



# Sale of Goods Act 1979

## 1979 CHAPTER 54

### PART VII

#### SUPPLEMENTARY

#### 61 Interpretation.

- (1) In this Act, unless the context or subject matter otherwise requires,—
- “action” includes counterclaim and set-off, and in Scotland condescendence and claim and compensation;
  - [<sup>F1</sup>“bulk” means a mass or collection of goods of the same kind which—
    - (a) is contained in a defined space or area; and
    - (b) is such that any goods in the bulk are interchangeable with any other goods therein of the same number or quantity;]
  - “business” includes a profession and the activities of any government department (including a Northern Ireland department) or local or public authority;
  - “buyer” means a person who buys or agrees to buy goods;
  - [<sup>F2</sup>“consumer contract” has the same meaning as in section 25(1) of the Unfair Contract Terms Act 1977; and for the purposes of this Act the onus of proving that a contract is not to be regarded as a consumer contract shall lie on the seller]
  - “contract of sale” includes an agreement to sell as well as a sale;
  - “credit-broker” means a person acting in the course of a business of credit brokerage carried on by him, that is a business of effecting introductions of individuals desiring to obtain credit—
    - (a) to persons carrying on any business so far as it relates to the provision of credit, or
    - (b) to other persons engaged in credit brokerage;
  - “defendant” includes in Scotland defender, respondent, and claimant in a multiplepinding;

*Status: Point in time view as at 31/03/2003. This version of this provision has been superseded.*

*Changes to legislation: There are currently no known outstanding effects for the Sale of Goods Act 1979, Section 61. (See end of Document for details)*

“delivery” means voluntary transfer of possession from one person to another ; [<sup>F3</sup>except that in relation to sections 20A and 20B above it includes such appropriation of goods to the contract as results in property in the goods being transferred to the buyer;]

“document of title to goods” has the same meaning as it has in the Factors Acts;

“Factors Acts” means the <sup>M1</sup>Factors Act 1889, the <sup>M2</sup>Factors (Scotland) 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” includes all personal chattels other than things in action and money, and in Scotland all corporeal moveables except money; and in particular “goods” 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; [<sup>F4</sup>and includes an undivided share in goods;]

“plaintiff” includes pursuer, complainer, claimant in a multiplepoining and defendant or defender counter-claiming;

[<sup>F5</sup>“producer” means the manufacturer of goods, the importer of goods into the European Economic Area or any person purporting to be a producer by placing his name, trade mark or other distinctive sign on the goods;]

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

[<sup>F6</sup>“repair” means, in cases where there is a lack of conformity in goods for the purposes of section 48F of this Act, to bring the goods into conformity with the contract;]

<sup>F7</sup> . . .

“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 on at the time a contract of sale is made [<sup>F8</sup>and includes an undivided share, specified as a fraction or percentage, of goods identified and agreed on as aforesaid];

“warranty” (as regards England and Wales and Northern 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.

<sup>F9</sup>(2) . . . . .

- (3) 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 is done negligently or not.
- (4) A person is deemed to be insolvent within the meaning of this Act if he has either ceased to pay his debts in the ordinary course of business or he cannot pay his debts as they become due, [<sup>F10</sup>whether he has committed an act of bankruptcy or not,][<sup>F11</sup>and whether he has become a notour bankrupt or not].
- (5) 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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[<sup>F12</sup>(5A) References in this Act to dealing as consumer are to be construed in accordance with Part I of the Unfair Contract Terms Act 1977; and, for the purposes of this Act, it is for a seller claiming that the buyer does not deal as consumer to show that he does not.]

(6) As regards the definition of “business” in subsection (1) above, paragraph 14 of Schedule 1 below applies in relation to a contract made on or after 18 May 1973 and before 1 February 1978, and paragraph 15 in relation to one made before 18 May 1973.

#### Textual Amendments

- F1** Definition of "bulk" in s. 61(1) inserted (19.9.1995) by 1995 c. 28, **ss. 2(a)**, 3(2).
- F2** Definition of "consumer contract" in s. 61(1) inserted (3.1.1995) by 1994 c. 35, ss. 7(1), 8(2), **Sch. 2 para. 5(9)(a)(i)** (with s. 8(3)).
- F3** Words in the definition of "delivery" in s. 61(1) added (19.9.1995) by 1995 c. 28, **ss. 2(b)**, 3(2).
- F4** Words in the definition of "goods" in s. 61(1) added (19.9.1995) by 1995 c. 28, **s. 2(c)**, 3(2).
- F5** Definition of “producer” in S. 61(1) inserted (31.3.2003) by S.I. 2002/3045, **reg. 6(1)**
- F6** Definition of “repair” in s. 61(1) inserted (31.3.2003) by S.I. 2002/3045, **reg. 6(2)**
- F7** Definition of "quality" in s. 61(1) repealed (3.1.1995) by 1994 c. 35, ss. 7, 8(2), Sch. 2 para. 5(9)(a)(ii), **Sch. 3** (with s. 8(3)).
- F8** Words in the definition of "specific goods" in s. 61(1) added (19.9.1995) by 1995 c. 28, **ss. 2(d)**, 3(2).
- F9** S. 61(2) repealed (3.1.1995) by 1994 c. 35, ss. 7, 8(2), Sch. 2 para. 5(9)(b), **Sch. 3** (with s. 8(3)).
- F10** Words repealed (E.W.) by Insolvency Act 1985 (c. 65, SIF66), ss. 235, 236(2), Sch. 9 para. 11, **Sch. 10 Pt. III**
- F11** Words repealed (S.) by Bankruptcy (Scotland) Act 1985 (c. 66, SIF 66), s. 75(2), **Sch. 8**
- F12** S. 61(5A) inserted (3.1.1995) by 1994 c. 35, ss. 7(1), 8(2), **Sch. 2 para. 5(9)(c)** (with s. 8(3)).

#### Marginal Citations

- M1** 1889 c. 45.
- M2** 1890 c. 40.

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**Changes to legislation:**

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