Sale of Goods Act 1979

1979 CHAPTER 54

PART VII

SUPPLEMENTARY

55 Exclusion of implied terms

(1) Where a right, duty or liability would arise under a contract of sale of goods by implication of law, it may (subject to the Unfair Contract Terms Act 1977) be negatived or varied by express agreement, or by the course of dealing between the parties, or by such usage as binds both parties to the contract.

(2) An express condition or warranty does not negative a condition or warranty implied by this Act unless inconsistent with it.

(3) Paragraph 11 of Schedule 1 below applies in relation to a contract made on or after 18 May 1973 and before 1 February 1978, and paragraph 12 in relation to one made before 18 May 1973.

56 Conflict of laws

Paragraph 13 of Schedule 1 below applies in relation to a contract made on or after 18 May 1973 and before 1 February 1978, so as to make provision about conflict of laws in relation to such a contract.

57 Auction sales

(1) Where goods are put up for sale by auction in lots, each lot is prima facie deemed to be the subject of a separate contract of sale.

(2) A sale by auction is complete when the auctioneer announces its completion by the fall of the hammer, or in other customary manner; and until the announcement is made any bidder may retract his bid.

(3) A sale by auction may be notified to be subject to a reserve or upset price, and a right to bid may also be reserved expressly by or on behalf of the seller.

(4) Where a sale by auction is not notified to be subject to a right to bid by or on behalf of the seller, it is not lawful for the seller to bid himself or to employ any person to bid at the sale, or for the auctioneer knowingly to take any bid from the seller or any such person.

(5) A sale contravening subsection (4) above may be treated as fraudulent by the buyer.

(6) Where, in respect of a sale by auction, a right to bid is expressly reserved (but not otherwise) the seller or any one person on his behalf may bid at the auction.

58 Payment into court in Scotland

In Scotland where a buyer has elected to accept goods which he might have rejected, and to treat a breach of contract as only giving rise to a claim for damages, he may, in an action by the seller for the price, be required, in the discretion of the court before which the action depends, to consign or pay into court the price of the goods, or part of the price, or to give other reasonable security for its due payment.

59 Reasonable time a question of fact

Where a reference is made in this Act to a reasonable time the question what is a reasonable time is a question of fact.

60 Rights etc. enforceable by action

Where a right, duty or liability is declared by this Act, it may (unless otherwise provided by this Act) be enforced by action.

61 Interpretation

(1) In this Act, unless the context or subject matter otherwise requires.—

"action " includes counterclaim and set-off, and in Scotland condescendence and claim and compensation ;

"business " includes a profession and the activities of any government department (including a Northern Ireland department) or local or public authority;

"buyer " means a person who buys or agrees to buy goods;

"contract of sale " includes an agreement to sell as well as a sale;

"credit-broker " means a person acting in the course of a business of credit brokerage carried on by him, that is a business of effecting introductions of individuals desiring to obtain credit—

(a) to persons carrying on any business so far as it relates to the provision of credit, or

(b) to other persons engaged in credit brokerage;

"defendant " includes in Scotland defender, respondent, and claimant in a multiplepoinding;

"delivery " means voluntary transfer of possession from one person to another ;

"document of title to goods " has the same meaning as it has in the Factors Acts;

"Factors Acts " means the Factors Act 1889, the Factors (Scotland) Act 1890, and any enactment amending or substituted for the same ;

"fault " means wrongful act or default;

"future goods" means goods to be manufactured or acquired by the seller after the making of the contract of sale;

"goods " includes all personal chattels other than things in action and money, and in Scotland all corporeal moveables except money; and in particular "goods " includes emblements, industrial growing crops, and things attached to or forming part of the land which are agreed to be severed before sale or under the contract of sale;

"plaintiff " includes pursuer, complainer, claimant in a multiplepoinding and defendant or defender counter-claiming ;

"property " means the general property in goods, and not merely a special property; "quality", in relation to goods, includes their state or condition;

"sale " includes a bargain and sale as well as a sale and delivery;

"seller " means a person who sells or agrees to sell goods ;

"specific goods " means goods identified and agreed on at the time a contract of sale is made ;

"warranty " (as regards England and Wales and Northern Ireland) means an agreeement with reference to goods which are the subject of a contract of sale, but collateral to the main purpose of such contract, the breach of which gives rise to a claim for damages, but not to a right to reject the goods and treat the contract as repudiated.

(2) As regards Scotland a breach of warranty shall be deemed to be a failure to perform a material part of the contract.

(3) A thing is deemed to be done in good faith within the meaning of this Act when it is in fact done honestly, whether it is done negligently or not.

(4) A person is deemed to be insolvent within the meaning of this Act if he has either ceased to pay his debts in the ordinary course of business or he cannot pay his debts as they become due, whether he has committed an act of bankruptcy or not, and whether he has become a notour bankrupt or not.

(5) Goods are in a deliverable state within the meaning of this Act when they are in such a state that the buyer would under the contract be bound to take delivery of them.

(6) As regards the definition of "business " in subsection (1) above, paragraph 14 of Schedule 1 below applies in relation to a contract made on or after 18 May 1973 and before 1 February 1978, and paragraph 15 in relation to one made before 18 May 1973.

62 Savings: rules of law etc.

(1) The rules in bankruptcy relating to contracts of sale apply to those contracts, notwithstanding anything in this Act.

(2) The rules of the common law, including the law merchant, except in so far as they are inconsistent with the provisions of this Act, and in particular the rules relating to the law of principal and agent and the effect of fraud, misrepresentation, duress or coercion, mistake, or other invalidating cause, apply to contracts for the sale of goods.

(3) Nothing in this Act or the Sale of Goods Act 1893 affects the enactments relating to bills of sale, or any enactment relating to the sale of goods which is not expressly repealed or amended by this Act or that.

(4) The provisions of this Act about contracts of sale do not apply to a transaction in the form of a contract of sale which is intended to operate by way of mortgage, pledge, charge, or other security.

(5) Nothing in this Act prejudices or affects the landlord's right of hypothec or sequestration for rent in Scotland.

63 Consequential amendments, repeals and savings

(1) Without prejudice to section 17 of the Interpretation Act 1978 (repeal and re-enactment), the enactments mentioned in Schedule 2 below have effect subject to the amendments there specified (being amendments consequential on this Act).

(2) The enactments mentioned in Schedule 3 below are repealed to the extent specified in column 3, but subject to me savings in Schedule 4 below.

(3) The savings in Schedule 4 below have effect.

64 Short title and commencement

(1) This Act may be cited as the Sale of Goods Act 1979.

(2) This Act comes into force on 1 January 1980.