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Supply of Goods and Services Act 1982

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ELIZABETH II



Supply of Goods and Services Act 1982

1982 CHAPTER 29

An Act to amend the law with respect to the terms to be implied in certain contracts for the transfer of the property in goods, in certain contracts for the hire of goods and in certain contracts for the supply of a service; and for connected purposes. [13th July 1982]

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:—

PART I

SUPPLY OF GOODS

Contracts for the transfer of property in goods

1.—(1) In this Act a “contract for the transfer of goods” The contracts concerned. means a contract under which one person transfers or agrees to transfer to another the property in goods, other than an excepted contract.

(2) For the purposes of this section an excepted contract means any of the following:—

- (a) a contract of sale of goods ;
- (b) a hire-purchase agreement ;
- (c) a contract under which the property in goods is (or is to be) transferred in exchange for trading stamps on their redemption ;

PART I

- (d) a transfer or agreement to transfer which is made by deed and for which there is no consideration other than the presumed consideration imported by the deed ;
- (e) a contract intended to operate by way of mortgage, pledge, charge or other security.

(3) For the purposes of this Act a contract is a contract for the transfer of goods whether or not services are also provided or to be provided under the contract, and (subject to subsection (2) above) whatever is the nature of the consideration for the transfer or agreement to transfer.

Implied terms
about title,
etc.

2.—(1) In a contract for the transfer of goods, other than one to which subsection (3) below applies, there is an implied condition on the part of the transferor that in the case of a transfer of the property in the goods he has a right to transfer the property and in the case of an agreement to transfer the property in the goods he will have such a right at the time when the property is to be transferred.

(2) In a contract for the transfer of goods, other than one to which subsection (3) below applies, there is also an implied warranty that—

- (a) the goods are free, and will remain free until the time when the property is to be transferred, from any charge or encumbrance not disclosed or known to the transferee before the contract is made, and
- (b) the transferee will enjoy quiet possession of the goods except so far as it may be disturbed by the owner or other person entitled to the benefit of any charge or encumbrance so disclosed or known.

(3) This subsection applies to a contract for the transfer of goods in the case of which there appears from the contract or is to be inferred from its circumstances an intention that the transferor should transfer only such title as he or a third person may have.

(4) In a contract to which subsection (3) above applies there is an implied warranty that all charges or encumbrances known to the transferor and not known to the transferee have been disclosed to the transferee before the contract is made.

(5) In a contract to which subsection (3) above applies there is also an implied warranty that none of the following will disturb the transferee's quiet possession of the goods, namely—

- (a) the transferor ;
- (b) in a case where the parties to the contract intend that the transferor should transfer only such title as a third person may have, that person ;

(c) anyone claiming through or under the transferor or that third person otherwise than under a charge or encumbrance disclosed or known to the transferee before the contract is made.

3.—(1) This section applies where, under a contract for the transfer of goods, the transferor transfers or agrees to transfer the property in the goods by description. Implied terms where transfer is by description.

(2) In such a case there is an implied condition that the goods will correspond with the description.

(3) If the transferor transfers or agrees to transfer the property in the goods 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.

(4) A contract is not prevented from falling within subsection (1) above by reason only that, being exposed for supply, the goods are selected by the transferee.

4.—(1) Except as provided by this section and section 5 below and subject to the provisions of any other enactment, there is no implied condition or warranty about the quality or fitness for any particular purpose of goods supplied under a contract for the transfer of goods. Implied terms about quality or fitness.

(2) Where, under such a contract, the transferor transfers the property in goods in the course of a business, there is (subject to subsection (3) below) an implied condition that the goods supplied under the contract are of merchantable quality.

(3) There is no such condition as is mentioned in subsection (2) above—

- (a) as regards defects specifically drawn to the transferee's attention before the contract is made; or
- (b) if the transferee examines the goods before the contract is made, as regards defects which that examination ought to reveal.

(4) Subsection (5) below applies where, under a contract for the transfer of goods, the transferor transfers the property in goods in the course of a business and the transferee, expressly or by implication, makes known—

- (a) to the transferor, or
- (b) where the consideration or part of the consideration for the transfer is a sum payable by instalments and the goods were previously sold by a credit-broker to the transferor, to that credit-broker,

any particular purpose for which the goods are being acquired.

PART I

(5) In that case there is (subject to subsection (6) below) an implied condition that the goods supplied under the contract are reasonably fit for that purpose, whether or not that is a purpose for which such goods are commonly supplied.

(6) Subsection (5) above does not apply where the circumstances show that the transferee does not rely, or that it is unreasonable for him to rely, on the skill or judgment of the transferor or credit-broker.

(7) An implied condition or warranty about quality or fitness for a particular purpose may be annexed by usage to a contract for the transfer of goods.

(8) The preceding provisions of this section apply to a transfer by a person who in the course of a business is acting as agent for another as they apply to a transfer by a principal in the course of a business, except where that other is not transferring in the course of a business and either the transferee knows that fact or reasonable steps are taken to bring it to the transferee's notice before the contract concerned is made.

(9) Goods of any kind are of merchantable quality within the meaning of subsection (2) above if they are as fit for the purpose or purposes for which goods of that kind are commonly supplied as it is reasonable to expect having regard to any description applied to them, the price (if relevant) and all the other relevant circumstances.

Implied terms
where
transfer is by
sample.

5.—(1) This section applies where, under a contract for the transfer of goods, the transferor transfers or agrees to transfer the property in the goods by reference to a sample.

(2) In such a case there is an implied condition—

- (a) that the bulk will correspond with the sample in quality ;
and
- (b) that the transferee will have a reasonable opportunity of comparing the bulk with the sample ; and
- (c) that the goods will be free from any defect, rendering them unmerchantable, which would not be apparent on reasonable examination of the sample.

(3) In subsection (2)(c) above “ unmerchantable ” is to be construed in accordance with section 4(9) above.

(4) For the purposes of this section a transferor transfers or agrees to transfer the property in goods by reference to a sample where there is an express or implied term to that effect in the contract concerned.

Contracts for the hire of goods

PART I

6.—(1) In this Act a “contract for the hire of goods” means The contracts a contract under which one person bails or agrees to bail goods concerned. to another by way of hire, other than an excepted contract.

(2) For the purposes of this section an excepted contract means any of the following:—

(a) a hire-purchase agreement ;

(b) a contract under which goods are (or are to be) bailed in exchange for trading stamps on their redemption.

(3) For the purposes of this Act a contract is a contract for the hire of goods whether or not services are also provided or to be provided under the contract, and (subject to subsection (2) above) whatever is the nature of the consideration for the bailment or agreement to bail by way of hire.

7.—(1) In a contract for the hire of goods there is an implied Implied terms condition on the part of the bailor that in the case of a bailment about right he has a right to transfer possession of the goods by way of hire to transfer for the period of the bailment and in the case of an agreement possession, etc. to bail he will have such a right at the time of the bailment.

(2) In a contract for the hire of goods there is also an implied warranty that the bailee will enjoy quiet possession of the goods for the period of the bailment except so far as the possession may be disturbed by the owner or other person entitled to the benefit of any charge or encumbrance disclosed or known to the bailee before the contract is made.

(3) The preceding provisions of this section do not affect the right of the bailor to repossess the goods under an express or implied term of the contract.

8.—(1) This section applies where, under a contract for the Implied terms hire of goods, the bailor bails or agrees to bail the goods by where hire description. is by

(2) In such a case there is an implied condition that the goods will correspond with the description. description.

(3) If under the contract the bailor bails or agrees to bail the goods by reference to a sample as well as a 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.

(4) A contract is not prevented from falling within subsection (1) above by reason only that, being exposed for supply, the goods are selected by the bailee.

PART I
Implied terms
about quality
or fitness.

9.—(1) Except as provided by this section and section 10 below and subject to the provisions of any other enactment, there is no implied condition or warranty about the quality or fitness for any particular purpose of goods bailed under a contract for the hire of goods.

(2) Where, under such a contract, the bailor bails goods in the course of a business, there is (subject to subsection (3) below) an implied condition that the goods supplied under the contract are of merchantable quality.

(3) There is no such condition as is mentioned in subsection (2) above—

- (a) as regards defects specifically drawn to the bailee's attention before the contract is made ; or
- (b) if the bailee examines the goods before the contract is made, as regards defects which that examination ought to reveal.

(4) Subsection (5) below applies where, under a contract for the hire of goods, the bailor bails goods in the course of a business and the bailee, expressly or by implication, makes known—

- (a) to the bailor in the course of negotiations conducted by him in relation to the making of the contract, or
- (b) to a credit-broker in the course of negotiations conducted by that broker in relation to goods sold by him to the bailor before forming the subject matter of the contract,

any particular purpose for which the goods are being bailed.

(5) In that case there is (subject to subsection (6) below) an implied condition that the goods supplied under the contract are reasonably fit for that purpose, whether or not that is a purpose for which such goods are commonly supplied.

(6) Subsection (5) above does not apply where the circumstances show that the bailee does not rely, or that it is unreasonable for him to rely, on the skill or judgment of the bailor or credit-broker.

(7) An implied condition or warranty about quality or fitness for a particular purpose may be annexed by usage to a contract for the hire of goods.

(8) The preceding provisions of this section apply to a bailment by a person who in the course of a business is acting as agent for another as they apply to a bailment by a principal in the course of a business, except where that other is not bailing in the course of a business and either the bailee knows that fact or reasonable steps are taken to bring it to the bailee's notice before the contract concerned is made.

(9) Goods of any kind are of merchantable quality within the meaning of subsection (2) above if they are as fit for the purpose or purposes for which goods of that kind are commonly supplied as it is reasonable to expect having regard to any description applied to them, the consideration for the bailment (if relevant) and all the other relevant circumstances.

10.—(1) This section applies where, under a contract for the hire of goods, the bailor bails or agrees to bail the goods by reference to a sample. Implied terms where hire is by sample.

(2) In such a case there is an implied condition—

- (a) that the bulk will correspond with the sample in quality ;
and
- (b) that the bailee will have a reasonable opportunity of comparing the bulk with the sample ; and
- (c) that the goods will be free from any defect, rendering them unmerchantable, which would not be apparent on reasonable examination of the sample.

(3) In subsection (2)(c) above “unmerchantable” is to be construed in accordance with section 9(9) above.

(4) For the purposes of this section a bailor bails or agrees to bail goods by reference to a sample where there is an express or implied term to that effect in the contract concerned.

Exclusion of implied terms, etc.

11.—(1) Where a right, duty or liability would arise under a contract for the transfer of goods or a contract for the hire of goods by implication of law, it may (subject to subsection (2) below and the 1977 Act) be negatived or varied by express agreement, or by the course of dealing between the parties, or by such usage as binds both parties to the contract. Exclusion of implied terms, etc.

(2) An express condition or warranty does not negative a condition or warranty implied by the preceding provisions of this Act unless inconsistent with it.

(3) Nothing in the preceding provisions of this Act prejudices the operation of any other enactment or any rule of law whereby any condition or warranty (other than one relating to quality or fitness) is to be implied in a contract for the transfer of goods or a contract for the hire of goods.

PART II

SUPPLY OF SERVICES

The contracts
concerned.

12.—(1) In this Act a “contract for the supply of a service” means, subject to subsection (2) below, a contract under which a person (“the supplier”) agrees to carry out a service.

(2) For the purposes of this Act, a contract of service or apprenticeship is not a contract for the supply of a service.

(3) Subject to subsection (2) above, a contract is a contract for the supply of a service for the purposes of this Act whether or not goods are also—

(a) transferred or to be transferred, or

(b) bailed or to be bailed by way of hire,

under the contract, and whatever is the nature of the consideration for which the service is to be carried out.

(4) The Secretary of State may by order provide that one or more of sections 13 to 15 below shall not apply to services of a description specified in the order, and such an order may make different provision for different circumstances.

(5) The power to make an order under subsection (4) above shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.

Implied term
about care
and skill.

13. In a contract for the supply of a service where the supplier is acting in the course of a business, there is an implied term that the supplier will carry out the service with reasonable care and skill.

Implied term
about time for
performance.

14.—(1) Where, under a contract for the supply of a service by a supplier acting in the course of a business, the time for the service to be carried out is not fixed by the contract, left to be fixed in a manner agreed by the contract or determined by the course of dealing between the parties, there is an implied term that the supplier will carry out the service within a reasonable time.

(2) What is a reasonable time is a question of fact.

Implied term
about
consideration.

15.—(1) Where, under a contract for the supply of a service, the consideration for the service is not determined by the contract, left to be determined in a manner agreed by the contract or determined by the course of dealing between the parties, there is an implied term that the party contracting with the supplier will pay a reasonable charge.

(2) What is a reasonable charge is a question of fact.

16.—(1) Where a right, duty or liability would arise under a contract for the supply of a service by virtue of this Part of this Act, it may (subject to subsection (2) below and the 1977 Act) be negated or varied by express agreement, or by the course of dealing between the parties, or by such usage as binds both parties to the contract. PART II
Exclusion of implied terms,
etc.

(2) An express term does not negative a term implied by this Part of this Act unless inconsistent with it.

(3) Nothing in this Part of this Act prejudices—

(a) any rule of law which imposes on the supplier a duty stricter than that imposed by section 13 or 14 above; or

(b) subject to paragraph (a) above, any rule of law whereby any term not inconsistent with this Part of this Act is to be implied in a contract for the supply of a service.

(4) This Part of this Act has effect subject to any other enactment which defines or restricts the rights, duties or liabilities arising in connection with a service of any description.

PART III

SUPPLEMENTARY

17.—(1) In section 10(2) of the 1973 Act, as originally enacted and as prospectively substituted by paragraph 35 of Schedule 4 to the 1974 Act (implied condition in hire-purchase agreement that goods are of merchantable quality), after “implied condition that the goods” there shall be inserted “supplied under the agreement”. Minor and consequential
amendments.

(2) The following subsection shall be inserted after section 7(3) of the 1977 Act:—

“(3A) Liability for breach of the obligations arising under section 2 of the Supply of Goods and Services Act 1982 (implied terms about title etc. in certain contracts for the transfer of the property in goods) cannot be excluded or restricted by reference to any such term.”

(3) In consequence of subsection (2) above, in section 7(4) of the 1977 Act, after “cannot” there shall be inserted “(in a case to which subsection (3A) above does not apply)”.

18.—(1) In the preceding provisions of this Act and this section— Interpretation:
general.

“bailee”, in relation to a contract for the hire of goods means (depending on the context) a person to whom the

PART III

goods are bailed under the contract, or a person to whom they are to be so bailed, or a person to whom the rights under the contract of either of those persons have passed ;

- “bailor”, in relation to a contract for the hire of goods, means (depending on the context) a person who bails the goods under the contract, or a person who agrees to do so, or a person to whom the duties under the contract of either of those persons have passed ;
- “business” includes a profession and the activities of any government department or local or public authority ;
- “credit-broker” means a person acting in the course of a business of credit brokerage carried on by him ;
- “credit brokerage” means the effecting of introductions—
- (a) of individuals desiring to obtain credit to persons carrying on any business so far as it relates to the provision of credit ; or
 - (b) of individuals desiring to obtain goods on hire to persons carrying on a business which comprises or relates to the bailment of goods under a contract for the hire of goods ; or
 - (c) of individuals desiring to obtain credit, or to obtain goods on hire, to other credit-brokers ;
- “enactment” means any legislation (including subordinate legislation) of the United Kingdom or Northern Ireland ;
- “goods” include all personal chattels (including emblements, industrial growing crops, and things attached to or forming part of the land which are agreed to be severed before the transfer or bailment concerned or under the contract concerned), other than things in action and money ;
- “hire-purchase agreement” has the same meaning as in the 1974 Act ;
- “property”, in relation to goods, means the general property in them and not merely a special property ;
- “quality”, in relation to goods, includes their state or condition ;
- “redemption”, in relation to trading stamps, has the same meaning as in the Trading Stamps Act 1964 or, as respects Northern Ireland, the Trading Stamps Act (Northern Ireland) 1965 ;
- “trading stamps” has the same meaning as in the said Act of 1964 or, as respects Northern Ireland, the said Act of 1965 ;

“transferee”, in relation to a contract for the transfer of goods, means (depending on the context) a person to whom the property in the goods is transferred under the contract, or a person to whom the property is to be so transferred, or a person to whom the rights under the contract of either of those persons have passed ;

PART III

“transferor”, in relation to a contract for the transfer of goods, means (depending on the context) a person who transfers the property in the goods under the contract, or a person who agrees to do so, or a person to whom the duties under the contract of either of those persons have passed.

(2) In subsection (1) above, in the definitions of bailee, bailor, transferee and transferor, a reference to rights or duties passing is to their passing by assignment, operation of law or otherwise.

19. In this Act—

“the 1973 Act” means the Supply of Goods (Implied Terms) Act 1973 ;

Interpretation:
references to
Acts.

1973 c. 13.

“the 1974 Act” means the Consumer Credit Act 1974 ;

1974 c. 39.

“the 1977 Act” means the Unfair Contract Terms Act 1977 ; and

1977 c. 50.

“the 1979 Act” means the Sale of Goods Act 1979.

1979 c. 54.

20.—(1) This Act may be cited as the Supply of Goods and Services Act 1982.

Citation,
transitional
provisions,
commence-
ment and
extent.

(2) The transitional provisions in the Schedule to this Act shall have effect.

(3) Part I of this Act together with section 17 and so much of sections 18 and 19 above as relates to that Part shall not come into operation until 4th January 1983 ; and Part II of this Act together with so much of sections 18 and 19 above as relates to that Part shall not come into operation until such day as may be appointed by an order made by the Secretary of State.

(4) The power to make an order under subsection (3) above shall be exercisable by statutory instrument.

(5) No provision of this Act applies to a contract made before the provision comes into operation.

(6) This Act extends to Northern Ireland but not to Scotland.

Section 20.

SCHEDULE**TRANSITIONAL PROVISIONS**

1.—(1) If section 4 of this Act comes into operation before the day appointed for the purposes of section 14(7) of and paragraph 5 of Schedule 1 to the 1979 Act, then until that day, section 4 of this Act shall have effect with the modifications set out in sub-paragraphs (2) to (4) below.

(2) For subsection (4) substitute:—

“(4) Subsection (5) below applies where, under a contract for the transfer of goods, the transferor transfers the property in goods in the course of a business and the transferee, expressly or by implication, makes known to the transferor any particular purpose for which the goods are being acquired.”

(3) In subsection (6) omit “or credit-broker”.

(4) After subsection (9) insert:—

“(10) In the application of subsections (4) to (6) above to a contract for the transfer of goods under which the consideration or part of the consideration for the transfer is a sum payable by instalments any reference to the transferor includes a reference to the person by whom any antecedent negotiations are conducted.

1965 c. 66.

(11) Section 58(3) and (5) of the Hire-Purchase Act 1965 (meaning of antecedent negotiations and related expressions) apply, with the appropriate modifications, in relation to subsection (10) above as in relation to that Act.”

2.—(1) If section 9 of this Act comes into operation before paragraph 35 of Schedule 4 to the 1974 Act (which, among other things, amends section 10(3) of the 1973 Act so as to make it refer to credit-brokers), then, until the paragraph comes into operation, section 9 of this Act shall have effect with the modifications set out in sub-paragraphs (2) to (4) below.

(2) For subsection (4) substitute:—

“(4) Subsection (5) below applies where, under a contract for the hire of goods, the bailor bails goods in the course of a business and the bailee, expressly or by implication, makes known to the bailor or the person by whom any antecedent negotiations are conducted any particular purpose for which the goods are being bailed.”

(3) In subsection (6), for “credit-broker” substitute “person by whom the antecedent negotiations are conducted”.

(4) After subsection (9) insert:—

“(10) Section 58(3) and (5) of the Hire-Purchase Act 1965 (meaning of antecedent negotiations and related expressions) apply, with the appropriate modifications, in relation to subsections (4) to (6) above as in relation to that Act.”

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LONDON: PUBLISHED BY HER MAJESTY'S STATIONERY OFFICE
£2.10 net

(542922)

ISBN 0 10 542982 1

LONDON The Stationery Office Ltd
£ 3.40