (i) a package or a thing containing a package, or
- (ii) any such equipment, record, document or certificate as is mentioned in paragraph 1,
- is on any premises or that an offence under section 43 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 that 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 premises are unoccupied or that the occupier is temporarily absent and it might defeat the object of the entry to await his return,
- 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.
3. (1) An inspector entering any premises by virtue of paragraph 1 or 2 may take with him such other persons and such equipment as he considers necessary.
- (2) It shall be the duty of an inspector who leaves premises which he has entered by virtue of paragraph 2 and which are unoccupied or from which the occupier is temporarily absent to leave the premises as effectively secured against trespassers as he found them.

Power of seizure

4. Where an inspector has reasonable cause to believe that an offence under section 43 or 46 or this Schedule has been committed and that any equipment, record, document, package or thing containing or contained in a package may be required as evidence in proceedings for the offence he may seize it and detain it for as long as it is so required.

Power to require information

5. (1) An inspector may serve, on any person carrying on business as the packer or importer of packages, a notice requiring that person —
- (a) to furnish the inspector from time to time with particulars of the kind specified in the notice of any marks which are applied from time to time to packages made up by that person or (as the case may be) to packages imported by him, for the purpose of enabling the place where the packages were made up to be ascertained, and
 - (b) if the person has furnished particulars of a mark in pursuance of the notice and the mark ceases to be applied to such packages for that purpose, to give notice of the cesser to the inspector.
- (2) A notice given by an inspector under this paragraph shall not require a person to furnish information which he does not possess.

Purchase of goods

6. (1) The Board shall have power to purchase goods, and to authorise any of its officers to purchase goods on behalf of the Board, for the purpose of ascertaining whether an offence under section 43 or 46(2) has been committed.
- (2) If an inspector breaks open a package in pursuance of paragraph 1(c) otherwise than on premises occupied by the packer or importer of the package and the package is not inadequate, it shall be the duty of the inspector, if the owner of the package requests him to do so, to buy the package on behalf of the Board.

Failure to provide assistance or information

7. Any person who without reasonable cause fails to comply with a requirement made of him in pursuance of paragraph, 1(e) or (f) or 5 shall be guilty of an offence.

Schedule 4**TRANSITIONAL PROVISIONS AND SAVINGS**

Section 69(1)

General

1. In this Schedule —
- “**the 1971 Act**” means the *Weights and Measures Act 1971*;
- “**obsolete unit**” means any of the following units of measurement, namely, the chain, furlong, rood, square mile, square inch, cubic yard, cubic foot, cubic inch, ton, hundredweight, cental, quarter, stone, dram, grain and quintal.

Certificate of fitness of standards

2. Section 2(5) (term of certificate of fitness of standards) does not apply, and section 3 of the 1971 Act continues to apply, to a certificate of fitness issued under section 2 of the 1971 Act which is in force immediately before the commencement of section 2.

Use of obsolete units

3. (1) Notwithstanding anything in this Act, obsolete units may continue to be used for —
- (a) products and equipment, other than weighing or measuring equipment (including weights), which were placed on the market or used before the commencement of Part I;
 - (b) components and parts of products and of equipment necessary to supplement or replace components or parts of products or equipment referred to in (a) above.
- (2) Notwithstanding anything in this Act, weighing or measuring equipment (including weights) weighing or measuring in any obsolete unit may continue to be used for trade —
- (a) in the case of equipment prescribed for the purpose of section 8, if it was first passed as fit for use for trade and, where necessary, stamped in accordance with the 1971 Act before the commencement of Part I;
 - (b) in the case of equipment not so prescribed, if it was placed on the market and used before such commencement.
- (3) Nothing in sub-paragraph (2) shall be taken as authorising the continued use for trade of any obsolete unit except in so far as the weight of goods in or partly in that unit is treated as having been made known to a prospective buyer by virtue of sections 38(1)(a) and 39.

Approved patterns of equipment

4. Any pattern of weighing equipment —
- (a) the certificate of approval in respect of which was, or is deemed to have been, granted under section 12 of the Weights and Measures Act 1985 (an Act of Parliament) and was in force immediately before the commencement of section 8, and
 - (b) which provides for weighing to be made wholly or partly in an obsolete unit,
- shall be deemed modified to the extent necessary to require equipment of that pattern —
- (i) to weigh in fractions of an ounce in substitution for drams and fractions of a dram;

- (ii) to weigh in pounds with scale intervals in the form 1×10^n , 2×10^n or 5×10^n pounds (the index n being a positive or negative whole number or zero) in substitution for stones, quarters, hundredweights or tons or fractions thereof, and to have its capacity expressed in pounds, or
- (iii) to weigh in multiples or fractions of an ounce troy in substitution for grains or fractions of a grain, and to have its capacity expressed in ounces troy.

Defences

5. Sections 25, 27 and 30(4) do not apply, and sections 25(1) and (4), 26 and 27 of the 1971 Act continue to apply, to offences committed before the commencement of the first-mentioned sections.

Time-limit for prosecutions

6. Section 60(2) and (3) (time-limit for prosecutions) does not apply, and section 47(2) and (3) of the 1971 Act continues to apply, to an offence mentioned in the said section 47(2) and committed before the commencement of section 60.

“Gallon” and “litre”

7. Nothing in the definition of “gallon” or “litre” in Schedule 1 affects any contract or agreement entered into before 20 July 1978, notwithstanding that it relates to the delivery of goods after that date.

Particular goods

8. (1) Notwithstanding the repeal by this Act of Schedules 4 to 8 of the 1971 Act, the provisions of each of those Schedules (as they have effect immediately before the commencement of section 70) continue to have effect as if they were contained in an order under section 15, or, as the case may be, in regulations under section 16, and may be amended or revoked accordingly.

(2) A person guilty of an offence under any provision of those Schedules shall be liable on summary conviction to a fine not exceeding £5,000.

(3) The Board shall, as soon as may be after commencement, prepare a text of each of those Schedules (as it has effect immediately before the commencement of section 70, so far as it applies to that Schedule), and shall —

- (a) make a copy of that text available for public inspection free of charge at their offices at all times when those offices are open to the public; and
- (b) supply a copy of the said text to any person requesting the same, at such reasonable charge as the Board may determine.¹⁰

Definitions

9. (1) The following provisions of this paragraph have effect subject to any provision of an order under section 15(1) made by virtue of section 15(5).
- (2) In section 20(2) —
- (a) in paragraph (a), “solid fuel” has the same meaning as in Schedule 6 to the 1971 Act;
 - (b) in paragraph (b), “bread” has the same meaning as in the Weights and Measures (Bread) Order 1979.
- (3) In section 31(4), “milk” has the same meaning as in the Weights and Measures (Milk) Order 1984.

Schedule 5¹¹

ENDNOTES

Table of Legislation History

Legislation	Year and No	Commencement

Table of Renumbered Provisions

Original	Current

Table of Endnote References

¹ Subs (3) amended by SD579/98.

² Subs (5) amended by SD155/10 Sch 4.

³ Subs (4) repealed by Food Act 1996 Sch 5.

⁴ Subs (1) amended by Civil Service Act 1990 Sch 3.

⁵ Definition of “the Board” amended by SD579/98.

⁶ Definitions of “drugs” and “food” amended by Food Act 1996 Sch 4.

⁷ Subs (2) amended by SD 861/11.

⁸ S 70 repealed by Statute Law Revision Act 1992 Sch 2.

⁹ ADO (whole Act) 1/7/1990 (GC223/90).

¹⁰ Part IV of Sch 4 (as saved by this para) amended by Licensing Act 1995 Sch 3.

¹¹ Sch 5 repealed by Statute Law Revision Act 1992 Sch 2.