
Changes to legislation: There are currently no known outstanding effects for the Uniform Laws on International Sales Act 1967, Chapter III.—Obligations of the seller. (See end of Document for details)

SCHEDULE 1

THE UNIFORM LAW ON THE INTERNATIONAL SALE OF GOODS

CHAPTER III.—OBLIGATIONS OF THE SELLER

ARTICLE 18

The seller shall effect delivery of the goods, hand over any documents relating thereto and transfer the property in the goods, as required by the contract and the present Law.

Section I.—Delivery of the Goods

Article 19

- 1 Delivery consists in the handing over of goods which conform with the contract.
- 2 Where the contract of sale involves carriage of the goods and no other place for delivery has been agreed upon, delivery shall be effected by handing over the goods to the carrier for transmission to the buyer.
- 3 Where the goods handed over to the carrier are not clearly appropriated to performance of the contract by being marked with an address or by some other means, the seller shall, in addition to handing over the goods, send to the buyer notice of the consignment and, if necessary, some document specifying the goods.

Sub-section 1.—Obligations of the seller as regards the date and place of delivery

A.—Date of Delivery

Article 20

Where the parties have agreed upon a date for delivery or where such date is fixed by usage, the seller shall, without the need for any other formality, be bound to deliver the goods at that date, provided that the date thus fixed is determined or determinable by the calendar or is fixed in relation to a definite event, the date of which can be ascertained by the parties.

Article 21

Where by agreement of the parties or by usage delivery shall be effected within a certain period (such as a particular month or season), the seller may fix the precise date of delivery, unless the circumstances indicate that the fixing of the date was reserved to the buyer.

Article 22

Where the date of delivery has not been determined in accordance with the provisions of Articles 20 or 21, the seller shall be bound to deliver the goods within a reasonable time after the conclusion of the contract, regard being had to the nature of the goods and to the circumstances.

B.—Place of Delivery

Article 23

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- 1 Where the contract of sale does not involve carriage of the goods, the seller shall deliver the goods at the place where he carried on business at the time of the conclusion of the contract, or, in the absence of a place of business, at his habitual residence.
- 2 If the sale relates to specific goods and the parties knew that the goods were at a certain place at the time of the conclusion of the contract, the seller shall deliver the goods at that place. The same rule shall apply if the goods sold are unascertained goods to be taken from a specified stock or if they are to be manufactured or produced at a place known to the parties at the time of the conclusion of the contract.

C.—Remedies for the seller's failure to perform his obligations as regards the date and place of delivery

Article 24

- 1 Where the seller fails to perform his obligations as regards the date or the place of delivery, the buyer may, as provided in Articles 25 to 32:
- (a) require performance of the contract by the seller;
 - (b) declare the contract avoided.
- 2 The buyer may also claim damages as provided in Article 82 or in Articles 84 to 87.
- 3 In no case shall the seller be entitled to apply to a court or arbitral tribunal to grant him a period of grace.

Article 25

The buyer shall not be entitled to require performance of the contract by the seller, if it is in conformity with usage and reasonably possible for the buyer to purchase goods to replace those to which the contract relates. In this case the contract shall *be ipso facto* avoided as from the time when such purchase should be effected.

(a) Remedies as regards the date of delivery

Article 26

- 1 Where the failure to deliver the goods at the date fixed amounts to a fundamental breach of the contract, the buyer may either require performance by the seller or declare the contract avoided. He shall inform the seller of his decision within a reasonable time; otherwise the contract shall *be ipso facto* avoided.
- 2 If the seller requests the buyer to make known his decision under paragraph 1 of this Article and the buyer does not comply promptly, the contract shall *be ipso facto* avoided.
- 3 If the seller has effected delivery before the buyer has made known his decision under paragraph 1 of this Article and the buyer does not exercise promptly his right to declare the contract avoided, the contract cannot be avoided.
- 4 Where the buyer has chosen performance of the contract and does not obtain it within a reasonable time, he may declare the contract avoided.

Article 27

- 1 Where failure to deliver the goods at the date fixed does not amount to a fundamental breach of the contract, the seller shall retain the right to effect delivery

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and the buyer shall retain the right to require performance of the contract by the seller.

- 2 The buyer may however grant the seller an additional period of time of reasonable length. Failure to deliver within this period shall amount to a fundamental breach of the contract.

Article 28

Failure to deliver the goods at the date fixed shall amount to a fundamental breach of the contract whenever a price for such goods is quoted on a market where the buyer can obtain them.

Article 29

Where the seller tenders delivery of the goods before the date fixed, the buyer may accept or reject delivery; if he accepts, he may reserve the right to claim damages in accordance with Article 82.

(b) Remedies as regards the place of delivery

Article 30

- 1 Where failure to deliver the goods at the place fixed amounts to a fundamental breach of the contract, and failure to deliver the goods at the date fixed would also amount to a fundamental breach, the buyer may either require performance of the contract by the seller or declare the contract avoided. The buyer shall inform the seller of his decision within a reasonable time; otherwise the contract shall *be ipso facto* avoided.
- 2 If the seller requests the buyer to make known his decision under paragraph 1 of this Article and the buyer does not comply promptly, the contract shall *be ipso facto* avoided.
- 3 If the seller has transported the goods to the place fixed before the buyer has made known his decision under paragraph 1 of this Article and the buyer does not exercise promptly his right to declare the contract avoided, the contract cannot be avoided.

Article 31

- 1 In cases not provided for in Article 30, the seller shall retain the right to effect delivery at the place fixed and the buyer shall retain the right to require performance of the contract by the seller.
- 2 The buyer may however grant the seller an additional period of time of reasonable length. Failure to deliver within this period at the place fixed shall amount to a fundamental breach of the contract.

Article 32

- 1 If delivery is to be effected by handing over the goods to a carrier and the goods have been handed over at a place other than that fixed, the buyer may declare the contract avoided, whenever the failure to deliver the goods at the place fixed amounts to a fundamental breach of the contract. He shall lose this right if he has not promptly declared the contract avoided.
- 2 The buyer shall have the same right, in the circumstances and on the conditions provided in paragraph 1 of this Article, if the goods have been despatched to some place other than that fixed.

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- 3 If despatch from a place or to a place other than that fixed does not amount to a fundamental breach of the contract, the buyer may only claim damages in accordance with Article 82.

Sub-section 2.—Obligations of the seller as regards the conformity of the goods

A.— Lack of conformity

Article 33

- 1 The seller shall not have fulfilled his obligation to deliver the goods, where has has handed over:
- (a) part only of the goods sold or a larger or a smaller quantity of the goods than he contracted to sell;
 - (b) goods which are not those to which the contract relates or goods of a different kind;
 - (c) goods which lack the qualities of a sample or model which the seller has handed over or sent to the buyer, unless the seller has submitted it without any express or implied undertaking that the goods would conform therewith;
 - (d) goods which do not possess the qualities necessary for their ordinary or commercial use;
 - (e) goods which do not possess the qualities for some particular purpose expressly or impliedly contemplated by the contract;
 - (f) in general, goods which do not possess the qualities and characteristics expressly or impliedly contemplated by the contract.
- 2 No difference in quantity, lack of part of the goods or absence of any quality or characteristic shall be taken into consideration where it is not material.

Article 34

In the cases to which Article 33 relates, the rights conferred on the buyer by the present Law exclude all other remedies based on lack of conformity of the goods.

Article 35

- 1 Whether the goods are in conformity with the contract shall be determined by their condition at the time when risk passes. However, if risk does not pass because of a declaration of avoidance of the contract or of a demand for other goods in replacement, the conformity of the goods with the contract shall be determined by their condition at the time when risk would have passed had they been in conformity with the contract.
- 2 The seller shall be liable for the consequences of any lack of conformity occurring after the time fixed in paragraph 1 of this Article if it was due to an act of the seller or of a person for whose conduct he is responsible.

Article 36

The seller shall not be liable for the consequences of any lack of conformity of the kind referred to in sub-paragraphs (d), (e) or (f) of paragraph 1 of Article 33, if at the time of the conclusion of the contract the buyer knew, or could not have been unaware of, such lack of conformity.

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Article 37

If the seller has handed over goods before the date fixed for delivery he may, up to that date, deliver any missing part or quantity of the goods or deliver other goods which are in conformity with the contract or remedy any defects in the goods handed over, provided that the exercise of this right does not cause the buyer either unreasonable inconvenience or unreasonable expense.

B.—Ascertainment and notification of lack of conformity

Article 38

- 1 The buyer shall examine the goods, or cause them to be examined, promptly.
- 2 In case of carriage of the goods the buyer shall examine them at the place of destination.
- 3 If the goods are redespached by the buyer without transshipment and the seller knew or ought to have known, at the time when the contract was concluded, of the possibility of such redespatch, examination of the goods may be deferred until they arrive at the new destination.
- 4 The methods of examination shall be governed by the agreement of the parties or, in the absence of such agreement, by the law or usage of the place where the examination is to be effected.

Article 39

- 1 The buyer shall lose the right to rely on a lack of conformity of the goods if he has not given the seller notice thereof promptly after he has discovered the lack of conformity or ought to have discovered it. If a defect which could not have been revealed by the examination of the goods provided for in Article 38 is found later, the buyer may nonetheless rely on that defect, provided that he gives the seller notice thereof promptly after its discovery. In any event, the buyer shall lose the right to rely on a lack of conformity of the goods if he has not given notice thereof to the seller within a period of two years from the date on which the goods were handed over, unless the lack of conformity constituted a breach of a guarantee covering a longer period.
- 2 In giving notice to the seller of any lack of conformity, the buyer shall specify its nature and invite the seller to examine the goods or to cause them to be examined by his agent.
- 3 Where any notice referred to in paragraph 1 of this Article has been sent by letter, telegram or other appropriate means, the fact that such notice is delayed or fails to arrive at its destination shall not deprive the buyer of the right to rely thereon.

Article 40

The seller shall not be entitled to rely on the provisions of Articles 38 and 39 if the lack of conformity relates to facts of which he knew, or of which he could not have been unaware, and which he did not disclose.

C.—Remedies for lack of conformity

Article 41

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- 1 Where the buyer has given due notice to the seller of the failure of the goods to conform with the contract, the buyer may, as provided in Articles 42 to 46:
- (a) require performance of the contract by the seller;
 - (b) declare the contract avoided;
 - (c) reduce the price.

- 2 The buyer may also claim damages as provided in Article 82 or in Articles 84 to 87.

Article 42

- 1 The buyer may require the seller to perform the contract:
- (a) if the sale relates to goods to be produced or manufactured by the seller, by remedying defects in the goods, provided the seller is in a position to remedy the defects;
 - (b) if the sales relates to specific goods, by delivering the goods to which the contract refers or the missing part thereof;
 - (c) if the sale relates to unascertained goods, by delivering other goods which are in conformity with the contract or by delivering the missing part or quantity, except where the purchase of goods in replacement is in conformity with usage and reasonably possible.

- 2 If the buyer does not obtain performance of the contract by the seller within a reasonable time, he shall retain the rights provided in Articles 43 to 46.

Article 43

The buyer may declare the contract avoided if the failure of the goods to conform to the contract and also the failure to deliver on the date fixed amount to fundamental breaches of the contract. The buyer shall lose his right to declare the contract avoided if he does not exercise it promptly after giving the seller notice of the lack of conformity or, in the case to which paragraph 2 of Article 42 applies, after the expiration of the period referred to in that paragraph.

Article 44

- 1 In cases not provided for in Article 43, the seller shall retain, after the date fixed for the delivery of the goods, the right to deliver any missing part or quantity of the goods or to deliver other goods which are in conformity with the contract or to remedy any defect in the goods handed over, provided that the exercise of this right does not cause the buyer either unreasonable inconvenience or unreasonable expense.
- 2 The buyer may however fix an additional period of time of reasonable length for the further delivery or for the remedying of the defect. If at the expiration of the additional period the seller has not delivered to goods or remedied the defect, the buyer may choose between requiring the performance of the contract or reducing the price in accordance with Article 46 or, provided that he does so promptly, declare the contract avoided.

Article 45

- 1 Where the seller has handed over part only of the goods or an insufficient quantity or where part only of the goods handed over is in conformity with the contract, the provisions of Articles 43 and 44 shall apply in respect of the part or quantity which is missing or which does not conform with the contract.

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- 2 The buyer may declare the contract avoided in its entirety only if the failure to effect delivery completely and in conformity with the contract amounts to a fundamental breach of the contract.

Article 46

Where the buyer has neither obtained performance of the contract by the seller nor declared the contract avoided, the buyer may reduce the price in the same proportion as the value of the goods at the time of the conclusion of the contract has been diminished because of their lack of conformity with the contract.

Article 47

Where the seller has proffered to the buyer a quantity of unascertained goods greater than that provided for in the contract, the buyer may reject or accept the excess quantity. If the buyer rejects the excess quantity, the seller shall be liable only for damages in accordance with Article 82. If the buyer accepts the whole or part of the excess quantity, he shall pay for it at the contract rate.

Article 48

The buyer may exercise the rights provided in Articles 43 to 46, even before the time fixed for delivery, if it is clear that goods which would be handed over would not be in conformity with the contract.

Article 49

- 1 The buyer shall lose his right to rely on lack of conformity with the contract at the expiration of a period of one year after he has given notice as provided in Article 39, unless he has been prevented from exercising his right because of fraud on the part of the seller.
- 2 After the expiration of this period, the buyer shall not be entitled to rely on the lack of conformity, even by way of defence to an action. Nevertheless, if the buyer has not paid for the goods and provided that he has given due notice of the lack of conformity promptly, as provided in Article 39, he may advance as a defence to a claim for payment of the price a claim for a reduction in the price or for damages.

Section II.—Handing over documents

Article 50

Where the seller is bound to hand over to the buyer any documents relating to the goods, he shall do so at the time and place fixed by the contract or by usage.

Article 51

If the seller fails to hand over documents as provided in Article 50 at the time and place fixed or if he hands over documents which are not in conformity with those which he was bound to hand over, the buyer shall have the same rights as those provided under Articles 24 to 32 or under Articles 41 to 49, as the case may be.

Section III.—Transfer of property

Article 52

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- 1 Where the goods are subject to a right or claim of a third person, the buyer, unless he agreed to take the goods subject to such right or claim, shall notify the seller of such right or claim, unless the seller already knows thereof, and request that the goods should be freed therefrom within reasonable time or that other goods free from all rights and claims of third persons be delivered to him by the seller.
- 2 If the seller complies with a request made under paragraph 1 of this Article and the buyer nevertheless suffers a loss, the buyer may claim damages in accordance with Article 82.
- 3 If the seller fails to comply with a request made under paragraph 1 of this Article and a fundamental breach of the contract results thereby, the buyer may declare the contract avoided and claim damages in accordance with Articles 84 to 87. If the buyer does not declare the contract avoided or if there is no fundamental breach of the contract, the buyer shall have the right to claim damages in accordance with Article 82.
- 4 The buyer shall lose his right to declare the contract avoided if he fails to act in accordance with paragraph 1 of this Article within a reasonable time from the moment when he became aware or ought to have become aware of the right or claim of the third person in respect of the goods.

Article 53.

The rights conferred on the buyer by Article 52 exclude all other remedies based on the fact that the seller has failed to perform his obligation to transfer the property in the goods or that the goods are subject to a right or claim of a third person.

Section IV.—Other obligations of the seller

Article 54

- 1 If the seller is bound to despatch the goods to the buyer, he shall make, in the usual way and on the usual terms, such contracts as are necessary for the carriage of the goods to the place fixed.
- 2 If the seller is not bound by the contract to effect insurance in respect of the carriage of the goods, he shall provide the buyer, at his request, with all information necessary to enable him to effect such insurance.

Article 55

- 1 If the seller fails to perform any obligation other than those referred to in Articles 20 to 53, the buyer may:
- (a) where such failure amounts to a fundamental breach of the contract, declare the contract avoided, provided that he does so promptly, and claim damages in accordance with Articles 84 to 87, or
 - (b) in any other case, claim damages in accordance with Article 82.
- 2 The buyer may also require performance by the seller of his obligation, unless the contract is avoided.

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