

1. Word "Indian" omitted by the Sale of Goods (Amendment) Act, 1963 (33 of 1963), section 2 (22-9-1963).

ACT No. 3 OF 1930

15th March, 1930

An Act to define and amend the law relating to the sale of goods.

WHEREAS it is expedient to define and amend the law relating to the sale of goods;

It is hereby enacted as follows: -

CHAPTER I

PRELIMINARY

1.Short title, extent and commencement: (1) This Act may be called the 1 [*****] Sale of Goods Act, 1930.

2 [(2) It extends to the whole of India 3 [except the State of Jammu and Kashmir].]

(3) It shall come into force on the first day of July, 1930.

1. Word "Indian" omitted by the Sale of Goods (Amendment) Act, 1963 (33 of 1963), section 2 (22-9-1963).

2. Substituted by the A.L.O., 1950 (26-1-1950).

3. Substituted for the words "except Part B State" by the Part B States (Laws) Act, 1951 (3 of 1951), section 3 and Schedule (1-4-1951).

2.Definitions: In this Act, unless there is anything repugnant in the subject or context, -

(1) "buyer" means a person who buys or agrees to buy goods;

(2) "delivery" means voluntary transfer of possession from one person to another;

(3) goods are said to be in a "deliverable state" when they are in such state that the buyer would under the contract be bound to take delivery of them;

(4) "document of title to goods" includes a bill of lading, dock-warrant, warehouse keepers' certificate, wharfingers' certificate, railway receipt, 1 [multi modal transport document] warrant or order for the delivery of goods and any other document used in the ordinary course of business as proof of the possession or control of goods, or authorising or purporting to authorise, either by endorsement or by delivery, the possessor of the document to transfer or receive goods thereby represented;

(5) "fault" means wrongful act or default;

(6) "future goods" means goods to be manufactured or produced or acquired by the seller after the making of the contract of sale;

(7) "goods" means every kind of movable property other than actionable claims and money; and includes stock and shares, growing crops, grass, and things attached to or forming part of the land which are agreed to be severed before sale or under the contract of sale;

(8) a person is said to be "insolvent" who has ceased to pay his debts in the ordinary course of business, or cannot pay his debts as they become due, whether he has committed an act of insolvency or not;

(9) "mercantile agent" means a mercantile agent having in the customary course of business as such agent authority either to sell goods, or to consign goods for the purposes of sale, or to buy goods, or to raise money on the security of goods;

(10) "price" means the money consideration for a sale of goods;

(11) "property" means the general property in goods, and not merely a special property;

(12) "quality of goods" includes their state or condition;

(13) "seller" means a person who sells or agrees to sell goods;

(14) "specific goods" means goods identified and agreed upon at the time a contract of sale is made; and

(15) expressions used but not defined in this Act and defined in the Indian Contract Act, 1872, have the meanings assigned to them in that Act.

1. Inserted by the Schedule Part III of The Multi Modal Transportation of Goods Act, 1993 (28 of 1993) w.e.f.16th October 1992.

3.Application of provisions of Act 9 of: The unrepealed provisions of the Indian Contract Act, 1872, save in so far as they are inconsistent with the express provisions of this Act, shall continue to apply to contracts for the sale of goods.

CHAPTER II

FORMATION OF THE CONTRACT

Contract of sale

4.Sale and agreement to sell: (1) A contract of sale of goods is a contract whereby the seller transfers or agrees to transfer the property in goods to the buyer for a price. There may be a contract of sale between one part-owner and another.

(2) A contract of sale may be absolute or conditional.

(3) Where under a contract of sale the property in the goods is transferred from the seller to the buyer, the contract is called a sale, but where the transfer of the property in the goods is to take place at a future time or subject to some condition thereafter to be fulfilled, the contract is called an agreement to sell.

(4) An agreement to sell becomes a sale when the time elapses or the conditions are fulfilled subject to which the property in the goods is to be transferred.

Formalities of the contract

5.Contract of sale how made: (1) A contract of sale is made by an offer to buy or sell goods for a price and the acceptance of such offer. The contract may provide for the immediate delivery of the goods or immediate payment of the price or both, or for the delivery or payment by instalments, or that the delivery or payment or both shall be postponed.

(2) Subject to the provisions of any law for the time being in force, a contract of sale may be made in writing or by word of mouth, or partly in writing and partly by word of mouth or may be implied from the conduct of the parties.

Subject-matter of contract

6.Existing or future goods: (1) The goods which form the subject of a contract of sale may be either existing goods, owned or possessed by the seller, or future goods.

(2) There may be a contract for the sale of goods the acquisition of which by the seller depends upon a contingency which may or may not happen.

(3) Where by a contract of sale the seller purports to effect a present sale of future goods, the contract operates as an agreement to sell the goods.

7.Goods perishing before making of contract: Where there is a contract for the sale of specific goods, the contract is void if the goods without the knowledge of the seller have, at the time when the contract was made, perished or become so damaged as no longer to answer to their description in the contract.

8.Goods perishing before sale but after agreement to sell: Where there an agreement to sell specific goods, and subsequently the goods without any fault on the part of the seller or buyer perish or become so damaged as no longer to answer to their description in the agreement before the risk passes to the buyer, the agreement is thereby avoided.

The Price

9.Ascertainment of price: (1) The price in a contract of sale may be fixed by the contract or may be left to be fixed in manner thereby agreed or may be determined by the course of dealing between the parties.

(2) Where the price is not determined in accordance with the foregoing provisions, the buyer shall pay the seller a reasonable price. What is a reasonable price is a question of fact dependent on the circumstances of each particular case.

10.Agreement to sell at valuation: (1) Where there is an agreement to sell goods on the terms that the price is to be fixed by the valuation of a third party and such third party cannot or does not make such valuation, the agreement is thereby avoided:

Provided that, if the goods or any part thereof have been delivered to, and appropriated by, the buyer, he shall pay a reasonable price therefor.

(2) Where such third party is prevented from making the valuation by the fault of the seller or buyer, the party not in fault may maintain a suit for damages against the party in fault.

Conditions and warranties

11.Stipulations as to time: Unless a different intention appears from the terms of the contract, stipulations as to time of payment are not deemed to be of the essence of a contract of sale. Whether any other stipulation as to time is of the essence of the contract or not depends on the terms of the contract.

12.Condition and warranty: (1) A stipulation in a contract of sale with reference to goods which are the subject thereof may be a condition or a warranty.

(2) A condition is a stipulation essential to the main purpose of the contract, the breach of which gives rise to a right to treat the contract as repudiated.

(3) A warranty is a stipulation collateral to the main purpose of the 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.

(4) Whether a stipulation in a contract of sale is a condition or a warranty depends in each case on the construction of the contract. A stipulation may be a condition, though called a warranty in the contract.

13.When condition to be treated as warranty: (1) Where a contract of sale is subject to any condition to be fulfilled by the seller, the buyer may waive the condition or elect to treat the breach of the condition as a breach of warranty and not as a ground for treating the contract as repudiated.

(2) Where a contract of sale is not severable and the buyer has accepted the goods or part thereof, ¹ [*****], the breach of any condition to be fulfilled by the seller can only be treated as a breach of warranty and not as a ground for rejecting the goods and treating the contract as repudiated, unless there is a term of the contract, express or implied, to that effect.

(3) Nothing in this section shall affect the case of any condition or warranty fulfilment of which is excused by law by reason of impossibility or otherwise.

1. Words "or where the contract is for specific goods, the property in which has passed to the buyer" omitted by the Sale of Goods (Amendment) Act, 1953 (33 of 1963), section 3 (22-9-1963).

14.Implied undertaking as to title, etc: In a contract of sale, unless the circumstances of the contract are such as to show a different intention, there is -

(a) an implied condition on the part of the seller that, in the case of a sale, he has a right to sell the goods and that, in the case of an agreement to sell, he will have a right to sell the goods at the time when the property is to pass;

(b) an implied warranty that the buyer shall have and enjoy quiet possession of the goods;

(c) an implied warranty that the goods shall be free from any charge or encumbrance in favour of any third party not declared or known to the buyer before or at the time when the contract is made.

15.Sale by description: Where there is a contract for the sale of goods by description, there is an implied condition that the goods shall correspond with the description; and, if the sale is 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.

16.Implied conditions as to quality or fitness: Subject to the provisions of this Act and of any other law for the time being in force, there is no implied warranty or condition as to the quality or fitness for any particular purpose of goods supplied under a contract of sale, except as follows: -

(1) Where the buyer, expressly or by implication, makes known to the seller the particular purpose for which the goods are required, so as to show that the buyer relies on the seller's skill or judgment, and the goods are of a description which it is in the course of the seller's business to supply (whether he is the manufacturer or producer or not), there is an implied condition that the goods shall be reasonably fit for such purpose:

Provided that, in the case of a contract for the sale of a specified article under its patent or other trade name, there is no implied condition as to its fitness for any particular purpose.

(2) Where goods are bought by description from a seller who deals in goods of that description (whether he is the manufacturer or producer or not), there is an implied condition that the goods shall be of merchantable quality:

Provided that, if the buyer has examined the goods, there shall be no implied condition as regards defects which such examination ought to have revealed.

(3) An implied warranty or condition as to quality or fitness for a particular purpose may be annexed by the usage of trade.

(4) An express warranty or condition does not negative a warranty or condition implied by this Act unless inconsistent therewith.

17.Sale by sample: (1) A contract of sale is a contract for sale by sample where there is a term in the contract, express or implied, to that effect.

(2) In the case of a contract for sale by sample there is an implied condition-

(a) that the bulk shall correspond with the sample in quality;

(b) that the buyer shall have a reasonable opportunity of comparing the bulk with the sample;

(c) that the goods shall be free from any defect, rendering them unmerchantable which would not be apparent on reasonable examination of the sample.

CHAPTER III

EFFECTS OF THE CONTRACT

Transfer of property as between seller and buyer

18.Goods must be ascertained: Where there is a contract for the sale of unascertained goods, no property in the goods is transferred to the buyer unless and until the goods are ascertained.

19.Property passes when intended to pass: (1) Where there is a contract for the sale of specific or ascertained goods the property in them is transferred to the buyer at such time as the parties to the contract intend it to be transferred.

(2) For the purpose of ascertaining the intention of the parties regard shall be had to the terms of the contract, the conduct of the parties and the circumstances of the case.

(3) Unless a different intention appears, the rules contained in sections 20 to 24 are rules for ascertaining the intention of the parties as to the time at which the property in the goods is to pass to the buyer.

20.Specific goods in a deliverable state: Where there is an unconditional contract for the sale of specific goods in a deliverable state, the property in the goods passes to the buyer when the contract is made, and it is immaterial whether the time of payment of the price or the time of delivery of the goods, or both, is postponed.

21.Specific goods to be put into a deliverable state: Where there is a contract for the sale of specific goods and the seller is bound to do something to the goods for the purpose of putting them into a deliverable state, the property does not pass until such thing is done and the buyer has notice thereof.

22.Specific goods in a deliverable state, when the seller has to do anything thereto in order to ascertain price: Where there is a contract for the sale of specific goods in a deliverable state, but the seller is bound to weigh, measure, test or do some other act or thing with reference to the goods for the purpose of ascertaining the price, the property does not pass until such act or thing is done and the buyer has notice thereof.

23.Sale of unascertained goods and appropriation: (1) Where there is a contract for the sale of unascertained or future goods by description and goods of that description and in a deliverable state are unconditionally appropriated to the contract, either by the seller with the assent of the buyer or by the buyer with the assent of the seller, the property in the goods thereupon passes to the buyer. Such assent may be express or implied, and may be given either before or after the appropriation is made.

Delivery to carrier.

(2) Where, in pursuance of the contract, the seller delivers the goods to the buyer or to a carrier or other bailee (whether named by the buyer or not) for the purpose of transmission to the buyer, and does not reserve the right of disposal, he is deemed to have delivered the goods to the buyer.

3. Substituted for the words "District Magistrate" by the Child Marriage Restraint (Second Amendment) Act, 1938 (19 of 1938), Section 3.

[**9.Mode of taking cognizance of offences:** No Court shall take cognizance of any offence under this Act after the expiry of one year from the date on which the offence is alleged to have been committed.]

1. Substituted for the original Section 9 by the Child Marriage Restraint (Second Amendment) Act, 1938 (19 of 1938), Section 4.

[**10.Preliminary inquires into offences:** Any Court, on receipt of a complaint of an offence of which it is authorised to take cognizance, shall, unless it dismisses the complaint under section 203 of the Code of Criminal Procedure, 1973 (2 of 1974), either itself make an inquiry under section 202 of that Code or direct a Magistrate subordinate to it to make such inquiry.]

1. Substituted for the original Section 10 by the Child Marriage Restraint (Amendment) Act, 1949 (41 of 1949), Section 6.

2. Substituted for the words and figures "Code of Criminal Procedure, 1898 (5 of 1898)" by the Child Marriage Restraint (Amendment) Act, 1978 (2 of 1978) Section 5.

11.Power to take security from complainant: [*****]

1. Repealed by the Child Marriage Restraint (Amendment) Act, 1949 (41 of 1949), Section 7.

1 **[12.Power to issue injunction prohibiting marriage in contravention of this Act:** (1) Notwithstanding anything to the contrary contained in this Act, the Court may, if satisfied from information laid before it through a complaint or otherwise that a child marriage in contravention of this Act has been arranged or is about to be solemnised, issue an injunction against any of the persons mentioned in sections 3, 4, 5, and 6 of this Act prohibiting such marriage.

(2) No injunction under sub-section (1) shall be issued against any person unless the Court has previously given notice to such person, and has afforded him an opportunity to show cause against the issue of the injunction.

(3) The Court may either on its own motion or on the application of any person aggrieved rescind or alter any order made under sub-section (1).

(4) Where such an application is received, the Court shall afford the applicant an early opportunity of appearing before it either in person or by pleader; and if the Court rejects the application wholly or in part, it shall record in writing its reasons for so doing.

(5) Whoever knowing that an injunction has been issued against him under sub-section (1) of this section disobeys such injunction shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to one thousand rupees, or with both:

Provided that no woman shall be punishable with imprisonment.]

1. Inserted by the Child Marriage Restraint (Second Amendment) Act, 1938 (19 of 1938), Section 6.