



Sale of Goods Act 1893

1894 CHAPTER 71 56 and 57 Vict

PART VI

SUPPLEMENTARY

55 Exclusion of implied terms and conditions

Where any right, duty, or liability would arise under a contract of sale by implication of law, it may be negatived or varied by express agreement or by the course of dealing between the parties, or by usage, if the usage be such as to bind both parties to the contract.

56 Reasonable time a question of fact

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

57 Rights and duties under Act enforceable by action

Where any right, duty, or liability is declared by this Act, it may, unless otherwise by this Act provided, be enforced by action

58 Auction sales

In the case of a sale by auction—

- (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. Until such announcement is made any bidder may retract his bid:
- (3) Where a sale by auction is not notified to be subject to a right to bid on behalf of the seller, it shall not be lawful for the seller to bid himself or to employ any person to bid

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at such sale, or for the auctioneer knowingly to take any bid from the seller or any such person: Any sale contravening this rule may be treated as fraudulent by the buyer:

- (4) 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.

Where a right to bid is expressly reserved, but not otherwise, the seller, or any one person on his behalf, may bid at the auction.

59 Payment into court in Scotland when breach of warranty alleged

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 thereof, or to give other reasonable security for the due payment thereof.

60 Repeals

The enactments mentioned in the schedule to this Act are hereby repealed as from the commencement of this Act to the extent in that schedule mentioned.

Provided that such repeal shall not affect anything done or suffered, or any right, title, or interest acquired or accrued before the commencement of this Act, or any legal proceeding or remedy in respect of any such thing, right, title or interest.

61 Savings

- (1) The rules in bankruptcy relating to contracts of sale shall continue to apply thereto, notwithstanding anything in this Act contained.
- (2) The rules of the common law, including the law merchant, save in so far as they are inconsistent with the express 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, shall continue to apply to contracts for the sale of goods.
- (3) Nothing in this Act or in any repeal effected thereby shall affect the enactments relating to bills of sale, or any enactment relating to the sale of goods which is not expressly repealed by this Act.
- (4) The provisions of this Act relating to contracts of sale do not apply to any 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 shall prejudice or affect the landlord's right of hypothec or sequestration for rent in Scotland.

62 Interpretation of terms

- (1) In this Act, unless the context or subject matter otherwise requires,—
 - “Action ” includes counterclaim and set off, and in Scotland condensation and claim and compensation :
 - “Bailee ” in Scotland includes custodier:

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“Buyer ” means a person who buys or agrees to buy goods:

“Contract of sale ” includes an agreement to sell as well as a sale:

“Defendant ” includes in Scotland defender, respondent, and claimant in a multiplepounding:

“Delivery ” means voluntary transfer of possession from one person to another:

“Documerit of title to goods ” has the same meaning as it has in the Factors Acts:

“Factors Acts ” mean 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 ” include all chattels personal other than things in action and money, and in Scotland all corporeal moveables except money. The term 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:

“Lien ” in Scotland includes right of retention:

“Plaintiff ” includes pursuer, complainer, claimant in a multiplepounding and defendant or defender counterclaiming:

“Property ” means the general property in goods, and not merely a special property:

“Quality of 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 upon at the time a contract of sale is made:

“Warranty ” as regards England and Ireland means an agreement 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.

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

- (2) 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 be done negligently or not.
- (3) A person is deemed to be insolvent within the meaning of this Act who either has ceased to pay his debts in the ordinary course of business, or 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.
- (4) 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.

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63 Commencement

This Act shall come into operation on the first day of January one thousand eight hundred and ninety-four.

64 Short title

This Act may be cited as the Sale of Goods Act, 1893.