



# Unfair Contract Terms Act 1977

## 1977 CHAPTER 50

### PART III

#### PROVISIONS APPLYING TO WHOLE OF UNITED KINGDOM

##### *Miscellaneous*

#### **26 International supply contracts**

- (1) The limits imposed by this Act on the extent to which a person may exclude or restrict liability by reference to a contract term do not apply to liability arising under such a contract as is described in subsection (3) below.
- (2) The terms of such a contract are not subject to any requirement of reasonableness under section 3 or 4: and nothing in Part II of this Act shall require the incorporation of the terms of such a contract to be fair and reasonable for them to have effect.
- (3) Subject to subsection (4), that description of contract is one whose characteristics are the following—
  - (a) either it is a contract of sale of goods or it is one under or in pursuance of which the possession or ownership of goods passes; and
  - (b) it is made by parties whose places of business (or, if they have none, habitual residences) are in the territories of different States (the Channel Islands and the Isle of Man being treated for this purpose as different States from the United Kingdom).
- (4) A contract falls within subsection (3) above only if either—
  - (a) the goods in question are, at the time of the conclusion of the contract, in the course of carriage, or will be carried, from the territory of one State to the territory of another; or
  - (b) the acts constituting the offer and acceptance have been done in the territories of different States; or
  - (c) the contract provides for the goods to be delivered to the territory of a State other than that within whose territory those acts were done.

## 27 Choice of law clauses

- (1) Where the proper law of a contract is the law of any part of the United Kingdom only by choice of the parties (and apart from that choice would be the law of some country outside the United Kingdom) sections 2 to 7 and 16 to 21 of this Act do not operate as part of the proper law.
- (2) This Act has effect notwithstanding any contract term which applies or purports to apply the law of some country outside the United Kingdom, where (either or both)—
  - (a) the term appears to the court, or arbitrator or arbiter to have been imposed wholly or mainly for the purpose of enabling the party imposing it to evade the operation of this Act; or
  - (b) in the making of the contract one of the parties dealt as consumer, and he was then habitually resident in the United Kingdom, and the essential steps necessary for the making of the contract were taken there, whether by him or by others on his behalf.
- (3) In the application of subsection (2) above to Scotland, for paragraph (b) there shall be substituted—
  - “(b) the contract is a consumer contract as defined in Part II of this Act, and the consumer at the date when the contract was made was habitually resident in the United Kingdom, and the essential steps necessary for the making of the contract were taken there, whether by him or by others on his behalf.”.

## 28 Temporary provision for sea carriage of passengers

- (1) This section applies to a contract for carriage by sea of a passenger or of a passenger and his luggage where the provisions of the Athens Convention (with or without modification) do not have, in relation to the contract, the force of law in the United Kingdom.
- (2) In a case where—
  - (a) the contract is not made in the United Kingdom, and
  - (b) neither the place of departure nor the place of destination under it is in the United Kingdom,a person is not precluded by this Act from excluding or restricting liability for loss or damage, being loss or damage for which the provisions of the Convention would, if they had the force of law in relation to the contract, impose liability on him.
- (3) In any other case, a person is not precluded by this Act from excluding or restricting liability for that loss or damage—
  - (a) in so far as the exclusion or restriction would have been effective in that case had the provisions of the Convention had the force of law in relation to the contract; or
  - (b) in such circumstances and to such extent as may be prescribed, by reference to a prescribed term of the contract.
- (4) For the purposes of subsection (3)(a), the values which shall be taken to be the official values in the United Kingdom of the amounts (expressed in gold francs) by reference to which liability under the provisions of the Convention is limited shall be such amounts in sterling as the Secretary of State may from time to time by order made by statutory instrument specify.

(5) In this section,—

- (a) the references to excluding or restricting liability include doing any of those things in relation to the liability which are mentioned in section 13 or section 25(3) and (5); and
- (b) " the Athens Convention " means the Athens Convention relating to the Carriage of Passengers and their Luggage by Sea, 1974; and
- (c) " prescribed " means prescribed by the Secretary of State by regulations made by statutory instrument;

and a statutory instrument containing the regulations shall be subject to annulment in pursuance of a resolution of either House of Parliament.

## **29 Saving for other relevant legislation**

(1) Nothing in this Act removes or restricts the effect of, or prevents reliance upon, any contractual provision which—

- (a) is authorised or required by the express terms or necessary implication of an enactment; or
- (b) being made with a view to compliance with an international agreement to which the United Kingdom is a party, does not operate more restrictively than is contemplated by the agreement.

(2) A contract term is to be taken—

- (a) for the purposes of Part I of this Act, as satisfying the requirement of reasonableness ; and
- (b) for those of Part II, to have been fair and reasonable to incorporate,

if it is incorporated or approved by, or incorporated pursuant to a decision or ruling of, a competent authority acting in the exercise of any statutory jurisdiction or function and is not a term in a contract to which the competent authority is itself a party.

(3) In this section—

" competent authority " means any court, arbitrator or arbiter, government department or public authority ;

" enactment " means any legislation (including subordinate legislation) of the United Kingdom or Northern Ireland and any instrument having effect by virtue of such legislation ; and

" statutory " means conferred by an enactment.

## **30 Obligations under Consumer Protection Acts**

(1) In section 3 of the Consumer Protection Act 1961 (provisions against marketing goods which do not comply with safety requirements), after subsection (1) there is inserted—

“(1A) Any term of an agreement which purports to exclude or restrict, or has the effect of excluding or restricting, any obligation imposed by or by virtue of that section, or any liability for breach of such an obligation, shall be void.”.

(2) The same amendment is made in section 3 of the Consumer Protection Act (Northern Ireland) 1965.

### *General*

#### **31 Commencement; amendments; repeals**

- (1) This Act comes into force on 1st February 1978.
- (2) Nothing in this Act applies to contracts made before the date on which it comes into force; but subject to this, it applies to liability for any loss or damage which is suffered on or after that date.
- (3) The enactments specified in Schedule 3 to this Act are amended as there shown.
- (4) The enactments specified in Schedule 4 to this Act are repealed to the extent specified in column 3 of that Schedule.

#### **32 Citation and extent**

- (1) This Act may be cited as the Unfair Contract Terms Act 1977.
- (2) Part I of this Act extends to England and Wales and to Northern Ireland ; but it does not extend to Scotland.
- (3) Part II of this Act extends to Scotland only.
- (4) This Part of this Act extends to the whole of the United Kingdom.