



Sale of Goods Act 1893

1894 CHAPTER 71 56 and 57 Vict

PART V

ACTIONS FOR BREACH OF THE CONTRACT

Remedies of the Seller

49 Action for price

- (1) Where, under a contract of sale, the property in the goods has passed to the buyer, and the buyer wrongfully neglects or refuses to pay for the goods according to the terms of the contract, the seller may maintain an action against him for the price of the goods.
- (2) Where, under a contract of sale, the price is payable on a day certain irrespective of delivery, and the buyer wrongfully neglects or refuses to pay such price, the seller may maintain an action for the price, although the property in the goods has not passed, and the goods have not been appropriated to the contract.
- (3) Nothing in this section shall prejudice the right of the seller in Scotland to recover interest on the price from the date of tender of the goods, or from the date on which the price was payable, as the case may be.

50 Damages for non-acceptance

- (1) Where the buyer wrongfully neglects or refuses to accept and pay for the goods, the seller may maintain an action against him for damages for non-acceptance.
- (2) The measure of damages is the estimated loss directly and naturally resulting, in the ordinary course of events, from the buyer's breach of contract.
- (3) Where there is an available market for the goods in question the measure of damages is prima facie to be ascertained by the difference between the contract price and the market or current price at the time or times when the goods ought to have been accepted or, if no time was fixed for acceptance, then at the time of the refusal to accept.

*Status: This is the original version (as it was originally enacted). This
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Remedies of the Buyer

51 Damages for non-delivery

- (1) Where the seller wrongfully neglects or refuses to deliver the goods to the buyer, the buyer may maintain an action against the seller for damages for non-delivery.
- (2) The measure of damages is the estimated loss directly and naturally resulting, in the ordinary course of events, from the seller's breach of contract.
- (3) Where there is an available market for the goods in question the measure of damages is prima facie to be ascertained by the difference between the contract price and the market or current price of the goods at the time or times when they ought to have been delivered, or, if no time was fixed, then at the time of the refusal to deliver.

52 Specific performance

In any action for breach of contract to deliver specific or ascertained goods the court may, if it thinks fit, on the application of the plaintiff, by its judgment or decree direct that the contract shall be performed specifically, without giving the defendant the option of retaining the goods on payment of damages. The judgment or decree may be unconditional, or upon such terms and conditions as to damages, payment of the price, and otherwise, as to the court may seem just, and the application by the plaintiff may be made at any time before judgment or decree.

The provisions of this section shall be deemed to be supplementary to, and not in derogation of, the right of specific implement in Scotland.

53 Remedy for breach of warranty

- (1) Where there is a breach of warranty by the seller, or where the buyer elects, or is compelled, to treat any breach of a condition on the part of the seller as a breach of warranty, the buyer is not by reason only of such breach of warranty entitled to reject the goods; but he may
 - (a) set up against the seller the breach of warranty in diminution or extinction of the price; or
 - (b) maintain an action against the seller for damages for the breach of warranty.
- (2) The measure of damages for breach of warranty is the estimated loss directly and naturally resulting, in the ordinary course of events, from the breach of warranty.
- (3) In the case of breach of warranty of quality such loss is prima facie the difference between the value of the goods at the time of delivery to the buyer and the value they would have had if they had answered to the warranty.
- (4) The fact that the buyer has set up the breach of warranty in diminution or extinction of the price does not prevent him from maintaining an action for the same breach of warranty if he has suffered further damage.
- (5) Nothing in this section shall prejudice or affect the buyer's right of rejection in Scotland as declared by this Act.

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54 Interest and special damages

Nothing in this Act shall affect the right of the buyer or the seller to recover interest or special damages in any case where by law interest or special damages may be recoverable, or to recover money paid where the consideration for the payment of it has failed.