



Torts (Interference with Goods) Act 1977

1977 CHAPTER 32

Uncollected goods

12 Bailee's power of sale

- (1) This section applies to goods in the possession or under the control of a bailee where—
 - (a) the bailor is in breach of an obligation to take delivery of the goods or, if the terms of the bailment so provide, to give directions as to their delivery, or
 - (b) the bailee could impose such an obligation by giving notice to the bailor, but is unable to trace or communicate with the bailor, or
 - (c) the bailee can reasonably expect to be relieved of any duty to safeguard the goods on giving notice to the bailor, but is unable to trace or communicate with the bailor.
- (2) In the cases in Part I of Schedule 1 to this Act a bailee may, for the purposes of subsection (1), impose an obligation on the bailor to take delivery of the goods, or as the case may be to give directions as to their delivery, and in those cases the said Part I sets out the method of notification.
- (3) If the bailee—
 - (a) has in accordance with Part II of Schedule 1 to this Act given notice to the bailor of his intention to sell the goods under this subsection, or
 - (b) has failed to trace or communicate with the bailor with a view to giving him such a notice, after having taken reasonable steps for the purpose,and is reasonably satisfied that the bailor owns the goods, he shall be entitled, as against the bailor, to sell the goods.
- (4) Where subsection (3) applies but the bailor did not in fact own the goods, a sale under this section, or under section 13, shall not give a good title as against the owner, or as against a person claiming under the owner.
- (5) A bailee exercising his powers under subsection (3) shall be liable to account to the bailor for the proceeds of sale, less any costs of sale, and—
 - (a) the account shall be taken on the footing that the bailee should have adopted the best method of sale reasonably available in the circumstances, and

- (b) where subsection (3)(a) applies, any sum payable in respect of the goods by the bailor to the bailee which accrued due before the bailee gave notice of intention to sell the goods shall be deductible from the proceeds of sale.
- (6) A sale duly made under this section gives a good title to the purchaser as against the bailor.
- (7) In this section, section 13, and Schedule 1 to this Act,
 - (a) " bailor " and " bailee " include their respective successors in title, and
 - (b) references to what is payable, paid or due to the bailee in respect of the goods include references to what would be payable by the bailor to the bailee as a condition of delivery of the goods at the relevant time.
- (8) This section, and Schedule 1 to this Act, have effect subject to the terms of the bailment.
- (9) This section shall not apply where the goods were bailed before the commencement of this Act.

13 Sale authorised by the court

- (1) If a bailee of the goods to which section 12 applies satisfies the court that he is entitled to sell the goods under section 12, or that he would be so entitled if he had given any notice required in accordance with Schedule 1 to this Act, the court—
 - (a) may authorise the sale of the goods subject to such terms and conditions, if any, as may be specified in the order, and
 - (b) may authorise the bailee to deduct from the proceeds of sale any costs of sale and any amount due from the bailor to the bailee in respect of the goods, and
 - (c) may direct the payment into court of the net proceeds of sale, less any amount deducted under paragraph (b), to be held to the credit of the bailor.
- (2) A decision of the court authorising a sale under this section shall, subject to any right of appeal, be conclusive, as against the bailor, of the bailee's entitlement to sell the goods, and gives a good title to the purchaser as against the bailor.
- (3) In this section " the court " means the High Court or a county court, and a county court shall have jurisdiction in the proceedings if the value of the goods does not exceed the county court limit.