



Sale of Goods Act 1893

1894 CHAPTER 71 56 and 57 Vict

PART I

FORMATION OF THE CONTRACT

Conditions and Warranties

10 Stipulations as to time

- (1) Unless a different intention appears from the terms of the contract stipulations as to time of payment are not deemed to be of the essence of a contract of sale. Whether any other stipulation as to time is of the essence of the contract or not depends on the terms of the contract.
- (2) In a contract of sale “month ” means prima, facie calendar month.

11 When condition to be treated as warranty

- (1) In England or Ireland—
 - (a) Where a contract of sale is subject to any condition to be fulfilled by the seller, the buyer may waive the condition, or may elect to treat the breach of such condition as a breach of warranty, and not as a ground for treating -the contract as repudiated:
 - (b) 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. A stipulation may be a condition, though called a warranty in the contract:
 - (c) Where a contract of sale is not severable, and the buyer has accepted the goods, or part thereof, or where the contract is for specific goods, the property in which has passed to the buyer, the breach of any condition to be fulfilled by the seller can only be treated as a breach of warranty, and not as a ground for

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rejecting the goods and treating the contract as repudiated, unless there be a term of the contract, express or implied, to that effect.

- (2) In Scotland, failure by the seller to perform any material part of a contract of sale is a breach of contract, which entitles the buyer either within a reasonable time after delivery to reject the goods and treat the contract as repudiated, or to retain the goods and treat the failure to perform such material part as a breach which may give rise to a claim for compensation or damages.
- (3) Nothing in this section shall affect the case of any condition or warranty, fulfilment of which is excused by law by reason of impossibility or otherwise.

12 Implied undertaking as to title, &c

In a contract of sale, unless the circumstances of the contract are such as to show a different intention, there is—

- (1) An implied condition on the part of the seller that in the case of a sale he has a right to sell the goods, and that in the case of an agreement to sell he will have a right to sell the goods at the time when the property is to pass:
- (2) An implied warranty that the buyer shall have and enjoy quiet possession of the goods:
- (3) An implied warranty that the goods shall be free from any charge or encumbrance in favour of any third party, not declared or known to the buyer before or at the time when the contract is made.

13 Sale by description

Where there is a contract for the sale of goods by description, there is an implied condition that the goods shall correspond with the description; and if the sale be by sample, as well as by description, it is not sufficient that the bulk of the goods corresponds with the sample if the goods do not also correspond with the description.

14 Implied conditions as to quality or fitness

Subject to the provisions of this Act and of any statute in that behalf, there is no implied warranty or condition as to the quality or fitness for any particular purpose of goods supplied under a contract of sale, except as follows:—

- (1) Where the buyer, expressly or by implication, makes known to the seller the particular purpose for which the goods are required, so as to show that the buyer relies on the seller's skill or judgment, and the goods are of a description which it is in the course of the seller's business to supply (whether he be the manufacturer or not), there is an implied condition that the goods shall be reasonably fit for such purpose, provided that in the case of a contract for the sale of a specified article under its patent or other trade name, there is no implied condition as to its fitness for any particular purpose:
- (2) Where goods are bought by description from a seller who deals in goods of that description (whether he be the manufacturer or not), there is an implied condition that the goods shall be of merchantable quality; provided that if the buyer has examined the goods, there shall be no implied condition as regards defects which such examination ought to have revealed:

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- (3) An implied warranty or condition as to quality or fitness for a particular purpose may be annexed by the usage of trade:
- (4) An express warranty or condition does not negative a warranty or condition implied by this Act unless inconsistent therewith.