

ELIZABETH II



1967 CHAPTER 7

An Act to amend the law relating to innocent misrepresentations and to amend sections 11 and 35 of the Sale of Goods Act 1893. [22nd March 1967]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1. Where a person has entered into a contract after a misrepresentation has been made to him, and—

- (a) the misrepresentation has become a term of the contract;
or
(b) the contract has been performed;

Removal of certain bars to rescission for innocent misrepresentation.

or both, then, if otherwise he would be entitled to rescind the contract without alleging fraud, he shall be so entitled, subject to the provisions of this Act, notwithstanding the matters mentioned in paragraphs (a) and (b) of this section.

2.—(1) Where a person has entered into a contract after a misrepresentation has been made to him by another party thereto and as a result thereof he has suffered loss, then, if the person making the misrepresentation would be liable to damages in respect thereof had the misrepresentation been made fraudulently, that person shall be so liable notwithstanding that the misrepresentation was not made fraudulently, unless he proves that he had reasonable ground to believe and did believe up to the time the contract was made that the facts represented were true.

Damages for misrepresentation.

(2) Where a person has entered into a contract after a misrepresentation has been made to him otherwise than fraudulently, and he would be entitled, by reason of the misrepresentation, to rescind the contract, then, if it is claimed, in any proceedings arising out of the contract, that the contract ought to be or has been rescinded, the court or arbitrator may declare the contract subsisting and award damages in lieu of rescission, if of opinion

that it would be equitable to do so, having regard to the nature of the misrepresentation and the loss that would be caused by it if the contract were upheld, as well as to the loss that rescission would cause to the other party.

(3) Damages may be awarded against a person under subsection (2) of this section whether or not he is liable to damages under subsection (1) thereof, but where he is so liable any award under the said subsection (2) shall be taken into account in assessing his liability under the said subsection (1).

Avoidance of certain provisions excluding liability for misrepresentation.

3. If any agreement (whether made before or after the commencement of this Act) contains a provision which would exclude or restrict—

(a) any liability to which a party to a contract may be subject by reason of any misrepresentation made by him before the contract was made; or

(b) any remedy available to another party to the contract by reason of such a misrepresentation;

that provision shall be of no effect except to the extent (if any) that, in any proceedings arising out of the contract, the court or arbitrator may allow reliance on it as being fair and reasonable in the circumstances of the case.

Amendments of Sale of Goods Act 1893. 1894 c. 71. (56 & 57 Vict.)

4.—(1) In paragraph (c) of section 11(1) of the Sale of Goods Act 1893 (condition to be treated as warranty where the buyer has accepted the goods or where the property in specific goods has passed) the words “or where the contract is for specific goods, the property in which has passed to the buyer” shall be omitted.

(2) In section 35 of that Act (acceptance) before the words “when the goods have been delivered to him, and he does any act in relation to them which is inconsistent with the ownership of the seller” there shall be inserted the words “(except where section 34 of this Act otherwise provides)”.

Saving for past transactions.

5. Nothing in this Act shall apply in relation to any misrepresentation or contract of sale which is made before the commencement of this Act.

Short title, commencement and extent.

6.—(1) This Act may be cited as the Misrepresentation Act 1967.

(2) This Act shall come into operation at the expiration of the period of one month beginning with the date on which it is passed.

(3) This Act, except section 4(2), does not extend to Scotland.

(4) This Act does not extend to Northern Ireland.

PRINTED BY SIR PERCY FAULKNER, K.B.E., C.B.
Controller of Her Majesty's Stationery Office and Queen's Printer of Acts of Parliament
LONDON: PUBLISHED BY HER MAJESTY'S STATIONERY OFFICE

Price 5*d.* net