



Sale of Goods Act 1979

1979 CHAPTER 54

PART II

FORMATION OF THE CONTRACT

[^{F1}Implied terms etc.]

11 When condition to be treated as warranty.

^{F1}(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 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) [^{F2}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.

^{F3}(4A) Subsection (4) 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 sections 19 to 22 of that Act).]

^{F4}(5)

- (6) Nothing in this section affects a condition or warranty whose fulfilment is excused by law by reason of impossibility or otherwise.

Status: Point in time view as at 01/10/2015.

Changes to legislation: There are currently no known outstanding effects for the Sale of Goods Act 1979, Section 11. (See end of Document for details)

(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

- F1** 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)).
- F2** Words in s. 11(4) inserted (3.1.1995) by 1994 c. 35, **ss. 3(2)**, 8(2) (with s. 8(3)).
- F3** **S. 11(4A)** inserted (1.10.2015) by Consumer Rights Act 2015 (c. 15), s. 100(5), **Sch. 1 para. 10**; S.I. 2015/1630, **art. 3(g)** (with **art. 6(1)**)
- F4** S. 11(5) repealed (3.1.1995) by 1994 c. 35, ss. 7, 8(2), **Sch. 2 para. 5(2)(b)**, **Sch.3** (with s. 8(3)).

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