

## Buying Goods – your rights

When you buy goods from a shop, market stall, garage, etc, you enter into a contract, which is controlled by many laws including the Sale of Goods Act 1979 (as amended by the Sale and Supply of Goods Act 1994 and the Sale and Supply of Goods to Consumers Regulations 2002). The law gives you certain implied, or automatic, statutory rights, under this contract.

**The Sale of Goods Act 1979 (as amended)** says that goods should be as follows:

- **Of satisfactory quality**  
This means the goods must meet the standards that any reasonable person would expect, taking into account the description, the price and all other relevant information. In some circumstances, the retailer may be liable for any statement made by the manufacturer about the goods.

Satisfactory quality includes the appearance and finish of the goods, their safety and durability and whether they are free from defects (including minor faults).

- **Fit for the purpose *made known to the seller***  
That goods of this type are generally sold. They must also be fit for any specific or particular purpose made known to the seller at the time of the agreement.
- **As described**  
Goods should correspond with any description applied to them.

### When are you not entitled to anything?

- If you were told of any faults before you bought the goods.
- If the fault was obvious and it would have been reasonable to have noticed it on examination before buying.



Ca04 01/10



CUSTOMER SERVICE EXCELLENCE



INVESTOR IN PEOPLE

- If you caused any damage yourself.
- If you made a mistake, for example you don't like the colour, it is the wrong size, etc.
- If you have changed your mind about the goods, or seen them cheaper elsewhere.

The situation may be different and you may have additional rights where contracts involve:

- credit (see 'Your rights when buying on credit' [http://www.derbyshire.gov.uk/images/ca09\\_tcm9-8194.pdf](http://www.derbyshire.gov.uk/images/ca09_tcm9-8194.pdf));
- distance selling, i.e. not involving face to face contact, for example internet sales, catalogue, telephone sales etc. (see 'Shopping at home – your guide to the Distance Selling Regulations' [http://www.derbyshire.gov.uk/images/ca46\\_tcm9-8184.pdf](http://www.derbyshire.gov.uk/images/ca46_tcm9-8184.pdf)); or
- Goods purchased in your home, another persons home, your place of business or during an excursion organised by the trader at a place away from their usual place of business.

### **What are you entitled to ask for?**

If the goods are faulty at the time of sale, you are legally entitled to request one of the following remedies:

#### **A full refund**

This remedy is available when the goods have not been 'accepted'. Under the Sale of Goods Act, acceptance can take place in three ways:

- By telling the retailer that you have accepted them.
- By acting in a way with the goods which is inconsistent with the seller's ownership. For example, if you have altered the goods in any way or customised them then you would be deemed to have accepted them.
- By keeping them for longer than a reasonable time without telling the seller that you have rejected them. There is no time specified in the Act and it may vary according to the type of goods. Ultimately, it may be for a judge in a county court to decide whether an unreasonable time has passed and whether goods have been accepted. For this reason you must contact the supplier, preferably in writing, as soon as the fault appears. To delay may mean you lose a right to a refund.

If acceptance has taken place, then only the following remedies are available:

## **Compensation (damages)**

The amount of compensation may be based on the cost of repair, or if that is not possible, compensation may be based on the purchase price with an allowance for usage.

## **Repair or replacement**

The trader can refuse to agree to either of these remedies if it is disproportionate (i.e. costs significantly) in comparison to the other remedies. For example, if you ask a trader to replace a washing machine, when a low cost repair may remedy the situation, the trader may be entitled to turn down your request and offer the repair instead.

However, the repair or replacement must be carried out within a reasonable time and without causing significant inconvenience to the consumer. If this does not happen or the repair or replacement is not possible, then the consumer can rescind the contract (claim a refund) or request a reduction in purchase price.

Please note: The remedies of repair/replacement and the subsequent rescission or reduction in purchase price are not applicable to hire purchase contracts and other laws apply. Please contact Consumer Direct for further advice.

## **Rescission or reduction in price**

These financial remedies can only be achieved by a failure of the repair/replacement option once acceptance has taken place. If the trader agrees to rescission, the amount paid may be reduced to take account of usage.

Once you have chosen a remedy and the trader has agreed, you must give the trader a reasonable time to affect the chosen remedy before switching to another one. Ultimately, if a remedy cannot be agreed upon, then the courts have the power to choose any of the remedies.

## **Proving the fault**

- If you have not accepted the goods and are rejecting and claiming a full refund or damages, it is **YOU**, the consumer, who needs to prove that there has been a breach of contract in that the goods are not of satisfactory quality, fit for purpose or as described at the time of purchase.

- If you are claiming the remedies of repair or replacement within the first six months after purchase, it is for **THE TRADER** to prove that the goods conformed to the contract at the time of sale.
- If you are claiming repair or replacement more than six months after purchase, the burden of proof is back to **YOU**, the consumer.
- If it becomes necessary to obtain an expert opinion to support your claim, there are procedures to follow before you employ anyone in this capacity. County Court rules say that where an expert is necessary, it should be a single, jointly approved expert, and the expert's duty is to the court. You need to agree your choice of expert with the other party, and allow them to put their comments to the expert. Failure to follow this procedure may mean that a judge may not allow your expert to be heard should the matter eventually reach county court. For further clarification, please seek advice from Consumer Direct.

### **Who can you claim against for faulty goods?**

Your claim could be against:

- the retailer under the Sale of Goods Act;
- the manufacturer (under the terms of a guarantee if you have one);
- a credit company if financed by credit (see 'Your rights when buying on credit' [http://www.derbyshire.gov.uk/Images/ca09\\_tcm9-8194.pdf](http://www.derbyshire.gov.uk/Images/ca09_tcm9-8194.pdf) leaflet); or
- the credit card company (see 'Your rights when buying on credit' leaflet (link as above)).

### **Guarantees**

If the manufacturer of the goods provides a free guarantee with the goods, this creates a contractual obligation by the guarantor. If the manufacturer fails to honour the guarantee, you could sue the manufacturer for the promises he makes. A guarantee is extra to your rights under the Sale of Goods Act. In some circumstances, you may have a claim under the guarantee, but find that a claim under the Sale of Goods Act would be difficult to prove, or vice versa. You may also in some circumstances have a claim against both, and therefore have a choice of who to claim against. If you are unsure seek advice from Consumer Direct.

A trader or manufacturer is under no obligation to provide a guarantee, and if they do, they can specify any time span, for example six months, twelve months or three years. They can also specify what is to be

covered by the guarantee, and exclude certain parts, or wear and tear. They cannot, however, take away any rights you would have under the Sale of Goods Act.

## Returns policies

Some retailers make promises out of goodwill that they will issue refunds for unused goods within a time period, for whatever reason. This creates additional useful rights for consumers.

## Offences

If the seller is in business (rather than a private seller), he may have committed a criminal offence if he:

- sells goods which are **unsafe**;
- advertises a **misleading price**;
- displays a sign which states '**no refunds**';
- performs an '**unfair commercial practise**' this can include many activities such as placing false claims on goods or services.

If you feel that any of the above could apply, you should report the matter to Consumer Direct before you return to the trader.

If you have been injured as a result of any goods, you should seek immediate advice from a solicitor.

## Some problem areas when buying goods

### Private sales

When you buy goods from a private individual, you don't have the same rights as when buying from a trader. The legal principle of caveat emptor, or 'buyer beware', operates. You have no rights to expect that goods be of satisfactory quality or fit for their purpose, but there is a requirement that they should be 'as described'. You should check goods thoroughly before you buy them.

### Second-hand goods

The Sale of Goods Act applies to second-hand goods. When considering whether goods are of satisfactory quality one must take into account the lower expectations of second hand goods. For example, it wouldn't be reasonable to expect a ten-year-old, high mileage car to be completely free from fault, or to perform in the same way as a brand

new vehicle, or to last as long. Second hand goods will have part-worn parts which will not be as durable as a new model.

### **Sale goods**

Again, you have full rights under the Sale of Goods Act. However, if the goods were reduced in price because of a fault that was either brought to your attention at the time, or if you examined the goods and the defect would have been obvious to you, you would not be able to have your money back later for that particular fault.

### **Auctions**

When anyone buys at auction they are seen to be dealing as a trader. In a trade to trade contract it is possible for the parties to limit their liabilities to each other, and for this reason it has been possible for the auction house to put up notices which exclude the purchase from rights given by the Sale of Goods Act. This is subject to a reasonableness test and is covered by the Unfair Contract Terms Act 1977.

However

- New goods purchased at auction by a consumer will be covered by the Sale of Goods Act with the corresponding remedies.
- Second hand goods will also be covered when sold at auction **but only where** the consumer cannot attend in person.

Some car auctions give the purchaser a limited time to try out the vehicle and reject if not suitable. This may only be a matter of a few hours, so it is worth looking closely at the terms of business.

## ***Where can I get further help?***

This leaflet is not an authoritative interpretation of the law and is intended for guidance only. For further information, visit the Consumer Direct website ([www.consumerdirect.gov.uk](http://www.consumerdirect.gov.uk)) or telephone 08454 040506.



If you are a **business**, contact us by any of the following methods:

Derbyshire Trading Standards Service  
Chatsworth Hall  
Chesterfield Road  
Matlock  
Derbyshire  
DE4 3FW

Telephone: Call Derbyshire 08 456 058 058

Fax: 01629 536197

Website: [www.derbyshire.gov.uk/tradingstandards](http://www.derbyshire.gov.uk/tradingstandards)

We want everyone to be able to understand us. On request, we will arrange:

- Language interpreters, including for sign language
- Translation of written materials into other languages
- Materials in large print, on tape or in Braille.