

MISREPRESENTATION ACT

CHAPTER 82:35

Act
12 of 1983

Current Authorised Pages

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Note on Subsidiary Legislation

This Chapter contains no subsidiary legislation.

CHAPTER 82:35

MISREPRESENTATION ACT

ARRANGEMENT OF SECTIONS

SECTION

1. Short title.
 2. Removal of certain bars to rescission for innocent misrepresentation.
 3. Damages for misrepresentation.
 4. Avoidance of provision excluding liability for misrepresentation.
 5. The “reasonableness” test.
 6. Saving for past transactions.
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(3) Damages may be awarded against a person under subsection (2) whether or not he is liable to damages under subsection (1), but where he is so liable any award under subsection (2) shall be taken into account in assessing his liability under subsection (1).

4. If a contract contains a term which would exclude or restrict—

Avoidance of provision excluding liability for misrepresentation.

- (a) any liability to which a party to a contract may be subject by reason of any misrepresentation made by him before the contract was made; or
- (b) any remedy available to another party to the contract by reason of such a misrepresentation,

that term shall be of no effect except in so far as it satisfies the requirement of reasonableness as stated in section 5 and it is for those claiming that the term satisfies that requirement to show that it does.

5. (1) In relation to a contract term, the requirement of reasonableness for the purposes of section 4 is that the term shall have been a fair and reasonable one to be included having regard to the circumstances which were or ought reasonably to have been known to or in the contemplation of the parties when the contract was made.

The “reasonableness” test.

(2) A contract term is to be taken for the purposes of this Act, as satisfying the requirement of reasonableness, 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.

6. Nothing in this Act shall apply in relation to any misrepresentation or contract of sale which is made before the commencement of this Act.

Saving for past transactions.