



Supply of Goods (Implied Terms) Act 1973

1973 CHAPTER 13

Hire-purchase agreements

[^{F18} **Implied terms as to title.**

- (1) In every hire-purchase agreement, other than one to which subsection (2) below applies, there is—
 - (a) an implied condition on the part of the creditor that he will have a right to sell the goods at the time when the property is to pass; and
 - (b) an implied warranty that—
 - (i) 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 person to whom the goods are bailed or (in Scotland) hired before the agreement is made, and
 - (ii) that person will enjoy quiet possession of the goods except so far as it may be disturbed by any person entitled to the benefit of any charge or encumbrance so disclosed or known.
- (2) In a hire-purchase agreement, in the case of which there appears from the agreement or is to be inferred from the circumstances of the agreement an intention that the creditor should transfer only such title as he or a third person may have, there is—
 - (a) an implied warranty that all charges or encumbrances known to the creditor and not known to the person to whom the goods are bailed or hired have been disclosed to that person before the agreement is made; and
 - (b) an implied warranty that neither—
 - (i) the creditor; nor
 - (ii) in a case where the parties to the agreement intend that any title which may be transferred shall be only such title as a third person may have, that person; nor
 - (iii) anyone claiming through or under the creditor or that third person otherwise than under a charge or encumbrance disclosed or known

Status: Point in time view as at 01/02/1991. This version of this cross heading contains provisions that are not valid for this point in time.

Changes to legislation: There are currently no known outstanding effects for the Supply of Goods (Implied Terms) Act 1973, Cross Heading: Hire-purchase agreements. (See end of Document for details)

to the person to whom the goods are bailed or hired, before the agreement is made;
will disturb the quiet possession of the person to whom the goods are bailed or hired.]

Textual Amendments

F1 S. 8 substituted by Consumer Credit Act 1974 (c. 39), s. 192(4), Sch. 4 para. 35

Modifications etc. (not altering text)

C1 S. 8 amended by Unfair Contract Terms Act 1977 (c. 50, SIF 30), ss. 6(1)(b), 20(1)(b)

[^{F2}9 Bailing or hiring by description.

- (1) Where under a hire-purchase agreement goods are bailed or (in Scotland) hired by description, there is an implied condition that the goods will correspond with the description, and if under the agreement the goods are bailed or hired by reference to a sample as well as a 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.
- (2) Goods shall not be prevented from being bailed or hired by description by reason only that, being exposed for sale, bailment or hire, they are selected by the person to whom they are bailed or hired.]

Textual Amendments

F2 S. 9 substituted by Consumer Credit Act 1974 (c. 39), s. 192(4), Sch. 4 para. 35

Modifications etc. (not altering text)

C2 S. 9 amended by Unfair Contract Terms Act 1977 (c. 50, SIF 30), ss. 6(2)(b), 20(2)(b)

[^{F3}10 Implied undertakings as to quality or fitness.

- (1) Except as provided by this section and section 11 below and subject to the provisions of any other enactment, including any enactment of the Parliament of Northern Ireland or the Northern Ireland Assembly, there is no implied condition or warranty as to the quality or fitness for any particular purpose of goods bailed or (in Scotland) hired under a hire-purchase agreement.
- (2) Where the creditor bails or hires goods under a hire-purchase agreement in the course of a business, there is an implied condition that the goods [^{F4}supplied under the agreement]are of merchantable quality, except that there is no such condition—
 - (a) as regards defects specifically drawn to the attention of the person to whom the goods are bailed or hired before the agreement is made; or
 - (b) if that person examines the goods before the agreement is made, as regards defects which that examination ought to reveal.
- (3) Where the creditor bails or hires goods under a hire-purchase agreement in the course of a business and the person to whom the goods are bailed or hired, expressly or by implication, makes known—
 - (a) to the creditor in the course of negotiations conducted by the creditor in relation to the making of the hire-purchase agreement, or

Status: Point in time view as at 01/02/1991. This version of this cross heading contains provisions that are not valid for this point in time.

Changes to legislation: There are currently no known outstanding effects for the Supply of Goods (Implied Terms) Act 1973, Cross Heading: Hire-purchase agreements. (See end of Document for details)

- (b) to a credit-broker in the course of negotiations conducted by that broker in relation to goods sold by him to the creditor before forming the subject matter of the hire-purchase agreement,
- any particular purpose for which the goods are being bailed or hired, there is an implied condition that the goods supplied under the agreement 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 person to whom the goods are bailed or hired does not rely, or that it is unreasonable for him to rely, on the skill or judgment of the creditor or credit-broker.
- (4) An implied condition or warranty as to quality or fitness for a particular purpose may be annexed to a hire-purchase agreement by usage.
- (5) The preceding provisions of this section apply to a hire-purchase agreement made by a person who in the course of a business is acting as agent for the creditor as they apply to an agreement made by the creditor in the course of a business, except where the creditor is not bailing or hiring in the course of a business and either the person to whom the goods are bailed or hired knows that fact or reasonable steps are taken to bring it to the notice of that person before the agreement is made.
- (6) In subsection (3) above and this subsection—
- (a) “credit-broker” means a person acting in the course of a business of credit brokerage;
- (b) “credit brokerage” means the effecting of introductions of individuals desiring to obtain credit—
- (i) to persons carrying on any business so far as it relates to the provision of credit, or
- (ii) to other persons engaged in credit brokerage.]

Textual Amendments

F3 S. 10 substituted by [Consumer Credit Act 1974 \(c. 39\), s. 192\(4\), Sch. 4 para. 35](#)

F4 Words inserted by [Supply of Goods and Services Act 1982 \(c. 29, SIF 109:1\), s. 17\(1\)](#)

Modifications etc. (not altering text)

C3 S. 10 amended by [Unfair Contract Terms Act 1977 \(c. 50, SIF 30\), ss. 6\(2\)\(b\), 20\(2\)\(b\)](#)

[^{F5}11 Samples.

Where under a hire-purchase agreement goods are bailed or (in Scotland) hired by reference to a sample, there is an implied condition—

- (a) that the bulk will correspond with the sample in quality; and
- (b) that the person to whom the goods are bailed or hired will have a reasonable opportunity of comparing the bulk with the sample; and
- (c) that the goods will be free from any defect, rendering them unmerchantable, which would not be apparent on reasonable examination of the sample.]

Textual Amendments

F5 S. 11 substituted by [Consumer Credit Act 1974 \(c. 39\), s. 192\(4\), Sch. 4 para. 35](#)

Status: Point in time view as at 01/02/1991. This version of this cross heading contains provisions that are not valid for this point in time.

Changes to legislation: There are currently no known outstanding effects for the Supply of Goods (Implied Terms) Act 1973, Cross Heading: Hire-purchase agreements. (See end of Document for details)

Modifications etc. (not altering text)

C4 S. 11 amended by [Unfair Contract Terms Act 1977 \(c. 50, SIF 30\)](#), **ss. 6(2)(b)**, 20(2)(b)

VALID FROM 03/01/1995

[11A ^{F6} Modification of remedies for breach of statutory condition in non-consumer cases.

- (1) Where in the case of a hire purchase agreement—
 - (a) the person to whom goods are bailed would, apart from this subsection, have the right to reject them by reason of a breach on the part of the creditor of a term implied by section 9, 10 or 11(1)(a) or (c) above, but
 - (b) the breach is so slight that it would be unreasonable for him to reject them, then, if the person to whom the goods are bailed does not deal as consumer, the breach is not to be treated as a breach of condition but may be treated as a breach of warranty.
- (2) This section applies unless a contrary intention appears in, or is to be implied from, the agreement.
- (3) It is for the creditor to show—
 - (a) that a breach fell within subsection (1)(b) above, and
 - (b) that the person to whom the goods were bailed did not deal as consumer.
- (4) The references in this section to dealing as consumer are to be construed in accordance with Part I of the Unfair Contract Terms Act 1977.
- (5) This section does not apply to Scotland.]

Textual Amendments

F6 S. 11A inserted (E.W.N.I.) (3.1.1995) by [1994 c. 35, ss. 7, 8\(2\)](#), **Sch. 2 para. 4(6)** (with s. 8(3))

[^{F7}12 Exclusion of implied terms and conditions.

- (1) An express condition or warranty does not negative a condition or warranty implied by this Act unless inconsistent with it.
- (2)^{F8}]

Textual Amendments

F7 S. 12 substituted by [Consumer Credit Act 1974 \(c. 39\)](#), s. 192(4), **Sch. 4 para. 35**

F8 S. 12(2)–(9) (both as originally enacted and as substituted by [Consumer Credit Act 1974 \(c. 39\)](#)), and s. 13 repealed by [Unfair Contract Terms Act 1977 \(c. 50\)](#), **Sch. 4**

Status: Point in time view as at 01/02/1991. This version of this cross heading contains provisions that are not valid for this point in time.

Changes to legislation: There are currently no known outstanding effects for the Supply of Goods (Implied Terms) Act 1973, Cross Heading: Hire-purchase agreements. (See end of Document for details)

VALID FROM 03/01/1995

[12A ^{F9} Remedies for breach of hire-purchase agreement as respects Scotland.

- (1) Where in a hire-purchase agreement the creditor is in breach of any term of the agreement (express or implied), the person to whom the goods are hired shall be entitled—
 - (a) to claim damages, and
 - (b) if the breach is material, to reject any goods delivered under the agreement and treat it as repudiated.
- (2) Where a hire-purchase agreement is a consumer contract, then, for the purposes of subsection (1) above, breach by the creditor of any term (express or implied)—
 - (a) as to the quality of the goods or their fitness for a purpose,
 - (b) if the goods are, or are to be, hired by description, that the goods will correspond with the description,
 - (c) if the goods are, or are to be, hired by reference to a sample, that the bulk will correspond with the sample in quality,shall be deemed to be a material breach.
- (3) In subsection (2) above “consumer contract” has the same meaning as in section 25(1) of the Unfair Contract Terms Act 1977; and for the purposes of that subsection the onus of proving that a hire-purchase agreement is not to be regarded as a consumer contract shall lie on the creditor.
- (4) This section applies to Scotland only.]

Textual Amendments

F9 S. 12A inserted (s.) (3.1.1995) by 1994 c. 35, ss. 7,8(2), Sch. 2 para. 4(8) (with s. 8(3))

13 ^{F10}

Textual Amendments

F10 S. 12(2)–(9) (both as originally enacted and as substituted by Consumer Credit Act 1974 (c. 39)), and s. 13 repealed by Unfair Contract Terms Act 1977 (c. 50), Sch. 4

[^{F11}14 Special provisions as to conditional sale agreements.

- (1) [^{F12}Section 11(4) of the Sale of Goods Act 1979](whereby in certain circumstances a breach of a condition in a contract of sale is treated only as a breach of warranty) shall not apply to [^{F13}a conditional sale agreement where the buyer deals as consumer within Part I of the ^{M1}Unfair Contract Terms Act 1977 . . . ^{F14}].
- (2) In England and Wales and Northern Ireland a breach of a condition (whether express or implied) to be fulfilled by the seller under any such agreement shall be treated as a breach of warranty, and not as grounds for rejecting the goods and treating the

Status: Point in time view as at 01/02/1991. This version of this cross heading contains provisions that are not valid for this point in time.

Changes to legislation: There are currently no known outstanding effects for the Supply of Goods (Implied Terms) Act 1973, Cross Heading: Hire-purchase agreements. (See end of Document for details)

agreement as repudiated, if (but only if) it would have fallen to be so treated had the condition been contained or implied in a corresponding hire-purchase agreement as a condition to be fulfilled by the creditor.]

Textual Amendments

- F11** S. 14 substituted by Consumer Credit Act 1974 (c. 39), s. 192(4), Sch. 4 para. 36
F12 Words substituted by Sale of Goods Act 1979 (c. 54, SIF 109:1), s. 63, Sch. 2 para. 16
F13 Words substituted by Unfair Contract Terms Act 1977 (c. 50), Sch. 3
F14 Words repealed by Statute Law (Repeals) Act 1981 (c. 19), s. 1(1), Sch. 1 Pt XII

Marginal Citations

- M1** 1977 c. 50.

[^{F15}15 Supplementary.

(1) In sections 8 to 14 above and this section—

“business” includes a profession and the activities of any government department (including a Northern Ireland department), [^{F16}or local or public authority];

“buyer” and “seller” includes a person to whom rights and duties under a conditional sale agreement have passed by assignment or operation of law;

“condition” and “warranty”, in relation to Scotland, mean stipulation, and any stipulation referred to in sections 8(1)(a), 9, 10 and 11 above shall be deemed to be material to the agreement;

“conditional sale agreement” means an agreement for the sale of goods under which the purchase price or part of it is payable by instalments, and the property in the goods is to remain in the seller (notwithstanding that the buyer is to be in possession of the goods) until such conditions as to the payment of instalments or otherwise as may be specified in the agreement are fulfilled;

[^{F17}“consumer sale” has the same meaning as in section 55 of the Sale of Goods Act 1979 (as set out in paragraph 11 of Schedule 1 to that Act)]

“creditor” means the person by whom the goods are bailed or (in Scotland) hired under a hire-purchase agreement or the person to whom his rights and duties under the agreement have passed by assignment or operation of law; and

“hire-purchase agreement” means an agreement, other than conditional sale agreement, under which—

- (a) goods are bailed or (in Scotland) hired in return for periodical payments by the person to whom they are bailed or hired, and
- (b) the property in the goods will pass to that person if the terms of the agreement are complied with and one or more of the following occurs—
 - (i) the exercise of an option to purchase by that person,
 - (ii) the doing of any other specified act by any party to the agreement,
 - (iii) the happening of any other specified event.

(2) Goods of any kind are of merchantable quality within the meaning of section 10(2) above if they are as fit for the purpose or purposes for which goods of that kind are commonly bought as it is reasonable to expect having regard to any description

Status: Point in time view as at 01/02/1991. This version of this cross heading contains provisions that are not valid for this point in time.

Changes to legislation: There are currently no known outstanding effects for the Supply of Goods (Implied Terms) Act 1973, Cross Heading: Hire-purchase agreements. (See end of Document for details)

applied to them, the price (if relevant) and all the other relevant circumstances; and in section 11 above “unmerchantable” shall be construed accordingly.

- (3) In section 14(2) above “corresponding hire-purchase agreement” means, in relation to a conditional sale agreement, a hire-purchase agreement relating to the same goods as the conditional sale agreement and made between the same parties and at the same time and in the same circumstances and, as nearly as may be, in the same terms as the conditional sale agreement.
- (4) Nothing in sections 8 to 13 above shall prejudice the operation of any other enactment including any enactment of the Parliament of Northern Ireland or the Northern Ireland Assembly or any rule of law whereby any condition or warranty, other than one relating to quality or fitness, is to be implied in any hire-purchase agreement.]

Textual Amendments

F15 S. 15 substituted by [Consumer Credit Act 1974 \(c. 39\)](#), s. 192(3)(4), **Sch. 4 para. 36**

F16 Words substituted by [Unfair Contract Terms Act 1977 \(c. 50\)](#), **Sch. 3**

F17 Definition of “consumer sale” substituted by [Sale of Goods Act 1979 \(c. 54, SIF 109:1\)](#), s. 63, **Sch. 2 para. 17**

Status:

Point in time view as at 01/02/1991. This version of this cross heading contains provisions that are not valid for this point in time.

Changes to legislation:

There are currently no known outstanding effects for the Supply of Goods (Implied Terms) Act 1973, Cross Heading: Hire-purchase agreements.