



# Sale of Goods Act 1979

## 1979 CHAPTER 54

### PART III

#### EFFECTS OF THE CONTRACT

##### *Transfer of property as between seller and buyer*

#### 16 Goods must be ascertained.

[<sup>F1</sup>Subject to section 20A below] Where there is a contract for the sale of unascertained goods no property in the goods is transferred to the buyer unless and until the goods are ascertained.

##### Annotations:

##### Amendments (Textual)

<sup>F1</sup> Words in s. 16 inserted (19.9.1995) by 1995 c. 28, ss. 1(1), 3(2).

#### 17 Property passes when intended to pass.

- (1) Where there is a contract for the sale of specific or ascertained goods the property in them is transferred to the buyer at such time as the parties to the contract intend it to be transferred.
- (2) For the purpose of ascertaining the intention of the parties regard shall be had to the terms of the contract, the conduct of the parties and the circumstances of the case.

#### 18 Rules for ascertaining intention.

Unless a different intention appears, the following are rules for ascertaining the intention of the parties as to the time at which the property in the goods is to pass to the buyer.

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- (Rule 1) —Where there is an unconditional contract for the sale of specific goods in a deliverable state the property in the goods passes to the buyer when the contract is made, and it is immaterial whether the time of payment or the time of delivery, or both, be postponed.
- (Rule 2) —Where there is a contract for the sale of specific goods and the seller is bound to do something to the goods for the purpose of putting them into a deliverable state, the property does not pass until the thing is done and the buyer has notice that it has been done.
- (Rule 3) —Where there is a contract for the sale of specific goods in a deliverable state but the seller is bound to weigh, measure, test, or do some other act or thing with reference to the goods for the purpose of ascertaining the price, the property does not pass until the act or thing is done and the buyer has notice that it has been done.
- (Rule 4) —When goods are delivered to the buyer on approval or on sale or return or other similar terms the property in the goods passes to the buyer:—
- (a) when he signifies his approval or acceptance to the seller or does any other act adopting the transaction;
  - (b) if he does not signify his approval or acceptance to the seller but retains the goods without giving notice of rejection, then, if a time has been fixed for the return of the goods, on the expiration of that time, and, if no time has been fixed, on the expiration of a reasonable time.
- (Rule 5) (1) Where there is a contract for the sale of unascertained or future goods by description, and goods of that description and in a deliverable state are unconditionally appropriated to the contract, either by the seller with the assent of the buyer or by the buyer with the assent of the seller, the property in the goods then passes to the buyer; and the assent may be express or implied, and may be given either before or after the appropriation is made.
- (2) Where, in pursuance of the contract, the seller delivers the goods to the buyer or to a carrier or other bailee or custodier (whether named by the buyer or not) for the purpose of transmission to the buyer, and does not reserve the right of disposal, he is to be taken to have unconditionally appropriated the goods to the contract.
- [<sup>F2</sup>(3) Where there is a contract for the sale of a specified quantity of unascertained goods in a deliverable state forming part of a bulk which is identified either in the contract or by subsequent agreement between the parties and the bulk is reduced to (or to less than) that quantity, then, if the buyer under that contract is the only buyer to whom goods are then due out of the bulk—
- (a) the remaining goods are to be taken as appropriated to that contract at the time when the bulk is so reduced; and
  - (b) the property in those goods then passes to that buyer.
- (4) Paragraph (3) above applies also (with the necessary modifications) where a bulk is reduced to (or to less than) the aggregate of the quantities due to a single buyer under separate contracts relating to that bulk and he is the only buyer to whom goods are then due out of that bulk.]

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**Annotations:**

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**Amendments (Textual)**

**F2** S. 18 rule 5(3)(4) inserted (19.9.1995) by 1995 c. 28, ss. 1(2), 3(2).

**19 Reservation of right of disposal.**

- (1) Where there is a contract for the sale of specific goods or where goods are subsequently appropriated to the contract, the seller may, by the terms of the contract or appropriation, reserve the right of disposal of the goods until certain conditions are fulfilled; and in such a case, notwithstanding the delivery of the goods to the buyer, or to a carrier or other bailee or custodian for the purpose of transmission to the buyer, the property in the goods does not pass to the buyer until the conditions imposed by the seller are fulfilled.
- (2) Where goods are shipped, and by the bill of lading the goods are deliverable to the order of the seller or his agent, the seller is prima facie to be taken to reserve the right of disposal.
- (3) Where the seller of goods draws on the buyer for the price, and transmits the bill of exchange and bill of lading to the buyer together to secure acceptance or payment of the bill of exchange, the buyer is bound to return the bill of lading if he does not honour the bill of exchange, and if he wrongfully retains the bill of lading the property in the goods does not pass to him.

**20** [<sup>F3</sup> **Passing of risk.**]

- (1) Unless otherwise agreed, the goods remain at the seller's risk until the property in them is transferred to the buyer, but when the property in them is transferred to the buyer the goods are at the buyer's risk whether delivery has been made or not.
  - (2) But where delivery has been delayed through the fault of either buyer or seller the goods are at the risk of the party at fault as regards any loss which might not have occurred but for such fault.
  - (3) Nothing in this section affects the duties or liabilities of either seller or buyer as a bailee or custodian of the goods of the other party.
- [<sup>F4</sup>(4) This section does not apply to a contract to which Chapter 2 of Part 1 of the Consumer Rights Act 2015 applies (but see the provision made about such contracts in section 29 of that Act).]

**Annotations:**

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**Amendments (Textual)**

**F3** Marginal note to s. 20 substituted (31.3.2003) by S.I. 2002/3045 , reg. 4(1)

**F4** S. 20(4) substituted (1.10.2015) by Consumer Rights Act 2015 (c. 15) , s. 100(5) , Sch. 1 para. 17(1) ; S.I. 2015/1630 , art. 3(g) (with art. 6(1) )

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**[<sup>F5</sup>20A Undivided shares in goods forming part of a bulk.**

- (1) This section applies to a contract for the sale of a specified quantity of unascertained goods if the following conditions are met—
  - (a) the goods or some of them form part of a bulk which is identified either in the contract or by subsequent agreement between the parties; and
  - (b) the buyer has paid the price for some or all of the goods which are the subject of the contract and which form part of the bulk.
- (2) Where this section applies, then (unless the parties agree otherwise), as soon as the conditions specified in paragraphs (a) and (b) of subsection (1) above are met or at such later time as the parties may agree—
  - (a) property in an undivided share in the bulk is transferred to the buyer, and
  - (b) the buyer becomes an owner in common of the bulk.
- (3) Subject to subsection (4) below, for the purposes of this section, the undivided share of a buyer in a bulk at any time shall be such share as the quantity of goods paid for and due to the buyer out of the bulk bears to the quantity of goods in the bulk at that time.
- (4) Where the aggregate of the undivided shares of buyers in a bulk determined under subsection (3) above would at any time exceed the whole of the bulk at that time, the undivided share in the bulk of each buyer shall be reduced proportionately so that the aggregate of the undivided shares is equal to the whole bulk.
- (5) Where a buyer has paid the price for only some of the goods due to him out of a bulk, any delivery to the buyer out of the bulk shall, for the purposes of this section, be ascribed in the first place to the goods in respect of which payment has been made.
- (6) For the purposes of this section payment of part of the price for any goods shall be treated as payment for a corresponding part of the goods.]

**Annotations:**

**Amendments (Textual)**

**F5** Ss. 20A, 20B inserted (19.9.1995) by 1995 c. 28, ss. 1(3), 3(2).

**[<sup>F6</sup>20B Deemed consent by co-owner to dealings in bulk goods.**

- (1) A person who has become an owner in common of a bulk by virtue of section 20A above shall be deemed to have consented to—
  - (a) any delivery of goods out of the bulk to any other owner in common of the bulk, being goods which are due to him under his contract;
  - (b) any dealing with or removal, delivery or disposal of goods in the bulk by any other person who is an owner in common of the bulk in so far as the goods fall within that co-owner's undivided share in the bulk at the time of the dealing, removal, delivery or disposal.
- (2) No cause of action shall accrue to anyone against a person by reason of that person having acted in accordance with paragraph (a) or (b) of subsection (1) above in reliance on any consent deemed to have been given under that subsection.
- (3) Nothing in this section or section 20A above shall—

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- (a) impose an obligation on a buyer of goods out of a bulk to compensate any other buyer of goods out of that bulk for any shortfall in the goods received by that other buyer;
- (b) affect any contractual arrangement between buyers of goods out of a bulk for adjustments between themselves; or
- (c) affect the rights of any buyer under his contract.]

**Annotations:**

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**Amendments (Textual)**

**F6** Ss. 20A, 20B inserted (19.9.1995) by 1995 c. 28, ss. 1(3), 3(2).

**Changes to legislation:**

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