



# Sale of Goods Act 1979

## 1979 CHAPTER 54

### PART II

#### FORMATION OF THE CONTRACT

*[<sup>F1</sup>Implied terms etc.]*

#### Textual Amendments

- F1** Heading preceding ss. 10-14 substituted (3.1.1995) by 1994 c. 35, ss. 7(1), 8(2), **Sch. 2 para. 5(10)** (with s. 8(3)).

#### **10 Stipulations about time.**

- (1) Unless a different intention appears from the terms of the contract, stipulations as to time of payment are not of the essence of a contract of sale.
- (2) Whether any other stipulation as to time is or is not of the essence of the contract depends on the terms of the contract.
- (3) In a contract of sale “month” prima facie means calendar month.

#### **11 When condition to be treated as warranty.**

*[<sup>F2</sup>(1) This section does not apply to Scotland.]*

- (2) Where a contract of sale is subject to a condition to be fulfilled by the seller, the buyer may waive the condition, or may elect to treat the breach of the condition as a breach of warranty and not as a ground for treating the contract as repudiated.
- (3) Whether a stipulation in a contract of sale is a condition, the breach of which may give rise to a right to treat the contract as repudiated, or a warranty, the breach of which may give rise to a claim for damages but not to a right to reject the goods and treat the

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contract as repudiated, depends in each case on the construction of the contract; and a stipulation may be a condition, though called a warranty in the contract.

- (4) [<sup>F3</sup>Subject to section 35A below] Where a contract of sale is not severable and the buyer has accepted the goods or part of them, the breach of a condition to be fulfilled by the seller can only be treated as a breach of warranty, and not as a ground for rejecting the goods and treating the contract as repudiated, unless there is an express or implied term of the contract to that effect.

<sup>F4</sup>(5) .....

- (6) Nothing in this section affects a condition or warranty whose fulfilment is excused by law by reason of impossibility or otherwise.
- (7) Paragraph 2 of Schedule 1 below applies in relation to a contract made before 22 April 1967 or (in the application of this Act to Northern Ireland) 28 July 1967.

#### Textual Amendments

**F2** S. 11(1) substituted (3.1.1995) by 1994 c. 35, ss. 7(1), 8(2), **Sch. 2 para. 5(2)(a)** (with s. 8(3)).

**F3** Words in s. 11(4) inserted (3.1.1995) by 1994 c. 35, ss. 3(2), 8(2) (with s. 8(3)).

**F4** S. 11(5) repealed (3.1.1995) by 1994 c. 35, ss. 7, 8(2), **Sch. 2 para. 5(2)(b), Sch.3** (with s. 8(3)).

## 12 Implied terms about title, etc.

- (1) In a contract of sale, other than one to which subsection (3) below applies, there is an implied [<sup>F5</sup>term] on the part of the seller that in the case of a sale he has a right to sell the goods, and in the case of an agreement to sell he will have such a right at the time when the property is to pass.
- (2) In a contract of sale, other than one to which subsection (3) below applies, there is also an implied [<sup>F5</sup>term] that—
- the goods are free, and will remain free until the time when the property is to pass, from any charge or encumbrance not disclosed or known to the buyer before the contract is made, and
  - the buyer will enjoy quiet possession of the goods except so far as it may be disturbed by the owner or other person entitled to the benefit of any charge or encumbrance so disclosed or known.
- (3) This subsection applies to a contract of sale in the case of which there appears from the contract or is to be inferred from its circumstances an intention that the seller should transfer only such title as he or a third person may have.
- (4) In a contract to which subsection (3) above applies there is an implied [<sup>F5</sup>term] that all charges or encumbrances known to the seller and not known to the buyer have been disclosed to the buyer before the contract is made.
- (5) In a contract to which subsection (3) above applies there is also an implied [<sup>F5</sup>term] that none of the following will disturb the buyer's quiet possession of the goods, namely—
- the seller;
  - in a case where the parties to the contract intend that the seller should transfer only such title as a third person may have, that person;

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- (c) anyone claiming through or under the seller or that third person otherwise than under a charge or encumbrance disclosed or known to the buyer before the contract is made.

[<sup>F6</sup>(5A) As regards England and Wales and Northern Ireland, the term implied by subsection (1) above is a condition and the terms implied by subsections (2), (4) and (5) above are warranties.]

- (6) Paragraph 3 of Schedule 1 below applies in relation to a contract made before 18 May 1973.

#### Textual Amendments

- F5** Words in s. 12(1)(2)(4)(5) substituted (3.1.1995) by 1994 c. 35, ss. 7(1), 8(2), **Sch. 2 para. 5(3)(a)** (with s. 8(3)).
- F6** S. 12(5A) inserted (3.1.1995) by 1994 c. 35, ss. 7(1), 8(2), **Sch. 2 para. 5(3)(b)** (with s. 8(3)).

### 13 Sale by description.

- (1) Where there is a contract for the sale of goods by description, there is an implied [<sup>F7</sup>term] that the goods will correspond with the description.

[<sup>F8</sup>(1A) As regards England and Wales and Northern Ireland, the term implied by subsection (1) above is a condition.]

- (2) If the sale is by sample as well as by description it is not sufficient that the bulk of the goods corresponds with the sample if the goods do not also correspond with the description.
- (3) A sale of goods is not prevented from being a sale by description by reason only that, being exposed for sale or hire, they are selected by the buyer.
- (4) Paragraph 4 of Schedule 1 below applies in relation to a contract made before 18 May 1973.

#### Textual Amendments

- F7** Word in s. 13(1) substituted (3.1.1995) by 1994 c. 35, ss. 7(1), 8(2), **Sch. 2 para. 5(4)(a)** (with s. 8(3)).
- F8** S. 13(1A) inserted (3.1.1995) by 1994 c. 35, ss. 7(1), 8(2), **Sch. 2 para. 5(4)(b)** (with s. 8(3)).

### 14 Implied terms about quality or fitness.

- (1) Except as provided by this section and section 15 below and subject to any other enactment, there is no implied [<sup>F9</sup>term] about the quality or fitness for any particular purpose of goods supplied under a contract of sale.

[<sup>F10</sup>(2) Where the seller sells goods in the course of a business, there is an implied term that the goods supplied under the contract are of satisfactory quality.

- (2A) For the purposes of this Act, goods are of satisfactory quality if they meet the standard that a reasonable person would regard as satisfactory, taking account of any description of the goods, the price (if relevant) and all the other relevant circumstances.

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- (2B) For the purposes of this Act, the quality of goods includes their state and condition and the following (among others) are in appropriate cases aspects of the quality of goods—
- (a) fitness for all the purposes for which goods of the kind in question are commonly supplied,
  - (b) appearance and finish,
  - (c) freedom from minor defects,
  - (d) safety, and
  - (e) durability.

- (2C) The term implied by subsection (2) above does not extend to any matter making the quality of goods unsatisfactory—
- (a) which is specifically drawn to the buyer's attention before the contract is made,
  - (b) where the buyer examines the goods before the contract is made, which that examination ought to reveal, or
  - (c) in the case of a contract for sale by sample, which would have been apparent on a reasonable examination of the sample.]

[<sup>F11</sup>(2D) If the buyer deals as consumer or, in Scotland, if a contract of sale is a consumer contract, the relevant circumstances mentioned in subsection (2A) above include any public statements on the specific characteristics of the goods made about them by the seller, the producer or his representative, particularly in advertising or on labelling.

- (2E) A public statement is not by virtue of subsection (2D) above a relevant circumstance for the purposes of subsection (2A) above in the case of a contract of sale, if the seller shows that—
- (a) at the time the contract was made, he was not, and could not reasonably have been, aware of the statement,
  - (b) before the contract was made, the statement had been withdrawn in public or, to the extent that it contained anything which was incorrect or misleading, it had been corrected in public, or
  - (c) the decision to buy the goods could not have been influenced by the statement.

- (2F) Subsections (2D) and (2E) above do not prevent any public statement from being a relevant circumstance for the purposes of subsection (2A) above (whether or not the buyer deals as consumer or, in Scotland, whether or not the contract of sale is a consumer contract) if the statement would have been such a circumstance apart from those subsections.]

- (3) Where the seller sells goods in the course of a business and the buyer, expressly or by implication, makes known—

- (a) to the seller, or
- (b) where the purchase price or part of it is payable by instalments and the goods were previously sold by a credit-broker to the seller, to that credit-broker,

any particular purpose for which the goods are being bought, there is an implied [<sup>F9</sup>term] that the goods supplied under the contract are reasonably fit for that purpose, whether or not that is a purpose for which such goods are commonly supplied, except where the circumstances show that the buyer does not rely, or that it is unreasonable for him to rely, on the skill or judgment of the seller or credit-broker.

- (4) An implied [<sup>F9</sup>term] about quality or fitness for a particular purpose may be annexed to a contract of sale by usage.

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(5) The preceding provisions of this section apply to a sale by a person who in the course of a business is acting as agent for another as they apply to a sale by a principal in the course of a business, except where that other is not selling in the course of a business and either the buyer knows that fact or reasonable steps are taken to bring it to the notice of the buyer before the contract is made.

[<sup>F12</sup>(6) As regards England and Wales and Northern Ireland, the terms implied by subsections (2) and (3) above are conditions.]

(7) Paragraph 5 of Schedule 1 below applies in relation to a contract made on or after 18 May 1973 and before the appointed day, and paragraph 6 in relation to one made before 18 May 1973.

(8) In subsection (7) above and paragraph 5 of Schedule 1 below references to the appointed day are to the day appointed for the purposes of those provisions by an order of the Secretary of State made by statutory instrument.

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#### **Textual Amendments**

- F9** Words in s. 14(1)(3)(4) substituted (3.1.1995) by 1994 c. 35, ss. 7(1), 8(2), **Sch. 2 para. 5(5)(a)** (with s. 8(3)).
- F10** S. 14(2)(2A)-(2C) substituted for s. 14(2) (3.1.1995) by 1994 c. 35, **ss. 1(1), 8(2)** (with s. 8(3)).
- F11** **S. 14(2D)-(2F)** inserted (31.3.2003) by S.I. 2002/3045, **reg. 3(2)**
- F12** S. 14(6) substituted (3.1.1995) by 1994 c. 35, ss. 7(1), 8(2), **Sch. 2 para. 5(5)(b)** (with s. 8(3)).
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#### **Modifications etc. (not altering text)**

- C1** Power of appointment conferred by s. 14(8) fully exercised: 19.5.1985 appointed by S.I. 1983/1572, **art. 2**

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