STATUTORY INSTRUMENTS

2002 No. 3045

The Sale and Supply of Goods to Consumers Regulations 2002

AMENDMENTS TO THE SUPPLY OF GOODS AND SERVICES ACT 1982

Transferee's additional remedies in consumer cases

9.—(1) After Part 1A of the Supply of Goods and Services Act 1982 insert—

"PART 1B

ADDITIONAL RIGHTS OF TRANSFEREE IN CONSUMER CASES

Introductory

11M.—(1) This section applies if—

(a) the transferee deals as consumer or, in Scotland, there is a consumer contract in which the transferee is a consumer, and

(b) the goods do not conform to the contract for the transfer of goods at the time of delivery.

(2) If this section applies, the transferee has the right—

(a) under and in accordance with section 11N below, to require the transferor to repair or replace the goods, or

(b) under and in accordance with section 11P below—

(i) to require the transferor to reduce the amount to be paid for the transfer by the transferee by an appropriate amount, or

(ii) to rescind the contract with regard to the goods in question.

(3) For the purposes of subsection (1)(b) above, goods which do not conform to the contract for the transfer of goods at any time within the period of six months starting with the date on which the goods were delivered to the transferee must be taken not to have so conformed at that date.

(4) Subsection (3) above does not apply if—

(a) it is established that the goods did so conform at that date;

(b) its application is incompatible with the nature of the goods or the nature of the lack of conformity.

(5) For the purposes of this section, "consumer contract" has the same meaning as in section 11F(3) above.

Repair or replacement of the goods

11N.—(1) If section 11M above applies, the transferee may require the transferor—

(a) to repair the goods, or

(b) to replace the goods.

(2) If the transferee requires the transferor to repair or replace the goods, the transferor must—

(a) repair or, as the case may be, replace the goods within a reasonable time but without causing significant inconvenience to the transferee;

(b) bear any necessary costs incurred in doing so (including in particular the cost of any labour, materials or postage).

(3) The transferee must not require the transferor to repair or, as the case may be, replace the goods if that remedy is—

(a) impossible,

(b) disproportionate in comparison to the other of those remedies, or

(c) disproportionate in comparison to an appropriate reduction in the purchase price under paragraph (a), or rescission under paragraph (b), of section 11P(1) below.

(4) One remedy is disproportionate in comparison to the other if the one imposes costs on the transferor which, in comparison to those imposed on him by the other, are unreasonable, taking into account—

(a) the value which the goods would have if they conformed to the contract for the transfer of goods,

(b) the significance of the lack of conformity to the contract for the transfer of goods, and

(c) whether the other remedy could be effected without significant inconvenience to the transferee.

(5) Any question as to what is a reasonable time or significant inconvenience is to be determined by reference to—

(a) the nature of the goods, and

(b) the purpose for which the goods were acquired.

Reduction of purchase price or rescission of contract

11P.—(1) If section 11M above applies, the transferee may—

(a) require the transferor to reduce the purchase price of the goods in question to the transferee by an appropriate amount, or

(b) rescind the contract with regard to those goods,

if the condition in subsection (2) below is satisfied.

(2) The condition is that—

(a) by virtue of section 11N(3) above the transferee may require neither repair nor replacement of the goods, or

(b) the transferee has required the transferor to repair or replace the goods, but the transferor is in breach of the requirement of section 11N(2)(a) above to do so within a reasonable time and without significant inconvenience to the transferee.

(3) If the transferee rescinds the contract, any reimbursement to the transferee may be reduced to take account of the use he has had of the goods since they were delivered to him.

Relation to other remedies etc.

11Q.—(1) If the transferee requires the transferor to repair or replace the goods the transferee must not act under subsection (2) until he has given the transferor a reasonable time in which to repair or replace (as the case may be) the goods.

(2) The transferee acts under this subsection if—

(a) in England and Wales or Northern Ireland he rejects the goods and terminates the contract for breach of condition;

(b) in Scotland he rejects any goods delivered under the contract and treats it as repudiated; or

(c) he requires the goods to be replaced or repaired (as the case may be).

Powers of the court

11R.—(1) In any proceedings in which a remedy is sought by virtue of this Part the court, in addition to any other power it has, may act under this section.

(2) On the application of the transferee the court may make an order requiring specific performance or, in Scotland, specific implement by the transferor of any obligation imposed on him by virtue of section 11N above.

(3) Subsection (4) applies if—

(a) the transferee requires the transferor to give effect to a remedy under section 11N or 11P above or has claims to rescind under section 11P, but

(b) the court decides that another remedy under section 11N or 11P is appropriate.

(4) The court may proceed—

(a) as if the transferee had required the transferor to give effect to the other remedy, or if the other remedy is rescission under section 11P,

(b) as if the transferee had claimed to rescind the contract under that section.

(5) If the transferee has claimed to rescind the contract the court may order that any reimbursement to the transferee is reduced to take account of the use he has had of the goods since they were delivered to him.

(6) The court may make an order under this section unconditionally or on such terms and conditions as to damages, payment of the price and otherwise as it thinks just.

Conformity with the contract

11S.—(1) Goods do not conform to a contract for the supply or transfer of goods if—

(a) there is, in relation to the goods, a breach of an express term of the contract or a term implied by section 3, 4 or 5 above or, in Scotland, by section 11C, 11D or 11E above, or

(b) installation of the goods forms part of the contract for the transfer of goods, and the goods were installed by the transferor, or under his responsibility, in breach of the term implied by section 13 below or (in Scotland) in breach of any term implied by any rule of law as to the manner in which the installation is carried out.”.