

§2-615. Excuse by failure of presupposed conditions

Except so far as a seller may have assumed a greater obligation and subject to section 2-614 on substituted performance

(1). Delay in delivery or nondelivery in whole or in part by a seller who complies with subsections (2) and (3) is not a breach of his duty under a contract for sale, if performance as agreed has been made impracticable by the occurrence of a contingency the nonoccurrence of which was a basic assumption on which the contract was made or by compliance in good faith with any applicable foreign or domestic governmental regulation or order whether or not it later proves to be invalid.

(2). Where the causes mentioned in subsection (1) affect only a part of the seller's capacity to perform, he must allocate production and deliveries among his customers but may at his option include regular customers not then under contract as well as his own requirements for further manufacture. He may so allocate in any manner which is fair and reasonable.

(3). The seller must notify the buyer seasonably that there will be delay or nondelivery and, when allocation is required under subsection (2), of the estimated quota thus made available for the buyer.

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