



Sale of Goods Act 1979

1979 CHAPTER 54

PART V

RIGHTS OF UNPAID SELLER AGAINST THE GOODS

Preliminary

38 Unpaid seller defined.

- (1) The seller of goods is an unpaid seller within the meaning of this Act—
 - (a) when the whole of the price has not been paid or tendered;
 - (b) when a bill of exchange or other negotiable instrument has been received as conditional payment, and the condition on which it was received has not been fulfilled by reason of the dishonour of the instrument or otherwise.
- (2) In this Part of this Act “seller” includes any person who is in the position of a seller, as, for instance, an agent of the seller to whom the bill of lading has been indorsed, or a consignor or agent who has himself paid (or is directly responsible for) the price.

39 Unpaid seller’s rights.

- (1) Subject to this and any other Act, notwithstanding that the property in the goods may have passed to the buyer, the unpaid seller of goods, as such, has by implication of law—
 - (a) a lien on the goods or right to retain them for the price while he is in possession of them;
 - (b) in case of the insolvency of the buyer, a right of stopping the goods in transit after he has parted with the possession of them;
 - (c) a right of re-sale as limited by this Act.
- (2) Where the property in goods has not passed to the buyer, the unpaid seller has (in addition to his other remedies) a right of withholding delivery similar to and co-

Changes to legislation: There are currently no known outstanding effects for the Sale of Goods Act 1979, Cross Heading: Preliminary. (See end of Document for details)

extensive with his rights of lien or retention and stoppage in transit where the property has passed to the buyer.

[^{F1}40 **Attachment by seller in Scotland.**

In Scotland a seller of goods may attach them while in his own hands or possession by arrestment or poinding; and such arrestment or poinding shall have the same operation and effect in a competition or otherwise as an arrestment or poinding by a third party.]

Textual Amendments

F1 S. 40 repealed (S.) by Debtors (Scotland) Act 1987 (c. 18, SIF 45:2), s. 108(3), **Sch. 8**

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