
Consumer Rights Act: Goods Guidance for Business

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Use of this Guidance

This guidance is not intended to cover every situation and you may need to carefully consider how the Act (and any other relevant legislation) apply in your specific circumstances. However, following this guidance should help you to understand how to comply with your obligations under the law.

What contracts does this part of the Consumer Rights Act cover?

The provisions in the Consumer Rights Act (referred to in this guidance as the "Act") on goods will apply to contracts under which you (as a trader) supply goods to a consumer. It does not matter whether the contract is written or oral or implied by the conduct of you and the consumer, or a combination of these; but there must be a contract and the contract must be for you to supply goods to the consumer, for these provisions of the Act to apply.

A trader does not necessarily have to be based in the UK to be affected by the Consumer Rights Act. As a general rule, if the trader markets their goods to consumers living in the UK then the provisions in the Goods Chapter of the Consumer Rights Act could apply to them.

The Consumer Rights Act applies to consumer contracts for the provision of goods agreed after the Act comes into force on 1st October 2015.

Goods: Contract Types

Generally, the requirements for goods contracts apply to all contracts under which you supply goods to a consumer. So whether you sell goods to consumers, transfer them in exchange for other goods, or supply them under a hire-purchase agreement, the consumer has certain rights that must be met and access to remedies if they are not. The types of transaction covered are explained below together with a small number of differences in detail of the rules which reflect the different ways that goods may be supplied.

You also need to comply with the rules on goods contracts if you supply goods alongside a service and/or digital content as part of a mixed contract (please see the associated guidance on mixed contracts).

Sales contracts

A sales contract is a contract to transfer ownership of goods to the consumer in return for the consumer paying a monetary price. If you agree to manufacture as well as supply the goods to the consumer, this is a sales contract for the finished goods.

The rules regarding delivery and risk under the Act apply to sales contracts.

You may sell goods under a sales contract where you agree with the consumer that they can pay in instalments for the goods, but you retain ownership of those goods until the agreed conditions in the contract have been met. The consumer might nonetheless have possession of the goods in the meantime. This is a conditional sales contract under the Act. If the consumer pays for goods in instalments under a conditional sales contract and is entitled to a refund (for one of the reasons detailed in the "Goods: If Things Go Wrong" section of this guidance) this is a refund of what has been paid rather than a right to recover the full price.

Example 1

Where a tailor produces a made-to-measure suit for a consumer, the contract between the tailor and the consumer is a sales contract for the finished suit.

Contracts for the hire of goods

A contract for the hire of goods is one where you give (or agree to give) the consumer possession of goods along with the right to use those goods, for a period of time determined in the contract. Their possession and use of the goods will be subject to any terms in the contract you agree with the consumer.

Because under hire contracts, a consumer pays for use not ownership of the goods, some of the rules apply slightly differently.

- You need to have the right to transfer possession of the goods for the period of hire, rather than the right to transfer ownership.
- You are not responsible for ensuring that no one but the consumer has rights over hired goods, because they will be owned by someone other than the consumer. But you do need to notify the consumer if anyone other than the owner of the goods has rights over them, otherwise you will be liable if any such person interrupts the consumer's use.
- A contractual term which seeks to exclude or limit liability for breach of these protections is not automatically non-binding (the unfair terms protections in the Act may apply – see the associated guidance on unfair contract terms for more information¹).
- Where a consumer has a right to reject goods and receive a refund under the Act, they are only entitled to a refund of what they have paid or transferred for a period of hire that they have not yet enjoyed.

Hire-purchase agreement

There are two stages to a hire-purchase agreement:-

1. Firstly, you agree under the contract to hire the goods to the consumer in return for payment in instalments.

¹ Guidance is available at

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/398206/CMA37con_Unfair_contract_terms_guidance.pdf

2. Secondly, you will transfer ownership of those goods to the consumer, if one of the following happens:
 - a. the consumer exercises an option to buy the goods, or
 - b. another party does something specified in the contract, or
 - c. something else identified in the contract as a trigger happens.

If the consumer pays for goods in instalments under a hire-purchase agreement and is entitled to a refund (for one of the reasons detailed in the "Goods: If Things Go Wrong" section of this guidance) this is a refund of what has been paid rather than a right to recover the full price.

Contracts for transfer of goods

A contract for the transfer of goods is a contract for transfer of ownership which does not fall into the other categories. This includes exchanges, where the consumer gives something non-monetary in return for goods, or if the goods are given no monetary value. Consumers have the same statutory rights under the Act where goods are supplied under a contract for transfer of goods as under a sales contracts (save that under the Act, the rules around risk and delivery are specific to sales contracts).

Example 2

A toy is advertised on the back of a cereal packet. No price is given but it can be exchanged for 10 vouchers from special packs. The exchange of the vouchers for the toy is a contract for a transfer of goods.

This could also be where the contract is a mixed contract, and as part of the contract there are goods supplied, but the transfer of goods is not sufficiently central to the overall contract to make it a sales contract.

Example 3

A carpenter is contracted to fix an existing shelf. The carpenter provides the wood and nails to fix the shelf, which effectively are goods being transferred, but they are not central enough to the contract to make it a sales contract. It is therefore a mixed contract for the service along with a transfer of goods.

Exceptions

There are certain contract types to which the Act's rules on goods contracts do not apply.

- Contracts where coins or notes – that is, money - are supplied for use as currency are excluded. However, if you supply coins or notes to a consumer for another purpose, for example, as a collector's item, this will be captured by the Act.
- Contracts where goods are sold by execution or authority of law are excluded. So for example, goods sold by an official under a legal authority to pay off a debt.
- For England and Wales and Northern Ireland, there will only be a contract if the consumer gives some form of consideration. In Scotland, this is not a requirement to form a contract, but if the consumer does not provide something in return then the Act's rules don't apply.

Goods: What the Consumer Can Expect

When you supply goods to a consumer under a contract, the goods must meet certain standards and you must have the right to supply the goods. These are statutory rights of a consumer under the Act. They are summarised below, and explained in more detail in the following sections of this guidance. Note that these rights are fixed in law and cannot be undermined – any terms or notices which try to take consumer's rights away will have no effect.

The consumer's statutory rights under the Act (as listed below) form part of the contract with the consumer. There may also be terms agreed directly with the consumer or set out in your contract with them. These are referred to as express terms, and must also be complied with.

If the rights aren't met, you will have breached the contract and the consumer is entitled to certain forms of redress, such as rejecting the goods, having the goods repaired or replaced or getting some money back. These are referred to as "**remedies**" and are covered in detail in the "**Goods: If Things Go Wrong**" section of this guidance. The particular remedies the consumer is entitled to will depend on which of the requirements is breached.

Most of the consumer rights under the Act do not apply where goods are second-hand and bought at a public auction, but other requirements apply. The requirements for second-hand goods bought through public auctions – and an explanation of what this means – are covered later in this section (see "**10. How the rights apply in a Public Auction**").

This guidance also includes information on rules in the Consumer Rights Act that apply to the time for delivery of goods and any free guarantee that you might choose to provide alongside the goods. It also covers information that you are required under the Consumer Contracts (Information, Cancellation and Additional Charges) Regulations (referred to in this guidance as the "Regulations") to give the consumer in most cases before they are bound by a contract, and the consumer's right to cancel distance and off-premises contract for a 14-day period if they change their mind².

In summary, the consumer's statutory rights under the Act are as follows:

Key rights about the goods, under the Act

1. The goods must be of satisfactory quality;
2. The goods must be fit for a particular purpose the consumer has made known
3. The goods should match any description, sample or model by reference to which they were supplied

These rights are referred to as the consumer's core goods rights in this guidance.

Other rights under the Act, where goods are supplied

4. Certain information provided before the contract is made must be complied with
5. Installation must be done properly, where goods are both supplied and installed
6. Digital content within the goods must meet the rights under the Act in relation to digital content
7. You must have the right to supply the goods
8. No other person should have rights over the goods or disturb the consumer's use of them

² The pre-contract information requirements covered in this guidance are the requirements of the Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013 (SI2013/3134). Any additional sector-specific requirements that may apply to the goods in question are not covered by this guidance.

1. The goods must be of satisfactory quality

What counts as satisfactory is determined by what a reasonable person would think is satisfactory, looking at all the relevant circumstances. These include, **but are not limited to**:

- any description of the goods including what the consumer was told about the goods by you or your employees
- the price paid for the goods, and
- any public claims made about the goods by you or the manufacturer, (for example, in advertisements or on the labels of the goods) – see below for explanation of when public statements might not be relevant.

For example, a reasonable person would have lower expectations of the quality of goods sold as a “budget” item compared with the top-of-the-range equivalent. **But**, a reasonable person would think the budget model was unsatisfactory if it did not work properly.

When considering whether the goods are of satisfactory quality, the following factors may be aspects of the quality so that issues with these areas may mean the goods are not of satisfactory quality, depending on whether they are applicable to the situation.

- The fitness of the goods for the purpose the goods are usually supplied for (for example, a pair of scissors should not be too blunt to cut paper)
- The appearance and finish of the goods.
- Whether they are free from minor defects – BUT for a minor defect to mean that the goods are not of satisfactory quality, the goods must fall below the condition that a reasonable person would consider satisfactory (for example a new radio should not have dents in it but a smudge on the plastic of the packaging is unlikely to be a quality issue).
- Safety (this element is also covered under other legislation)
- Durability (this does not mean that goods must last forever, but durability is an aspect of quality which may be considered as appropriate – so a shirt, for instance, should not fall apart the first time that you wash it)

This list is, however, not exhaustive and any factor that impacts on the quality of the goods (including their state and condition) may be relevant.

Public Statements about Quality

Public statements are not relevant to the standard a reasonable person would consider satisfactory if:

- you were not and could not reasonably have been aware of the statement when you made the contract;
- the statement was publicly withdrawn or corrected before the goods were sold/hired; or
- the consumer's decision could not have been influenced by it

For example, if an advertisement that was only shown in a foreign country made claims about the product and there was no reason for you to have seen the advert, the consumer would not have

access to remedies for the goods not meeting those claims. Alternatively, if you were aware of the advert, but before the goods were sold the advert was publically withdrawn because the claims were false, again, the consumer could not seek a remedy for the goods on that basis.

Defects Brought to the Consumer's Attention

If there is an existing fault with the goods and you bring it to the attention of the consumer before they buy/hire them, the consumer won't be able to later claim that the goods are not of satisfactory quality because of that fault, and reject the goods or demand a repair or replacement on that basis. The same applies if the consumer examined the goods and the fault should have been found by that examination, or if they bought goods based on a sample of the goods and the fault would have been apparent from a reasonable examination of that sample.

If the consumer finds the goods are not of satisfactory quality because of a **different** fault, the consumer would have access to remedies as normal.

Second-hand Goods

The requirement is the same for new and second-hand goods – the goods must be of satisfactory quality, based on what a reasonable person would consider satisfactory.

In many cases a reasonable person's expectations would be lower for second hand goods than they would be for brand new items, but this will depend on the type of goods and the issue in question. So, for example, a minor flaw in the finish of goods – e.g. a faded pattern on second-hand crockery – might not be something a reasonable person would think unsatisfactory. But second-hand goods should still work, unless the lack of functionality has been made clear or should have been discovered, as above.

Similarly, if goods are sold as "factory seconds" or "sold as seen" the consumer's expectations would likely be lowered, but the consumer would still reasonably expect the goods to work unless the lack of functionality or fault has been made clear or should have been discovered, as above.

Example 4

A consumer buys a brand new mirror that comes boxed, but finds a visible scratch on the frame when they get home. The appearance and finish are relevant aspects of quality for this type of goods. The mirror fails to conform with the contract as a reasonable person would not expect a scratch to be present.

Example 5

A consumer buys a new coat from an outlet store. The salesperson informs the customer that the coat is a "factory second" and that there is an imperfection in the inside lining and that is why the price is reduced. The consumer takes the coat home but later changes their mind and decides to reject it for not being of satisfactory quality.

The goods will not be of unsatisfactory quality on the basis of the fault in the lining that was pointed out before the sale was made and the trader can therefore refuse a refund. On the other hand, if the consumer finds a different fault in the coat, which would not have been revealed by examining the coat in-store and is such that the goods are not of satisfactory quality (as above), they will be entitled to remedies as usual.

Example 6

A consumer buys a de-scaler on the basis of a TV advert that claims it will entirely remove lime scale in only 30 minutes.

After using the product on their shower head (following the instructions) the consumer finds that significant amounts of lime scale remain. The goods do not meet the claims made in the advertising, which are circumstances which can be taken into account in considering the standard a reasonable person would consider to be satisfactory. So the consumer's right that the goods should be of satisfactory quality would be breached, and the consumer would be entitled to a remedy.

FAQ 1

The customer argues the goods aren't of satisfactory quality, but I disagree – what now?

It is not possible to prescribe which faults or issues mean goods are not of satisfactory quality, as this will depend on the specific circumstances, type of goods and extent of the fault.

Generally speaking it's the responsibility of the consumer to prove that goods did not meet the requirements of the Consumer Rights Act, although in some cases there is a presumption that goods did not meet the requirements when delivered if they do not meet them in the first six months (see **"3. The reverse burden of proof"** section, under **"Goods: If things Go Wrong"**). However, you can examine goods and/or send them for tests (e.g. to the manufacturer) if necessary to establish whether there is a fault or the goods are otherwise below satisfactory quality. You could seek the view of an independent expert in the type of goods.

You should consider the issue from a consumer's point of view – would you be happy with the goods if you had bought them?

If the goods are not below the standard that a reasonable person would consider satisfactory, you are not obliged to provide a remedy. However, some traders choose to provide a remedy (such as replacing the item) but will state that this is a goodwill gesture and they do not believe that the goods are faulty.

If the customer does not accept the seller's view and wishes to pursue things further they may resort to court action – the decision of whether goods are of satisfactory quality is ultimately for the court.

FAQ 2

Who is the 'reasonable person' that determines the standard for satisfactory quality?

This is simply a way of saying that the goods must meet the quality that a reasonable person in the buyer's position – taking a reasonable and objective view of the relevant circumstances – would think is satisfactory. The test does not take account of unreasonable expectations.

The reasonable person has been construed by the courts as one who is in the position of the buyer with his knowledge, rather than a reasonable third party observer not acquainted with the transaction and the background.

2. The goods must be fit for a particular purpose

If a consumer makes you aware, before the contract is made, that they intend to use the goods for a particular purpose then the goods must work for that purpose.

This covers both the consumer telling you the purpose expressly, and where the purpose is implicit from other things said or done. This applies even if the intended purpose is not the usual use for the goods.

However, if the consumer does not rely on your skill or judgment, the consumer can't later reject the goods for being unfit for that purpose. For example, if you advise that the goods are not suitable for the desired purpose, but the consumer buys them anyway, then the consumer would not have access to remedies for breach of this protection.

If it would be unreasonable for the consumer to rely on your judgment, they cannot later reject the goods for being unfit for the purpose.

Example 7

A consumer is planning to do some DIY and is looking to buy a new power drill. She has a particular model in mind and discusses her requirements with the salesperson, including the need to drill masonry. The salesperson agrees that the drill and the included bits are suitable for the task.

When the consumer tries to drill a wall using the new drill, she finds that it is not suitable to use effectively for masonry.

Although the drill is of satisfactory quality, it was not suitable for the purpose that the consumer made known to the seller. So the consumer has a right to a remedy for breach of this requirement.

FAQ 3

A consumer emailed me to say that they intended to use the goods for a specific purpose that I knew they were unsuitable for, but the consumer didn't wait for my response before they bought the goods – am I responsible?

It depends on the circumstances. The consumer needs to have made their intended purpose known to you before the contract is made. If the consumer bought the goods in person or placed an order before the email was likely to have been received or processed – e.g. if it was sent out of usual hours – they may not have done so. You will not be responsible if the consumer did not rely on your skill or judgment or it was unreasonable for them to do so. If they bought the goods very shortly after sending the email – particularly if they sent it out of your usual business hours – it is likely that they were not relying on your judgment or it was not reasonable for them to do so.

FAQ 4

One of my sales staff mistakenly advised that the goods were suitable for the purpose, am I responsible?

Yes. Unless you can prove that the consumer was not relying on the advice or it was unreasonable for the consumer to rely on the advice, the consumer would be entitled to remedies from you if the goods turn out to be unsuitable for the purpose.

3. The Goods should be what the consumer expects

The goods that the consumer receives must:

- Match any description by which the goods were presented
- Match any sample of the goods that they examined or saw
- Match any model goods that they examined or saw

Certain information given to the consumer must also be complied with.

Description and information regarding main characteristics

Where goods are supplied by description, the goods must meet that description. Goods can be supplied by description even if they are available for the consumer to see and select, for example labelled or packaged goods on the shelves of a shop.

Goods must also conform to information about the main characteristics of goods, which traders are required to provide by the Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013 (SI2013/3134)³. If not, the consumer will have access to the same remedies as for failure to meet the description. (See “**Information the trader must provide**”, below.)

³ The Regulations are available in PDF format at https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/265898/consumer-contracts-information-cancellation-and-additional-payments-regulations-2013.pdf

Complying with other information required by the Regulations

The Regulations also require that other information is provided before the contract is made. (See “**Information the trader must provide**”, below, for more detail.) This information must also be accurate and complied with. However, the remedies are different than for breach of the right that goods should match the description or information given about the main characteristics.

Once you have given the information required by the Regulations (both regarding main characteristics and other points), the substance of it becomes a part of your contract with the consumer and cannot be changed without the consumer’s express agreement. (However this may not be necessary where the pre-contract information itself reflects the fact that the particular potential changes envisaged may be made).

Example 8

A consumer buys a kettle online. The description of the kettle includes its capacity which is stated as being 1.5 litres. When the kettle arrives the consumer finds that it has a 1.2 litre capacity.

The consumer has a right to remedies as the goods that they received did not match the description that they were sold under.

FAQ 5

Am I responsible if the description provided by the manufacturer was inaccurate?

Yes, if you sold goods on the basis of that description, even though you weren’t responsible for writing it, the consumer has the right to remedies if the goods don’t match it. For example, if the goods do not correspond to the description on the packaging. A consumer’s remedies, if goods do not match the description, are against the trader that sold the goods (see “**If Things go Wrong**”, below).

Sample

A sample is a smaller part of, or example of, the goods, held up as being representative of the goods as a whole (for example, a consumer buying curtains after having looked at a swatch of the material they will be made from). The goods delivered must match the sample – for example, in terms of quality and appearance.

The Implementing Guidance for the regulations is available in PDF format at https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/310044/bis-13-1368-consumer-contracts-information-cancellation-and-additional-payments-regulations-guidance.pdf

If the consumer finds a defect which they consider makes the quality of goods unsatisfactory (see above), then the consumer cannot pursue remedies on the basis of that defect if a reasonable examination of the sample would have revealed the fault.

Example 9

A consumer buys tiles to redecorate their bathroom. The shop showed the consumer a selection of sample tiles and the consumer chose based on these. The consumer was not informed of any differences between the sample and the tiles purchased. Having bought several boxes of the tile, the consumer finds, when they are opened on returning home, that the shade of the bought tiles does not match that of the sample tile.

The consumer has a right to remedies because the tiles that were received did not match the tile that was held up as a sample.

Example 10

A consumer buys material to make curtains, after looking at swatches of material and choosing a particular pattern. They later return to the shop claiming that the material is of poor quality and demanding a refund.

If the quality of the material would have been clear to the consumer on a reasonable examination of the swatch, the consumer's rights would not be breached.

Model

If consumers can see or examine a model of the goods, then the goods received should match that model, unless any differences have been brought to the consumer's attention.

A model differs from a sample in that the model is usually an example of the whole item put out for demonstration purposes (for example, a car on a showroom floor), whereas a sample is a small part intended to be representative of the whole (such as a swatch of material).

Example 11

A consumer buys a new TV, considering various models on display before settling on one. The salesperson provides a boxed version from the stock room.

The TV in the box must match the demonstration model that the consumer selected. If this is not the case, the consumer will have a right to remedies.

4. Where the supplier is to install goods, this must be done properly

There is no requirement for you to install goods unless this is agreed with the consumer.

If you agree to install the goods you are supplying, or to arrange for them to be installed, you are responsible for the installation being done correctly.

If a consumer engages you to install goods for them which someone else supplied, this is a services contract not a goods contract (see the **"Services"** section of this guidance).

Example 12

A consumer buys a new shower from a trader who also agrees to install it. The trader will be responsible if the goods do not meet the requirements of the Act and if the installation is done incorrectly. (See **"Goods: If Things Go Wrong"** for details on what happens if the installation is not carried out satisfactorily.)

FAQ 6

If I sell and install goods and they go wrong, do I need to bear any costs of uninstalling them and repair any damage?

If the consumer asks for a repair or replacement, you are responsible for the necessary costs of providing this. This can include uninstalling and reinstalling the goods particularly where they have been installed for a usual purpose. You are responsible for these costs whether or not you were responsible for installing the goods initially.

If the consumer rejects the goods for a refund they may also be able to seek compensation to cover the costs of uninstalling and repairing any associated damage. This is more likely if they have been installed for a usual or foreseeable purpose.

5. Digital content in goods

If you supply goods which include digital content (e.g. a disk containing digital content or a device such as a phone or tablet with digital content pre-loaded), then the digital content quality rights under the Act will apply to the digital content (see the associated guidance on digital content). However, if the digital content does not meet the digital content quality rights, then the goods remedies will apply since it is part of the goods.

6. The trader must have the right to supply the goods

You must have the right to provide what you have contracted to provide. In the case of hire contracts you are agreeing to transfer the physical possession of the goods and in other contracts to supply goods you are agreeing to transfer the ownership of the goods.

This means that when goods are being **sold** (or otherwise supplied, but not hired), at the time that ownership of the goods is due to transfer (which could be immediately when the contract is made or at a later point in time, depending on the circumstances) you must have the right to sell (or transfer) the goods.

Where the goods are being **hired** you must have the right to provide them for hire for the duration of the agreed hire period. This is different from other supply contracts because the consumer is paying to use the goods but not to become the owner of them.

In either case, if the transfer (or possession or ownership, as applicable) is due to take place at a later point in time, there is no need for you to have the necessary rights at the time that the contract is made, but you must be confident that you will have the rights at the time of the transfer as if you are wrong you will be liable.

7. No other person should have rights to the goods

The Act makes it a requirement of your contract with the consumer that the goods are free from any charges or claims which they have not been told about (or do not know of). So you must inform the consumer if anyone else has rights over the goods (e.g. a right to use the goods) during the time that the consumer's contract for the goods is in force. This protection does not apply to hire contracts; a different protection applies (see below).

There is no need to notify the consumer of any third party rights that existed prior to the consumer entering the contract, if they will not exist at or after that time.

The Act also makes it a requirement of your contract that the consumer's use of the goods should not be disturbed by anyone with rights over the goods, except for any rights the consumer was made aware of before entering into the contract.

For hire contracts the consumer's use of the goods may only be interrupted by the owner of the goods, or by a third party with rights over the goods **if the consumer has been informed of that person's rights** over the goods before making the contract.

FAQ 7

The supply contracts for the goods that I sell are complicated and there are often other parties that have rights over the goods – I'm concerned that explaining the detail to consumers could be difficult and confusing to them.

While such arrangements may be complicated and difficult to describe it is important that the consumer is fully informed about who else has rights over the good that they are paying money (or giving something in exchange) for. If there are non-disclosed rights or charges over the goods, the consumer's right under the Act will be breached. This does not include rights which third parties previously had over the goods but which no longer exist or will cease to exist before the consumer enters the contract for the goods.

Other protection for consumers buying a vehicle subject to an existing Hire Purchase agreement

The Act does not alter, and is additional to, the protection provided to private purchasers by section 27 of the Hire-Purchase Act 1964. Under this provision, where a private purchaser buys a motor vehicle from someone who has it subject to a hire-purchase agreement or conditional sale agreement and does not yet properly own the vehicle (because it is still under the hire purchase or conditional sale agreement) – or from certain traders who bought from such a person they will be protected if certain conditions are met. These are that the private purchaser bought the motor vehicle in good faith and without notice of the hire-purchase agreement or conditional sale agreement. If this is the case, then the transaction is treated as if the person selling the vehicle did properly own it. For these purposes, a private purchaser is someone who is not in the business of buying motor vehicles to sell or supply them to others.

This protection only applies to motor vehicles and not other goods subject to hire-purchase agreements or conditional sale contracts

8. Delivery Requirements Under the Act

The Act contains the following rules about delivery of goods under sales contracts. Unless the consumer asks you to deliver the goods to someone else, you must hand them over to the consumer that bought them.

Note that "delivery" means giving possession of the goods to the consumer – it does not just refer to situations where the goods are dispatched to the consumer. If the consumer buys goods in a shop and you hand them over in the shop, the delivery has occurred at that point.

Note that these rules replace the default requirement under the Sale of Goods Act to deliver goods within a reasonable time. But you are still required to comply with the other rules about delivery in the Sale of Goods Act, where applicable⁴.

You can agree a delivery time or period with a consumer. If you do not, goods should be delivered without undue delay and no more than 30 days after the day that you and the consumer made the contract. You should not routinely leave delivery to the end of the 30 days if it would be practical for you to deliver earlier as this could represent an undue delay. If you agree a particular date or period for delivery, you are required deliver within that time.

If you fail to deliver the goods at the agreed time or within 30 days then one of two things happens.

1. If it was essential to the consumer that the goods were delivered then – and either the consumer told you this before agreeing to buy, or this was apparent from the circumstances (for example a wedding cake which is to be delivered on the wedding day) – or if you refuse to deliver the goods, the consumer may treat the contract as at an end and receive a refund.
2. Otherwise, the consumer may specify a further delivery period, which must be appropriate taking into account the circumstances.

If the consumer specifies a second period and you fail to deliver the goods within the second period the consumer may treat the contract as at an end and receive a refund.

Example 13

A consumer orders a new bed online and the trader agrees with them that the bed will be delivered on 5th August.

The 5th August passes with no sign of the bed so the consumer contacts the trader. The consumer can specify a further date for delivery and after discussion with the trader says that they want the bed to be delivered by 20th August.

Again, the trader fails to deliver the bed by the 20th August and the consumer therefore has the right to cancel the order and get a refund for any money they've paid.

⁴ See s.29 of the Sale of Goods Act 1979 for these requirements.

Instalment deliveries

The consumer **does not** have to accept delivery in instalments unless this has been previously agreed between you and the consumer.

Delivery of wrong quantity

The consumer can refuse to accept deliveries where the wrong quantity of the goods is supplied; or they can refuse to accept the excess, where more of the goods are delivered than they ordered. If the consumer chooses to accept a delivery of the wrong quantity of goods, they must pay pro rata for what they accept, at the contract rate.

Example 14

A consumer orders a set of garden furniture consisting of 6 chairs and a table. The trader tells the consumer that delivery will be in three weeks' time. On the day of delivery, the consumer receives only 3 chairs and when they contact the trader they are told that the remainder of the order will be provided in a second delivery. Until this point, the trader had given no indication that the consumer would not receive all of the goods in a single instalment.

In this scenario, the consumer would be under no obligation to accept the goods in multiple deliveries and could refuse to accept the received goods but this does not necessarily mean the contract is terminated?

FAQ 8

If I know in advance that the goods won't be ready within 30 days (e.g. made to order goods) are there any rules about when the goods must be delivered?

If you agree a delivery date with the consumer, it does not have to be within 30 days. However, the agreed date is binding, and if you fail to deliver on or before that date the rules in the Act on late delivery apply (see above).

9. Information the trader must provide

The Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013 (SI2013/3134)⁵ require you to give or make available certain information to the consumer before the contract is entered into. The information is summarised below – the Regulations contain further details of how the information must be provided.

If you are a trader selling goods, services or digital content, these Regulations will apply to you - although certain trader-to-consumer contracts are excluded from the Regulations or the information requirements. The Regulations set these out.

The information requirements for on-premises transactions (in a shop or at a regular market stall, for example) are less extensive than those for distance (such as online or phone sales) and off-premises transactions (typically, contracts concluded in a location that is not the trader's business premises).

The Regulations also require you to give confirmation to the consumer of off-premises and distance contracts on a durable medium (for off-premises contracts, the confirmation should be given on paper unless the consumer agrees to another durable medium, or a copy of the signed contract can be given). A durable medium allows the consumer to access information directed personally to them, in an unchangeable format for as long as they might reasonably need it.

On-premises

The pre-contractual information required for on-premises contracts is found in Schedule 1 to the Regulations and is as follows. This information is only required if it is not already apparent from the context (e.g. there is no need to provide the trader's address if the sale is conducted in the shop).

- (a) the main characteristics of the goods or services, to the extent appropriate to the medium of communication and to the goods or services;
- (b) your identity (such as your trading name), the geographical address at which you are established and your telephone number;
- (c) the total price of the goods or services inclusive of taxes, or where the nature of the goods or services is such that the price cannot reasonably be calculated in advance, the manner in which the price is to be calculated;
- (d) where applicable, all additional delivery charges or, where those charges cannot reasonably be calculated in advance, the fact that such additional charges may be payable;
- (e) where applicable, the arrangements for payment, delivery, performance, and the time by which you undertake to deliver the goods or to perform the service;
- (f) where applicable, your complaint handling policy;

⁵ The Regulations are available in PDF format at

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/265898/consumer-contracts-information-cancellation-and-additional-payments-regulations-2013.pdf

The Implementing Guidance for the regulations is available in PDF format at

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/310044/bis-13-1368-consumer-contracts-information-cancellation-and-additional-payments-regulations-guidance.pdf

- (g) in the case of a sales contract, a reminder that you are under a legal duty to supply goods that are in conformity with the contract;
- (h) where applicable, the existence and the conditions of after-sales services and commercial guarantees;
- (i) the duration of the contract, where applicable, or, if the contract is of indeterminate duration or is to be extended automatically, the conditions for terminating the contract;
- (j) where applicable, the functionality, including applicable technical protection measures, of digital content;
- (k) where applicable, any relevant compatibility of digital content with hardware and software that you are aware of or can reasonably be expected to have been aware of.

Distance and Off-premises

The pre-contractual information required for distance and off-premises contracts is found in Schedule 2 to the Regulations and is as follows. Where a right to cancel exists, you are also required to provide the cancellation form set out in Schedule 3 to the Regulations.

- (a) the main characteristics of the goods or services, to the extent appropriate to the medium of communication and to the goods or services;
- (b) your identity (such as your trading name);
- (c) the geographical address at which you are established and, where available, your telephone number, fax number and e-mail address, to enable the consumer to contact you quickly and communicate efficiently;
- (d) where you are acting on behalf of another trader, the geographical address and identity of that other trader;
- (e) if different from the address provided in accordance with paragraph (c), the geographical address of your place of business, and, where you act on behalf of another trader, the geographical address of the place of business of that other trader, where the consumer can address any complaints;
- (f) the total price of the goods or services inclusive of taxes, or where the nature of the goods or services is such that the price cannot reasonably be calculated in advance, the manner in which the price is to be calculated,
- (g) where applicable, all additional delivery charges and any other costs or, where those charges cannot reasonably be calculated in advance, the fact that such additional charges may be payable;
- (h) in the case of a contract of indeterminate duration or a contract containing a subscription, the total costs per billing period or (where such contracts are charged at a fixed rate) the total monthly costs;
- (i) the cost of using the means of distance communication for the conclusion of the contract where that cost is calculated other than at the basic rate;
- (j) the arrangements for payment, delivery, performance, and the time by which you undertake to deliver the goods or to perform the services;
- (k) where applicable, your complaint handling policy;

- (l) where a right to cancel exists, the conditions, time limit and procedures for exercising that right;
- (m) where applicable, that the consumer will have to bear the cost of returning the goods in case of cancellation and, for distance contracts, if the goods, by their nature, cannot normally be returned by post, the cost of returning the goods;
- (n) that, if the consumer exercises the right to cancel after having made a request for supply of a service in the cancellation period, the consumer is to be liable to pay you reasonable costs for the supply in accordance with the Regulations;
- (o) where there is no right to cancel or the right to cancel may be lost, the information that the consumer will not benefit from a right to cancel, or the circumstances under which the consumer loses the right to cancel;
- (p) in the case of a sales contract, a reminder that you are under a legal duty to supply goods that are in conformity with the contract;
- (q) where applicable, the existence and the conditions of after-sale customer assistance, aftersales services and commercial guarantees;
- (r) the existence of relevant codes of conduct, and how copies of them can be obtained, where applicable;
- (s) the duration of the contract, where applicable, or, if the contract is of indeterminate duration or is to be extended automatically, the conditions for terminating the contract;
- (t) where applicable, the minimum duration of the consumer's obligations under the contract;
- (u) where applicable, the existence and the conditions of deposits or other financial guarantees to be paid or provided by the consumer at the request of the trader;
- (v) where applicable, the functionality, including applicable technical protection measures, of digital content;
- (w) where applicable, any relevant compatibility of digital content with hardware and software that you are aware of or can reasonably be expected to have been aware of;
- (x) where applicable, the possibility of having recourse to an out-of-court complaint and redress mechanism, to which you are subject, and the methods for having access to it.

Note: In the case of a public auction, the information listed in paragraphs (b) to (e) may be replaced with the equivalent details for the auctioneer.

FAQ 9

I sell on the phone but also visit people to sell my products. What kind of contracts are these?

Phone and other sales where the trader and consumer are not physically together, such as online and postal catalogue sales, are distance contracts. Contracts concluded away from the trader's business premises and where both the trader and consumer are present, e.g. when visiting homes, are off-premises contracts. Generally, the same information must be given for both, although requirements over the way information is given are slightly different and it is a criminal offence not to inform a consumer buying off-premises of their cancellation rights.

FAQ 10

I sell from a regular pitch at a Saturday market. Am I selling off-premises?

No. Off premises contracts are concluded at places that are not the business premises of the trader. Business premises include movable premises such as market stalls, provided you carry on your business there on a usual basis.

10. 14 day right to cancel for goods bought at a distance or off-premises

If you sell goods to a consumer at a distance or off-premises (see above for further information on what distance and off-premises contracts are) then the consumer has a 14 calendar day period in which they may change their mind and cancel the contract (unless an exemption applies – see below)⁶.

Note that this right for the consumer to return goods within 14 days is different and separate to their rights if the goods do not meet the requirements of the Consumer Rights Act. The consumer may use this 14 day cooling off period to cancel without giving a reason, if goods were bought off-premises or at a distance.

The 14 day period starts the day after the consumer, or someone selected by the consumer, receives the goods. Where different goods within an order are delivered at different times the cancellation period will run from the day after delivery of the last item. If the contract is for regular deliveries of goods during a defined period (more than a day), the period will run from the day after delivery of the first item.

⁶ See the guidance on the regulations available at https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/310044/bis-13-1368-consumer-contracts-information-cancellation-and-additional-payments-regulations-guidance.pdf

Once the consumer has notified you that they wish to cancel the contract, they must return the goods to you without delay and within 14 days after that notification, unless you have offered to collect them or the contract was off-premises and the goods were delivered to the consumer's home and could not normally be returned by post due to their nature.

You should refund all monies received. This includes the outbound delivery cost, unless the consumer chose to have the goods delivered by more expensive means than the cheapest standard delivery option offered. If so, you do not have to refund the full outbound delivery cost, but only the cost of the standard delivery option which the consumer could have chosen. You must repay the consumer without undue delay, and no later than 14 days starting the day after you receive the goods back. If the consumer provides proof of return before you receive the goods back, you should refund without undue delay and no later than 14 days starting the day after you receive that proof.

You do not have to pay the cost of returning the goods to you, provided you told the consumer before the contract was made that they would be liable for such costs.

You have a right to deduct monies from refunds where goods show signs of use or unreasonable handling leading to diminished value. The consumer should be able to inspect the goods in the same way that they might in a shop, so you should not deduct money for checks necessary to see that the goods are as described. But you can deduct for damage or wear and tear beyond this, for example where the item has not just been checked but used.

What types of contracts are exempt from cancellation rights?

As well as contracts exempted from the Regulations (as set out in the Regulations, see also the Guidance on the regulations⁷), a number of distance and off-premises contracts do not attract cancellation rights. In respect of goods, these include in particular:

- 'Investment' type products such as vintage wines, subject to speculative purchase and where the price in the financial market may vary (utilities such as supply of gas are not covered by this exception).
- Bespoke and customised goods
- Goods which will deteriorate or expire rapidly
- Newspapers and magazines (but not subscriptions for such)
- Contracts concluded at public auction
- Contracts where the consumer has contacted the trader to effect urgent household repairs (cancellation rights do apply to additional goods (and services) provided)
- Contracts for accommodation, transport of goods, vehicle rental, catering or services related to leisure activities if the contract provides for a specific date or period of performance.

⁷ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/310044/bis-13-1368-consumer-contracts-information-cancellation-and-additional-payments-regulations-guidance.pdf

In the following situations, the right to cancel is no longer available:

- Goods received sealed for health protection or hygiene reasons, once they are unsealed
- Sealed audio, video and software products, once they are unsealed
- Goods once they have been inseparably mixed with something after delivery

You must inform the consumer before making the contract that the right to cancel may be lost in such cases (see above – cross ref to PCI section).

FAQ 11

I'm a trader selling goods on an online auction site. Does this mean the cancellation right does not apply?

No. The exemption from cancellation for goods sold at a public auction only applies to sales at an auction which a consumer can, if they wish, attend in person.

Cancellation rights will generally apply to goods sold to consumers using online auction sites.

11. How the rights under the Consumer Rights Act apply in a Public Auction

Under the Consumer Rights Act an individual is not treated as a consumer for most of the Act's protections regarding goods contracts, if the goods are second-hand and bought at an auction that the individual **could have attended in person**. As a result the **majority of the requirements laid out in this section (Goods: What the Consumer can expect) do not apply to sales of second-hand goods at public auctions**. However, if you sell second hand goods at public auctions, you still need to comply with the Sale of Goods Act 1979, whether selling to other businesses or to individuals who would be consumers if they were not buying second-hand goods at a public auction. Under the Sale of Goods Act, buyers will have similar rights to those set out in this section, though with less extensive statutory remedies than those set out in this guidance (under Goods: If things go wrong). You are not automatically prevented from excluding or limiting liability in such cases, although the Unfair Contract Terms Act 1977 would apply if you sought to do so.

The exceptions are as follows.

- The information required by the Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013 (laid out under "**8. Information the trader must provide**") must still be provided and still forms part of the contract
- The default requirement for the goods to be delivered without undue delay and within 30 days, unless otherwise agreed (as laid out under "**8. Delivery Requirements**") still applies to sales contracts.

- The rule about when risk passes still applies to sales contracts

If you (as a trader) sell **new** goods to a consumer at a public auction, the consumer has the rights under the Consumer Rights Act (as set out in this guidance) as normal.

Example 15

A man buys a second-hand ornamental vase at an auction. The vase is sold “as seen” according to the description in the catalogue. Although the auction is public and is being held at a local auction house, the buyer participates through an online service as he doesn’t have the time to attend the auction in person.

When he collects the vase he finds that it has a chip in the rim and demands a refund on the basis that it is faulty.

However, because he had the option to attend the auction in person and to inspect the vase beforehand, the man is not treated as a consumer and the Act does not apply. He has some protection under the Sale of Goods Act but in this case his protections can be limited if reasonable. So, because the catalogue said the vase was sold as seen, he is unlikely to be entitled to a refund.

FAQ 12

I’m a trader selling goods on an online auction site. Do most of the goods contracts requirements in the Act apply to me?

Yes. The exemption discussed in this section is for second-hand goods sold at a public auction, which a consumer can, if they wish, attend in person.

12. Guarantees

There is no requirement under the Act to offer a guarantee alongside goods. But if you – or the manufacturer – opt to provide a guarantee **without extra charge**, that if stated or advertised specifications are not met then the price will be reimbursed or goods will be repaired, replaced or otherwise handled, that guarantee is **legally binding**.

If this type of guarantee is provided, it must meet certain requirements. These are that it must:

- be written in plain, intelligible language and, if the goods are offered in the UK, in English,
- include the name and address of the guarantor,
- state that the consumer has statutory rights (under the Consumer Rights Act) regarding the goods, and that these rights are not affected by the guarantee,
- state the duration and territorial scope of the guarantee, and
- be made available to the consumer in writing and within a reasonable time.

Rights under the Act vs. rights under a guarantee or warranty

If a consumer has rights under a guarantee or warranty provided by either you or the manufacturer, the consumer may choose to either exercise their rights under the Act or their rights under the guarantee or warranty. You **cannot** deny a consumer their statutory rights and direct them instead to their rights under the guarantee or warranty.

Although the consumer's rights under the Act (as set out in sections 1 to 7 of this guidance, above) are against you (as the trader), a consumer may also have rights against the manufacturer under a guarantee or warranty, depending on its terms.

Note that just because a consumer's guarantee has expired does not mean their rights under the Act have also expired.

FAQ 13

What about extended warranties that a consumer pays for separately?

If a consumer pays for an extended warranty then that is a separate product.

Goods: If Things Go Wrong

As a trader, you are responsible if the goods that you supply do not meet the requirements under the Consumer Rights Act and any other requirements set out in the contract. The consumer's statutory rights under the Act (as listed under '**Goods: What the Consumer Can Expect**') form part of the contract with the consumer, so you will have breached the contract if the requirements are not met. This guidance explains what forms of redress are available to the consumer in these situations. These are referred to as "remedies".

Alternatives to statutory remedies

It is also open to the consumer to claim common law⁸ remedies for breach of contract, which could include damages. The consumer can opt to seek damages instead of the statutory remedies if they wish to do so, or they can do so alongside statutory remedies but they cannot claim compensation twice for the same issue (known as double-recovery).

"Damages" is a legal term referring to the common law remedy of financial compensation paid by one party to the other, generally for loss incurred. In relation to a breach of the consumer's rights regarding goods, damages may cover loss or damage caused by the breach, for example, where a faulty washing machine damages clothing while in use. There are legal tests to be satisfied for a consumer to recover damages: a person cannot recover damages for loss which was not caused by the breach (of the term required by the Act) or which was not sufficiently foreseeable; nor can the consumer recover for loss which they could reasonably have acted to limit or mitigate.

The rest of this guidance however focusses on the statutory remedies.

The remedies under the Consumer Rights Act

Statutory remedies for breach of core goods rights

The consumer has the following statutory remedies available when their core goods rights under the Act aren't met (goods must be of satisfactory quality, fit for a particular purpose and should match a description, sample or model) or if the goods include digital content which does not meet the Act's requirements for digital content (cross refer DC guidance).

- Short term right to reject – within the first 30 days;

AND (running in parallel to the short term right to reject and extending beyond the 30 days)

- 1st tier remedies: free repair or free replacement; then (if the matter is not resolved after one repair or replacement – or more if the consumer wishes to have more than one)
- 2nd tier remedies: either the final right to reject or a reduction in price

If a consumer rejects goods, you are responsible for all reasonable costs of returning the goods to you unless the goods are being returned to the place that the consumer received them (for example, returning them to the shop in which they were bought). If the costs incurred by the consumer are more than a reasonable amount, you are still responsible for paying the reasonable portion of those costs.

⁸ Common law is law set out in court cases decided by judges, rather than being set out in legislation.

If a consumer incurs excessive costs returning the goods to the place they received them, the Act does not require you to pay for the costs. However, the consumer may be able to claim damages for these costs. For example, if it is necessary for the consumer to hire a van to return bulky furniture to the shop where it was bought, the consumer could seek damages for the hire cost of the vehicle and the court would consider whether this could be recovered under the principles for damages (cross ref to damages section above).

The chart on the following page provides a high-level overview of the statutory remedies for breach of the core goods rights.

Please note that this is a high-level summary and does not cover all circumstances or details. You need to refer to the Act and the following sections of this guidance for further details.

GOODS CORE REMEDIES SCHEME

Goods must:

- Be of satisfactory quality
- Be fit for a purpose the consumer has made known
- Be as described and match a model or sample

If these core requirements aren't met, the consumer can...

Reject the goods for a full refund
(1st 30 days only)

Require that the trader repairs or replaces the goods

"1st tier remedies"

If this doesn't fix the problem, there is delay or inconvenience, or another fault appears the consumer can...

"2nd tier remedies"

Reject the goods for a refund that may be partial

Keep the goods and get a reduction in price

Statutory remedies for breaches of the consumer's other rights under the Consumer Rights Act

As listed in the "Goods: What the consumer can expect" guidance, there are some requirements that don't relate to the goods themselves, but relate instead to the contract and the right to transfer ownership or possession of the goods. The remedies for breach of these rights are different from those set out above for breach of the core goods rights (goods to be of satisfactory quality, fit for a particular purpose and to match a description, sample or model). Specifically these are:

- The requirement to conform to pre contractual information (other than that which describes the main characteristics of the goods)
- The requirement for the installation of the goods to be done properly where the supplier of the goods is also installing them
- The requirement for digital content included in the goods to conform to the contract (i.e. any digital content – for example the music on a physical CD, or the program in a washing machine – must meet the Act's requirements for digital content).
- The requirement for you to have the right to supply the goods
- The requirements that no other person should have rights to the goods (unless the consumer is informed before making the contract) and that the consumer's use should not be disturbed.

The remedies for the breach of these rights are as follows.

Right to supply the goods

If you breach this requirement, the consumer may **reject the goods for a full refund**. This is separate from the short-term and final rights to reject, so there is no 30-day limit nor can you make a deduction for use.

This requirement will be breached if you do not have the right to supply at the time that ownership (or, in the case of hire, possession) of the goods is pass to the consumer.

No other person should have rights to the goods or disturb the consumer's use

If this right is breached, the consumer **may pursue damages** for loss suffered as a result of undisclosed rights or claims to the goods (the term "damages" is explained under '**Alternatives to statutory remedies**', above). There is no statutory remedy under the Act for breach of this right.

The consumer could pursue damages for six years (five in Scotland) from the time their use is disturbed.

Pre contractual information (other than that which describes the goods)

If the information is inaccurate or not complied with (suggest cross-reference to the explanation of this right), the consumer has a **right to recover costs incurred as a result of this, up to the price paid**.

If they have not incurred any costs as a result of the incorrect information, they would not be entitled to recover any money under this remedy.

Breach of an express term

If an express term of the contract is breached, the consumer has a right to repair or replacement of the goods to rectify the issue and, if this is ineffective, the right to a price reduction or the final right to reject. **As an alternative (or, in some cases, in addition) to these statutory remedies the consumer may pursue damages and/or may have a right to treat the contract as at an end**, depending on the nature and severity of the breach (the term “damages” is explained under ‘**Alternatives to statutory remedies**’, above). If there is overlap with the core rights (for example, the express term might be interpreted as relating to the main characteristics of the goods) the remedies that apply to the core right apply.

Installation not carried out properly

This applies only where the trader is contracted to supply and install the goods. If this right is breached, the consumer has a right to **repair or replacement** of the goods (including re-installation) and, if this is ineffective, the right to a **price reduction or the final right to reject**. The short term right to reject does not apply for incorrect installation.

Goods Including Digital Content

If the digital content does not conform to the contract, then under the Act the goods as a whole do not conform. **All of the remedies for a breach of the core rights apply** (the short term right to reject, the first and second tier rights), as if the lack of conformity was with the goods.

1. In what circumstances does the trader have to give a remedy?

A consumer may seek a remedy if any of the Act’s requirements regarding goods (see ‘**What the Consumer Can Expect**’ above) are not complied with. Which remedies are available will depend on which of the consumer’s rights under the Act is breached.

Proving that goods do not meet the requirements

A consumer will only be legally entitled to remedies if the goods did not meet the consumer’s rights at the time they were delivered. Essentially, there are two aspects of this (although they are often interlinked):

1. The goods do not meet the rights (see the **Goods: What the Consumer Can Expect** guidance; and
2. This issue was present at the time the goods were delivered.

Generally, it is for the consumer to show that the goods do not meet their rights. For example, if the consumer considers that the goods are not of satisfactory quality, the consumer needs to show that, the quality of the goods is below the standard a reasonable person would think is satisfactory. In some cases, the consumer may identify a clear fault – for example if the goods are cracked. In some circumstances it may be reasonably assumed that the goods were not of satisfactory quality when delivered, even if the particular fault or cause is not demonstrated (i.e. the facts speak for themselves). Examples of this would be where, without any misuse, goods stop functioning, go wrong, or wear out much more quickly than expected.

In the majority of cases, it will not be necessary or worthwhile to seek expert opinion on the existence or nature of the fault.

In some cases it will be very clear that goods failed to meet the consumer's rights at the time that they were delivered to the consumer. For example, goods may not match the description if they are a different colour than was stated on the box – this is likely to have been the case when they were delivered. In some cases it may not have been obvious at delivery that the goods fall short of one of the consumer's rights - particularly in relation to the right that goods are of satisfactory quality. For example, goods manufactured with poor quality parts may function perfectly for some time but not be as durable as a reasonable person would think they should be. The fault may therefore show itself sometime after the goods were delivered, but the root cause of the problem was present at that time. If the issue with the goods becomes apparent within six months from delivery then, where the consumer exercises 1st or 2nd tier remedies, there is a presumption that the goods failed to meet the requirements at delivery and it is for you to show otherwise. After this (or where the consumer exercises other remedies), the onus is on the consumer to show that the goods failed to meet the requirements when delivered – see **"3. The Reverse Burden of Proof"** section, below.

Example 16

A consumer buys a toaster but finds when they try to use it for the first time that it won't turn on and the bread won't stay down. The consumer returns it to the shop for a replacement. Because the fault is obvious there is no need for further testing and the trader offers to replace the toaster immediately.

Example 17

A consumer buys an antique chair but after getting it home, finds that it is more scratched and worn than she was aware of or is happy with. She returns it to the trader showing the additional damage and demanding a refund, but the trader responds that it is in the nature of an antique chair to show such wear so the chair is still of satisfactory quality. He refuses a refund.

Whether the quality of the goods is not satisfactory so the goods do not conform to the contract depends on whether the quality is of a level a "reasonable person" would consider to be satisfactory. This will be different for different goods. But factors such as the price and any description are relevant – in this case, the consumer would be justified in expecting the chair to be in a better condition if she had paid a particularly high price for it than if it had been relatively cheap, or if the trader had described it as being in very good condition. Ultimately, if the trader and consumer are unable to agree, it would be for a court to decide.

Example 18

A consumer buys a new computer mouse which works well for several months. The middle mouse button then stops working although the consumer has not caused any damage to the mouse.

The consumer argues that the mouse is defective because the button should have lasted much longer – the fact that it has failed demonstrates a latent defect that must have been present at the time of delivery.

The trader agrees to investigate, and after testing the mouse concludes that the consumer was right: There was a latent defect that affected the quality of the mouse button. The trader offers a replacement.

FAQ 14

The customer argues the goods aren't of satisfactory quality, but I disagree – what now?

It is not possible to prescribe which faults or issues mean goods are not of satisfactory quality, as this will depend on the specific circumstances, type of goods and extent of the fault.

Generally speaking it's the responsibility of the consumer to prove that goods did not meet the requirements of the Consumer Rights Act, although in some cases there is a presumption that goods did not meet the requirements when delivered if they do not meet them in the first six months (*cross refer to reverse burden section*). However, you can examine goods and/or send them for tests (e.g. to the manufacturer) if necessary to establish whether there is a fault or the goods are otherwise below satisfactory quality. You could seek the view of an independent expert in the type of goods.

You should consider the issue from a consumer's point of view – would you be happy with the goods if you had bought them?

If the goods are not below the standard that a reasonable person would consider satisfactory, you are not obliged to provide a remedy. However, some traders choose to provide a remedy (such as replacing the item) but to make clear that they are doing so out of goodwill and do not believe that the goods are faulty. If the customer does not accept the seller's view and wishes to pursue things further they may resort to court action – the decision of whether goods are of satisfactory quality is ultimately for the court.

FAQ 15

Who is the 'reasonable person' that determines the standard of satisfactory quality?

This is simply a way of saying that the goods must meet the quality that a reasonable person in the buyer's position would think is satisfactory. The test does not take account of unreasonable expectations.

The reasonable person has been construed by the courts as one who is in the position of the buyer with his knowledge, rather than a reasonable third party observer not acquainted with the transaction and the background.

Who bears the risk of loss or damage, and when

In most cases you will be responsible for the condition of the goods until the time that they come into the consumer's (or a nominated person's) physical possession. This means that in most cases, if goods are lost or damaged in transit, the consumer will have a right to redress from you.

The exception is where the consumer has arranged a different carrier to deliver the goods – one that you did not offer as an option. In that case, the responsibility belongs to the consumer from

the point that you hand over the goods to the carrier. If, in these circumstances, a consumer comes to you for a remedy for damage in transit, you are under no obligation to provide one. The consumer may, however, have a claim against the carrier.

The Act applies this rule to sales contracts.

Example 19

A consumer orders glassware online, choosing the trader's standard delivery service, but when it arrives, finds that it is in pieces. Under this scenario any damage to the glassware is the responsibility of the trader until the time that the consumer took physical possession of it, so the consumer would be able to pursue a remedy for the breakage from the trader.

FAQ 16

I made certain that the goods were carefully packaged and undamaged before they left my possession and were handed to the courier, but by the time they were delivered to the consumer they were smashed – who's legally responsible?

It depends on whether the courier was selected by the consumer and wasn't on a list of couriers that you offered, or if you selected the courier or provided a list of couriers that the consumer chose from.

If the consumer picked the courier and they weren't on a list that you provided, then responsibility passes to the consumer as soon as you pass the goods to the courier. So if they were damaged in transit between the courier and the consumer, you would have no obligation to provide a repair, replacement or refund.

If you selected the courier, or provided a list for the consumer to pick from, then the responsibility for the condition of the goods passes to the consumer when the consumer (or someone nominated by them) has physical possession of the goods. This means that if the goods are damaged in transit you will have responsibility and will have to provide a repair, replacement or refund (see below for how and when these apply).

2. How consumers can obtain a remedy

The chart on the following page shows how the statutory remedies for breach of the core goods rights under the Act relate to each other.

Please note that this is a high-level overview and does not cover all details. In particular it only shows the statutory remedies that apply to breaches of the consumer's core goods rights (goods must be satisfactory quality, fit for a particular purpose and match a description, sample or model) or if the goods include digital content which does not meet the Act's requirements for digital content – it does not cover remedies for breaches of all the rights under the Act.

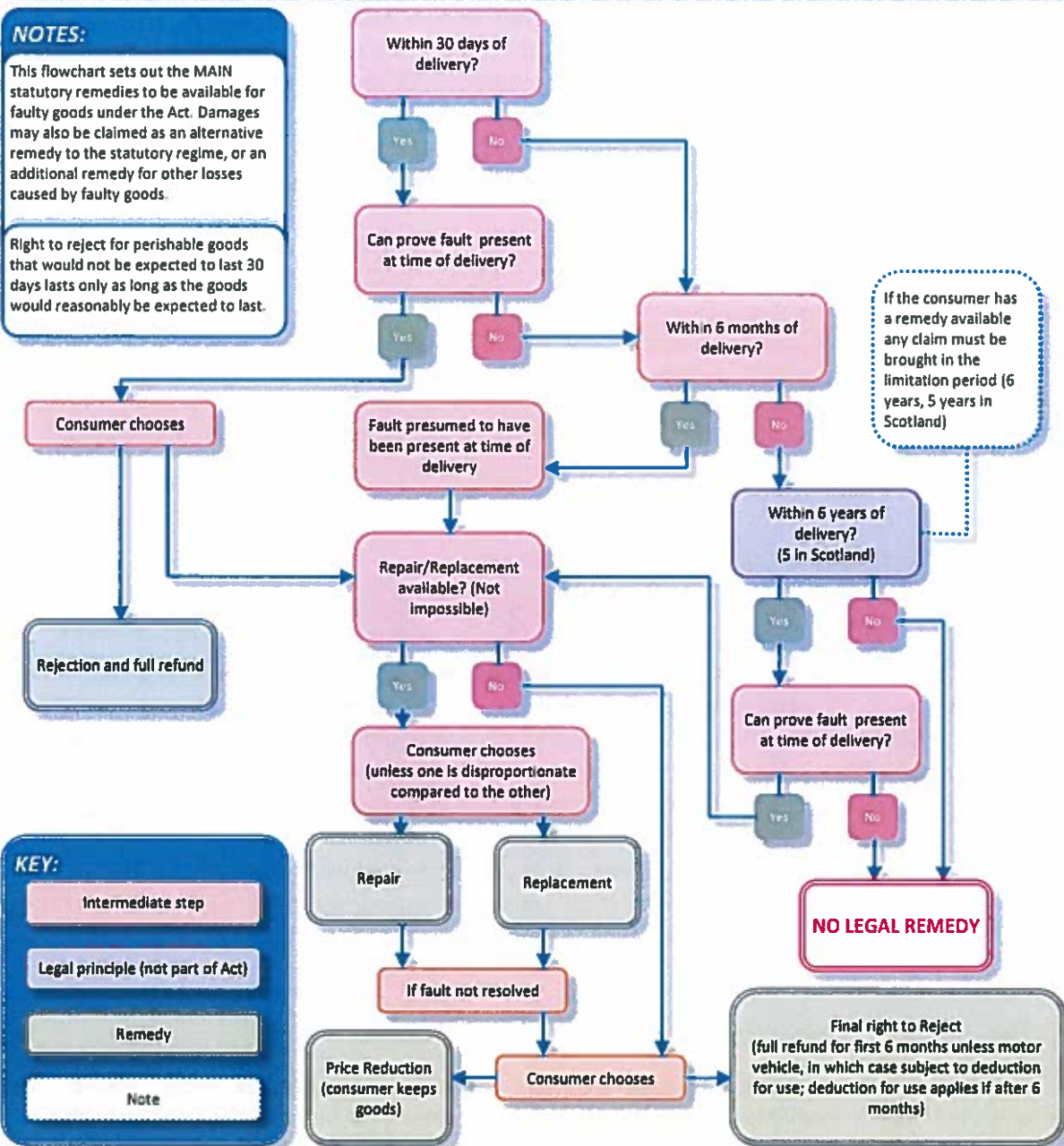
The consumer may also have a right to damages for any other costs that they have incurred but that can't be recovered through the above remedies.

CORE STATUTORY GOODS REMEDIES

NOTES:

This flowchart sets out the MAIN statutory remedies to be available for faulty goods under the Act. Damages may also be claimed as an alternative remedy to the statutory regime, or an additional remedy for other losses caused by faulty goods.

Right to reject for perishable goods that would not be expected to last 30 days lasts only as long as the goods would reasonably be expected to last.



Time limits for exercising remedies

The consumer's rights regarding goods form part of the contract between the trader and the consumer. Except where a time period is stated in the Act (for example, the 30-day right to reject), this means a consumer can enforce a remedy for up to **6 years after the consumer receives the goods, or 5 years in Scotland**. That is the limitation period for breach of contract claims. A consumer will of course only be entitled to a remedy if one of the statutory rights is breached – that is if the consumer can show that the goods did not meet their rights set out above (under '**What the Consumer Can Expect**') at the time of delivery, or that is presumed to be the case (see '**3. The reverse burden of proof**', below).

Who should the consumer go to?

If you have supplied goods to a consumer and they do not meet the requirements under the Act or other terms in the contract, **it is up to you to put this right with the consumer**, and not the manufacturer of the goods.

Additional Protection under the Consumer Credit Act 1974

Consumers have protection under s75 Consumer Credit Act 1974, which applies to certain regulated consumer credit agreements. This protection is separate from the consumer's rights under the Consumer Rights Act, but may be relevant in some cases such as where a consumer pays for goods (wholly or in part) using a credit card. In relation to a single item which cost over £100 but not more than £30,000, the credit provider is also liable (jointly and severally with the trader) for a misrepresentation or breach of contract, which could include breach of one of the consumer's rights under the Consumer Rights Act (as the consumer's rights form terms of the contract). The consumer has the option of seeking redress from you as the trader or claiming against the credit provider. If the consumer contacts you, then you can't refuse to provide a remedy and send the consumer to the credit provider. Similarly, if the consumer approaches the credit provider in the first instance, they can't send them to you.

3. The reverse burden of proof

As explained in '**1. In what circumstances does the trader have to give a remedy?**', above, the remedies will only be available if the goods did not meet the rights (see the '**Goods: What the Consumer Can Expect**' guidance) at the time they were delivered.

In some cases it will be very clear that the goods did not meet the rights at the time of delivery. For example, goods may not match the description if they are a different colour than was stated on the box – this is likely to have been the case when they were delivered. In some cases it may not have been obvious at delivery that the goods breach one of the rights, particularly in relation to the right that goods are of satisfactory quality. For example, goods manufactured with low quality parts may function perfectly for some time but not be as durable as a reasonable person would expect. The fault may therefore show itself sometime after the goods were delivered, but the root cause of the problem was present at that time.

If the goods breach the rights under the Act in the first 6 months there is an assumption that the issue was present at the time of delivery – unless this is incompatible with the type of goods or how the rights are breached, or it is shown that the goods did comply with the rights at delivery. So if you do not believe that the assumption is correct, you must prove otherwise. After the first 6 months, it is the responsibility of the consumer to show that goods did not meet the requirements of the Consumer Rights Act at the time of delivery.

The assumption in the first 6 months does not apply where the consumer is seeking to use the short term right to reject.

Note that the consumer always needs to be able to show that the goods do not meet the Act's requirements – the reverse burden of proof applies only to proving that this was the case at the time of delivery.

The following table summarises who is responsible for proving that the goods failed to meet the core goods rights under the Act (using the shorthand of goods being faulty), at different times.

	1 st 30 days		31 days to 6 months		After 6 months	
	Proof of existence of fault	Fault present at time of delivery?	Proof of existence of fault	Fault present at time of delivery?	Proof of existence of fault	Fault present at time of delivery?
Short term right to reject	Consumer must be able to show there is fault	Consumer must be able to show fault was present at time of delivery	N/A		N/A	
Other Remedies	Consumer must be able to show there is fault	Fault <u>generally assumed to have been present at time of delivery</u> (it is for trader to rebut this).	Consumer must be able to show there is fault	Fault <u>generally assumed to have been present at time of delivery</u> (it is for trader to rebut this).	Consumer must be able to show there is fault	Consumer must prove fault was present at time of delivery

Example 20

A consumer buys a new washing machine but after 5 months the machine starts to leak from around the door. The trader agrees that there is a fault but argues that it is because the consumer has misused the machine and damaged the door seal.

Because the fault was discovered 5 months after delivery, the assumption is that the fault was present at the time of delivery unless this does not make sense in the circumstances. It is therefore up to the trader to prove that the seal was damaged by misuse.

On the other hand, if the same fault had manifested more than 6 months after delivery it would be for the consumer to prove that the machine had a latent fault rather than the damage being caused by their misuse of the machine.

FAQ 17

A consumer wants to reject some faulty goods under the short term right to reject but I don't think the fault was present when I delivered them – does the reverse burden of proof apply?

No, the reverse burden of proof does not apply when a consumer uses the 30 day right to reject. It would be the responsibility of the consumer to prove that the goods did not meet the requirements at delivery.

If, however, the consumer instead asked for a repair or replacement, the 'reverse burden of proof' would apply and there would be an assumption that the fault was present unless you can prove otherwise or this is inconsistent with the particular goods or issue that the consumer has raised.

4. Rules for Paying Refunds

Whenever you provide a refund you must do so without undue delay and in any case within 14 days, beginning on the day that you agree the consumer is entitled to the refund. This means that the clock only starts ticking after you have had an opportunity to assess the issue and confirm that the consumer's complaint is valid, provided you do not delay unreasonably.

This applies to refunds under short-term right to reject (cross ref), the final right to reject (cross ref), a right to reject for breach of right to supply (cross ref) and also includes money back due to a reduction in price – see '**7. The Final Right to Reject or Reduction in Price (2nd tier remedies)**', below)

The refund must be in the same form as the original payment unless the consumer agrees otherwise. So for example if the consumer paid for the goods by credit card the refund should be to their credit card, unless the consumer agrees that a cheque is acceptable. You cannot charge the consumer a fee for the payment of the refund.

5. Short term right to reject

The short-term right to reject entitles the consumer to reject the goods for a refund and terminate the contract, during a 30 day period beginning on the day after all of the following have occurred:

- (a) you have transferred ownership (or possession if you are dealing with a contract for the hire of goods, a hire-purchase agreement or a conditional sales contract) of the goods to the consumer;
- (b) the goods have been delivered; and
- (c) where you are required by the contract to install the goods, or take another action to enable the consumer to use the goods, you have notified the consumer that this action has been taken.

To exercise this right, the consumer must indicate to you that they are rejecting the goods and treating the contract as at an end. It does not matter how they do this, as long as they make this intention clear to you. It may be easier for the consumer to demonstrate the issue was present at the time of delivery if they act as soon as the issue become apparent, but there is no legal requirement for the consumer to act earlier than later within the 30 day period.

Unless they have agreed to return the goods, the consumer must **make the goods available for you to collect**. In order to reject the goods and make them available for collection, the consumer should not continue to use the goods.

If within the first 30 days, the consumer requests a repair or replacement (whether they or you propose this remedy), a waiting period is entered into during which time the 30 day period stops running. The waiting period begins on the day the consumer asks for a repair or replacement, and ends with the day the consumer receives the goods back from you. On return of the goods, the consumer then has the remainder of the 30 day period, or 7 days (whichever is the longer period of time) still to exercise their short-time right to reject, if the goods still do not meet the requirements of the Act, either because of the same or a further issue.

Note that the reverse burden of proof does not apply where the short term right to reject is exercised.

Example 21

A consumer bought a watch which has stopped working. They want the trader to repair it but don't want to forfeit their short-term right to reject, should the repair not work. They take it back to the trader on the 25th day after purchase and the trader agrees to try to fix the watch. The 30 day period therefore stops running on the 25th day - this is the start of the 'waiting period'. After two weeks, the trader has had the watch repaired and returns it to the consumer. The 'waiting period' ends on the day the consumer receives the goods back. The consumer has a further 7 days to exercise their short-term right to reject, because this is longer than the remainder of the 30 day period. Two days after the watch is returned to the consumer it stops working again. The consumer can exercise the short-term right to reject provided they do so in the following 5 days (as this is what remains of the 7 days after the 'waiting period').

Exception – perishable goods

The only exception to the 30 day time limit is where the goods in question are perishable, and it is not reasonable to expect them to last 30 days. The period the consumer would have to exercise their right to reject in this instance is only as long as it is reasonable to expect the goods to last.

Example 22

A consumer does their weekly shop in a supermarket and when they get home, discovers that the potatoes they bought are mouldy. The 'best before' date on the bag is in the following week and so they decide to exercise their short-term right to reject. They should do so by returning the potatoes to the store where they were purchased before the 'best before' date, so it is clear to the trader that the goods are in a state where the consumer's rights have been breached. If the consumer didn't return the potatoes until after the goods could have been reasonably expected to perish, i.e., after the 'best before' date, it would not be clear to the trader that the consumer's rights had not been met and their short-term right to reject the goods could not be exercised.

Seasonal goods

You do not have to allow consumers to reject seasonal goods later than the 30 day time limit. However, the Act does not prevent you from offering higher levels of consumer protection if desired, for example to extend the period at specific times of year, or for specific types of goods.

Example 23

Where a consumer buys a pair of skis in the summer, yet does not wish to use them until the winter, they would still only have 30 days starting the day after they have possession of the skis to exercise their short-term right to reject if the skis did not meet the consumer's rights. This gives them a reasonable time to inspect the skis for a visible issue. If, when used for the first time after the 30 day time-limit has passed, the skis demonstrate a fault making them below satisfactory quality and that the consumer can prove to have existed at the time of purchase, the consumer can still exercise their right to have the skis repaired or replaced. If this fails to fix the fault, they have a right to a reduction in the price or to exit the contract and receive a refund. In most cases this is a full refund if within 6 months.

6. Repair or Replacement (1st tier remedies)

The right to repair or replacement entitles the consumer to have goods repaired or replaced free of charge to rectify the issue which does not meet the consumer's rights. See the introductory section of '**Goods: If Things Go Wrong**', above, for information on when these remedies are applicable.

This right is available from the time the consumer receives the goods (as above, the issue must have been present when the goods were delivered). So a repair or replacement is available as an alternative to the 30 day right to reject if the consumer wants to take this option.

The consumer may opt for either a repair or a replacement, but if the one that the consumer chooses is disproportionately costly to you compared to the other, or it is impossible, they will have to accept the other option. For example, if a consumer asks for a replacement of an expensive tablet PC worth £500, but a repair would only cost £50, the consumer would have to accept a repair instead.

A consumer may enforce their right to a repair or replacement for up to 6 years from delivery (5 years in Scotland), if they can show that the goods do not meet the rights set out above and that they did not meet these at the time of delivery, or if there is a presumption that they did not.

See "**2. How to obtain a remedy**", above, for further information on the 6 year / 5 year limitation period for the consumer to enforce a remedy and see "**3. The reverse burden of proof**" for further information on proving a fault and the presumption which may apply in the first 6 months.

You must provide the repair or replacement within a **reasonable time** and without causing **significant inconvenience** to the consumer. This means that if the repair/replacement work takes too long, or causes significant inconvenience to the consumer, the consumer would have the right to reject the goods for a refund or demand some money back (see "**7. The Final Right to Reject or Reduction in Price (2nd tier remedies)**" for further detail on these remedies).

On the other hand, once the consumer has asked for a repair or replacement they must allow you a reasonable time to complete the work without changing their mind and opting for the other approach or rejecting the goods using the 30 day right to reject. However, if it would cause the consumer significant inconvenience to allow you this time, then they do not have to do so.

To decide whether significant inconvenience has occurred, the nature of the goods and the purpose for which the consumer acquired them are to be taken into account. Beyond this, the Act does not specify what counts as significant inconvenience as the impact on the consumer will vary from case to case, but the consumer must be able to demonstrate that they have been significantly affected in some way – it is not sufficient for them to simply change their mind. Significant inconvenience is a broad concept. Factors that could be considered in determining whether significant inconvenience has been incurred in particular cases could include – **but are not limited to** – impact on health or safety, financial loss, whether the consumer has access to an alternative or temporary replacement

Example 24

A consumer buys a new mobile phone but discovers a fault with the screen when he gets it home. He returns to the shop and is offered a repair which will take 7 days. The consumer accepts this and hands over the phone. However, the next day the consumer changes their mind and decides that they would rather exercise the short-term right to reject the phone and get a refund.

Under the Act the consumer is not entitled to do this – after asking for a repair, the consumer must allow the trader a reasonable time to complete this work.

Consumer only needs to accept one repair/replacement

The consumer only has to accept one repair or replacement of the goods before s/he has a right to some money back. If you give a repair or replacement but the goods still do not meet the consumer's rights – either because the original issue continues, or a new issue appears – the consumer has the right to reject the goods for a refund or get some money back (see “**7. The Final Right to Reject or Reduction in Price (2nd tier remedies)**” for further detail on these remedies). Although the consumer only has to accept one repair or replacement, there is nothing to stop you offering further repairs or replacements as an alternative to the 2nd tier remedies, provided you do not deny the consumer their right to money back – in some cases the consumer will be content to accept that approach. Equally, if the consumer does not wish to move to a second tier remedy, they are entitled to further repairs/replacements if the goods continue not to conform to the contract.

Example 25

A consumer buys a new TV but after several weeks a fault manifests, causing the sound to be of low quality. The consumer returns the TV to the trader for a repair which successfully fixes the problem.

A few weeks later another fault appears, causing part of the screen to go dark. Because the TV has already been repaired once, the consumer could return the TV for a refund or keep it but ask for some money off (the 2nd tier remedies). Alternatively, the consumer could ask for further repairs or replacements. If so, they will still have a right to move on to the 2nd tier remedies if the goods still breach the requirements of the Act.

What counts as a repair?

A repair is an attempt to fix any defects so that the goods meet the relevant requirements of the Act (that is, being of satisfactory quality, fit for a particular purpose and meeting a description, sample or model; digital content within the goods meeting the Act's requirements for digital content; any installation required to be carried out or arranged by you being done properly), and any express terms.

See the **"Goods: What the consumer can expect"** section of this guidance (above) for further detail on what these requirements mean in practice. In particular, what counts as satisfactory quality is determined by what a **reasonable person** would think is satisfactory, looking at all the relevant circumstances.

If a consumer asks for a repair of goods, some work may be necessary to identify the fault or the underlying cause of the fault before any repair can be arranged. This work does not necessarily count as part of the repair. If you need to see the goods in order to establish what the fault is and arrange the repair, this diagnostic work can be carried out in an initial visit or appointment (for example) and would not generally be treated as the repair itself.

The repair is complete once the trader returns the goods to the consumer in response to the consumer's request for a repair.

Example 26

A consumer brings their new car back to the garage complaining that there's a "strange hum" when she drives it long distances. The mechanic agrees to take a look at it in order to arrange the appropriate repair and finds that there is a defect with a part in the engine. This can be easily rectified by replacing the part, but the trader doesn't have it in stock and needs to order it in for the following week.

In this scenario the repair work has not yet been undertaken – the trader still has the opportunity to carry out the repair even though the consumer has brought the car into the garage. If the trader orders the part and books the car in for the repair the following Wednesday, the repair does not start until the car is brought in on that Wednesday.

The repair would be complete at the time that the consumer picks up the car after the new part has been fitted.

You do not have to carry out the repair yourself, you could pass the goods to a specialist or the manufacturer, for instance, but as the contract is between you and the consumer, you will remain legally responsible for ensuring that the repair is carried out properly. You will also have to bear the cost of the repair.

If a consumer reports a number of faults at the same time, the attempt to fix them counts as a **single repair**. If the repair takes place **in the consumer's home** the repair is not complete until you (or the repair person) tell the consumer or otherwise indicate that the repair is done. This means that where the repair can't be completed in a single visit, unless the repair person says or otherwise indicates that the goods are fit for use, the subsequent visits will count as part of the same repair attempt.

Example 27

A consumer buys a second hand car. After driving the car for a week she returns to the trader with a list of faults that she has discovered:

- The air conditioning does not work on the driver side
- The windscreen wipers are split
- The light in the boot does not work
- The oil pressure light keeps flashing on

The trader fixes all of the problems. Because the faults were all fixed together, this counts as a single repair rather than four separate repairs.

Example 28

A trader visits a consumer's home to fix a faulty washing machine. After assessing the washing machine the trader concludes that the fault should be easy to fix but he needs to get the necessary part and will return tomorrow. He makes it clear to the consumer that the repair is not complete and that the washing machine is not fit for use at the moment.

The trader returns the next day with the part and fixes the machine, informing the consumer that the work is complete. This counts as a single repair (even though the trader visited on two occasions) because the trader was clear to the consumer that the work was ongoing at the end of the first visit.

FAQ 18

A consumer claims several faults with the goods at the same time. They say that they want to reject the goods as they only have to accept a repair for one of the faults and the other faults would remain so they can use the final right to reject. Is this correct?

No, if the faults are presented at the same time, you have the opportunity to fix them all as a single repair.

If the repair attempt fails to fix all of the faults, or if it is successful but a further fault appears, the consumer could then use the final right to reject.

FAQ 19

Can a consumer insist that I provide a repair if the consumer has mis-used the goods or has accidentally caused the issue, e.g. left coins in their pocket which have damaged their washing machine?

No, this is not a breach of the consumer's rights. The quality of the goods you supplied is not unsatisfactory, and the issue is not something which was present at the time of delivery. You are therefore not obliged to carry out a repair.

If you agree to repair the goods, you would not be prevented from charging for the repair service in this situation – although your terms and conditions may address this. See the Unfair Terms guidance for further information on what you may include in your terms and conditions.

What counts as a replacement?

Generally, the replacement goods should be the same as the goods that are being replaced except that they must meet the requirements that the original goods should have met (see the introductory section of '**Goods: If Things Go Wrong**', above, for information on when these remedies are applicable, plus the '**Goods: What the Consumer Can Expect**' section of this guidance for details of these).

The extent to which a replacement must be identical will depend on the goods. For mass produced goods, a replacement should be the same make and model, which will generally mean it should be identical. For other types of goods a replacement would be the same item but would not need to be precisely identical (for example a replacement for a wooden coffee table would need to be the same size, model and type of wood, but the pattern of the wood grain would not need to be identical).

Where you are unable to provide the same goods as a replacement, nothing prevents you from offering an alternative, but you cannot force the consumer to accept. Similarly the consumer cannot force you to offer an alternative.

FAQ 20

Am I allowed to offer non-identical goods as a replacement?

You cannot force the consumer to accept an alternative to a straight replacement; but equally, the consumer cannot force you to offer an alternative.

However, you and the consumer could, of course, agree that non-identical goods are acceptable as a replacement when the consumer comes to you for a replacement.

Repair vs. Replacement

It is up to the consumer to choose whether they would prefer a repair or a replacement, but if the one that they choose is impossible or would be disproportionately costly to you (compared to the other option) the consumer may not insist on it and would have to accept the other of these two remedies.

Repair or replacement is disproportionate to the other if it would impose costs that would be unreasonably higher than those associated with the other remedy, considering:

- the value of the goods
- the significance of the lack of conformity
- whether the other remedy would cause the consumer significant inconvenience.

So if the consumer would like a replacement for the non-conforming goods but it would be much cheaper for you and just as effective to repair the original goods and this would not cause significant inconvenience to the consumer, the consumer would have to accept the repair rather than a replacement. Likewise, if the consumer wanted a repair, but it would be cheaper and easier to provide a replacement and that would not cause significant inconvenience to the consumer, the consumer would have to accept that.

Example 29

A consumer buys a wooden chest of drawers from a carpentry firm for £700. After a few weeks they find that the top drawer is sticking, making it unusable. They contact the trader and request a replacement.

The trader examines the drawer and sees that one of the joints has warped slightly and that it can be easily fixed by sanding it down to fit properly. The work should take no more than 10 minutes.

In this instance the trader could refuse the consumer's request for a replacement and instead offer to repair the goods. This is on the basis that replacing a £700 piece of furniture would be disproportionately expensive to the trader compared to the cost of 10 minutes of labour, and that the repair could be done promptly and quickly so should not significantly inconvenience the consumer.

FAQ 21

Am I obliged to repair/replace if I'd rather provide a refund? For example, where the consumer buys a bed for £200 in a 50% sale, I would rather not replace it with the £400-worth bed.

Yes, if the consumer is entitled to a repair or replacement, you cannot refuse to provide this and give a refund instead (assuming a repair or replacement is possible).

However, nothing would prevent you from offering a refund if the consumer agrees to accept it, provided you do not deny them the options of repair or replacement. A refund would be of the price paid, £200 in this example.

If the faulty bed could be repaired to address the relevant issue with it, and this was cheaper than giving the replacement and would not cause significant inconvenience to the consumer, you could insist on repair.

7. The Final Right to Reject or Reduction in Price (2nd tier remedies)

The consumer has a final right to reject or a right to a reduction in price, after or instead of a repair or replacement, if certain criteria are met. As a result, the final right to reject and the right to a reduction in price are sometimes referred to as “2nd tier remedies” (repair and replacement are the “1st tier remedies”).

See the introductory section of ‘**Goods: If Things Go Wrong**’, above, for information on when these remedies are applicable.

When do these remedies become available to the consumer?

The consumer may exercise the final right to reject or right to a reduction in price in the following situations:

1. You provided a repair or replacement, but this failed to fix the initial issue
2. You provided a repair or replacement, which fixed the original issue but the goods still do not meet the relevant requirements because a further fault has since appeared
3. You were unable to provide a repair or replacement because both were impossible
4. The consumer asked for a repair or replacement, but it has not been done in a reasonable time or without significant inconvenience to the consumer.

In the scenarios there is nothing to prevent you from offering further repairs/replacements as an alternative, but the consumer has no obligation to accept them and can insist on one of the 2nd tier remedies instead. Also, if the consumer does not wish to exercise a second tier remedy, they can instead continue to seek repairs/replacements for as long as the goods fail to conform.

The Final Right to Reject

To exercise this right, the consumer must indicate to you that they are rejecting the goods and treating the contract as at an end. It does not matter how they do this, as long as they make this intention clear.

Unless they have agreed to return the goods, the consumer must **make the goods available for you to collect**. In order to reject the goods and make them available for collection, the consumer should not continue to use the goods.

Refunds under the final right to reject

If the consumer exercises the final right to reject within 6 months from receiving the goods, in most cases you will not be entitled to reduce the refund. There is a limited exception to this rule for motor vehicles, which is explained below.

If the consumer exercises the final right to reject more than 6 months after obtaining possession of the goods (or, if applicable, having them installed or otherwise made ready for use) then you can **reduce the refund to take account of the use that the consumer has had of the goods.**

Example 30

A consumer buys a £1,500 mobility scooter and uses it frequently over the course of 14 months. By the end of this time the consumer notices that the battery is not performing well or retaining its charge for long. The trader performs a repair but the scooter continues to perform poorly so the consumer chooses to reject it and get a refund.

Under the Act, the trader may reduce the refund to take account of the use that the consumer has had of the goods. After assessing the wear and tear that the scooter has been subjected to, the trader uses their professional judgment to conclude that the consumer has had around £350 pounds worth of use and offers a refund of £1,150.

If the consumer believes the refund to be too low, they can dispute it. If an agreement cannot be reached it will ultimately be for a court to decide.

Exception to the 6 month rule

The refund **can** be reduced to take account of the use that the consumer has had of the goods where the consumer exercises the right to reject in the first 6 months, if the goods they are rejecting consist of a motor vehicle.

Example 31

A consumer buys a car but immediately experiences a number of problems. A number of repairs is carried out but none of these fully fixes the vehicle and the faults reappear each time after a few days of driving. The trader agrees that it is unlikely that faults will be fixed and the consumer decides to reject the car – it's obviously a "lemon".

Although the car is less than 6 months old, the trader may reduce the refund to take account of the use that the consumer has had from the car.

When assessing the use, the trader would have to consider the actual use the consumer had had from the car. In this instance because the car had been in and out of the garage there are clearly periods when the consumer had no use of the car at all.

Making a deduction for use

If you do apply a deduction for use, it must reflect the use that the consumer has had from the goods. The law does not prescribe how to calculate the deduction. But you must be able to show that it reflects the use that the consumer has had, rather than, for example, reducing the refund to the second-hand value of the goods.

You can consider all relevant information (for example the type of goods, the intended use, expected lifespan, etc.) when assessing how much use the consumer has had and what level of deduction would be appropriate to reflect this. For example, in the case of a car, you will have evidence of the mileage, whereas for other goods you might need to assess the wear and tear that the goods show. In some situations there may be no evidence either way.

The deduction should not take account of any time that the goods were with you for repair or assessment of the fault – the consumer had no use of them at that time. You may not take account of any use the consumer had at any times when you had agreed to collect the goods but were late or did not do so.

If you apply a deduction and the consumer believes that it is unfair, you will need to be able to justify your calculation so it is good practice to be able to show objective criteria or information that the calculation is based on. Ultimately, if you and the consumer fail to reach an agreement, it would be for a court to decide.

Note that the deduction must be calculated based on the use that the consumer has had from the goods, and not the second-hand value of the goods.

Example 32

A consumer buys a lawnmower at the end of summer in a sale and uses it only once before the winter sets in at which point he puts it in his shed. The following spring, the consumer returns to mowing his lawn but it is apparent there is a fault with the motor. At this time the consumer has owned the lawnmower for 9 months but only used it a handful of times.

If a repair is ineffective and the consumer rejects the lawnmower, the trader is entitled to make a deduction for the consumer's use. In this instance, although the consumer had had the goods for a relatively significant length of time, it is clear from the nature of the goods that his use was limited so the reduction to be applied must also be limited.

FAQ 22

Is there a limit to how much of a deduction I can apply?

No, the deduction must only reflect the use that the consumer has had from the goods. You should be able to justify the deduction you have made.

Right to a price reduction

Instead of rejecting the goods under the final right to reject, the consumer can choose to keep the goods but receive a reduction in the price to take account of the issue which breached their rights. (In appropriate cases this may be a full price reduction – i.e. all of their money back).

The reduction that you offer must be an appropriate amount. This should usually reflect the difference between the value of the goods as they were sold (with the issue) and their value if there had been no fault (i.e. the amount that the consumer paid originally).

If the consumer accepts this remedy they have accepted and been compensated for the issue and so cannot require further remedies to address that particular issue. If, however, a further issue appears which breaches a right under the Act, the consumer will still have a right to pursue remedies as normal for that further issue.

Example 33

A consumer buys a combined mp3 player, DAB and FM radio. On turning it on they find that the FM radio doesn't work and the trader is unable to repair or replace the item.

The consumer doesn't want to reject the goods – they want it for the mp3 player and DAB radio functions – but is entitled to a price reduction. The money that they are entitled to would normally be equal to the difference between the value of goods as they stand (i.e. with the 2 working functions) and the value of the goods if they worked properly.

FAQ 23

The consumer accepted a reduction in price for some faulty goods but a further fault has now appeared. The consumer wants me to repair both faults as they argue that the continued unreliability of the goods is unacceptable. Do I have to repair both faults?

No, you have already compensated the consumer for the first fault (and this will usually have followed an initial repair or replacement) so you have no obligation to provide further repairs for that fault. However, you do have an obligation to correct the second fault.

Nothing would prevent you from revisiting the first fault as a matter of good-will to the consumer, while attempting to repair the second fault or providing a replacement.

8. General rules for the rejection of goods

The following rules apply then the consumer rejects goods using the short term right to reject, the final right to reject or if the consumer rejects the goods because you did not have the right to supply them.

Rejecting only some of the goods

If you supplied a number of goods to the consumer and some or all of the goods you have supplied to a consumer are faulty, the consumer has the right to reject some or all of those goods. But if they choose to reject only some of the goods, they cannot reject any of the goods which are not faulty.

This prevents the consumer from picking and choosing between the goods that are not faulty. They must either keep all of the non-faulty goods and then choose what they want to do with the goods that are faulty, or reject everything.

Partial rejection of the goods is not available to the consumer if the goods form a commercial unit. That is where the goods are sold together and the division of the items would materially reduce their value or the character of those goods.

Example 34

A consumer buys ten books and finds five are faulty and five are fine. They might still want the non-faulty books, or they might decide that they will reject one of the faulty ones and keep the other four faulty ones. For example, if the covers of the books are damaged, they may be happy to keep four books that they had purchased to read, but might want to reject one because they have bought it as a present for someone else. The consumer does not have to explain their reasons. They cannot, however, use this as an opportunity to return some, but not all, of the non-faulty books.

Example 35

Where a consumer buys a pair of shoes and one shoe was not of satisfactory quality, they could not reject the faulty shoe and keep the non-faulty shoe. They must either keep or reject both shoes, because they are sold as a commercial unit.

FAQ 24

A consumer bought a three-piece suite from me as a set and found a problem with one of the chairs. They want to reject just the chair and keep the other two items – can they do this?

No. Separating the suite would impair its value and character, because it was sold as a set. If the consumer wishes to reject any part of the commercial unit, they must reject the unit as a whole.

Rejecting goods under 'severable contracts'

If the contract is divisible into parts, which are intended to be independent of each other, so different parts of the payment can be assigned to different parts of the trader's obligations this is known as a 'severable contract'.

A contract will not be severable simply because it is described as such, but where the genuine arrangement between the parties in the circumstances is that different obligations should apply separately. For example, if goods are to be delivered in instalments and paid for together, this could be a severable contract⁹. A contract for building work and materials where payment is due pro rata for work done regardless of whether all of the work has been done could also be a severable contract.

If some goods supplied under a severable contract do not meet the consumer's core rights - or if you did not have the right to supply some of them – the consumer is able to reject those goods and terminate the obligations under that part of the contract.

Beyond this, the consumer may also have the right to reject other goods and terminate the whole contract but this will depend on the circumstances of the case.

The main tests are the extent of the breach of the consumer's rights compared to the whole contract, and the likelihood of the breach being repeated.

If the non-conforming goods represent only a small part of what is supplied under the contract or have little impact on the other things the trader must do or supply under the contract, the consumer is unlikely to be able to terminate the whole contract.

⁹ A contract for delivery and payment in stated instalments could also be a severable contract – this would be covered by separate but similar rules in the Act on instalment contracts, which replicate an existing provision.

A consumer is more likely to be able to terminate the whole contract if the non-conforming goods represent most of what the consumer is paying for under the contract. Or if the non-conformity is representative of an inherent fault in other goods which are to be supplied.

Example 36

If a consumer bought a kitchen table and 4 matching chairs, which were described and priced as a set, it is unlikely the contract would be severable.

If a consumer bought a kitchen table, an armchair and a soap dish, paying for them together and agreeing that the table and armchair would be delivered on two future dates whereas he would take the dish home with him, it is more likely that this could be a severable contract as the obligations in relation to these items seem intended to be independent of each other. If the dish is faulty, he would be able to reject and get a refund for it. If the dish was by far the cheapest item under the contract and the fault was not likely to be repeated in the other items – for example, the dish was made of plastic which had a crack in it whereas the table and chair would be made of different materials – the consumer would be unlikely to be entitled to terminate the whole contract.

Other issues

Link to other legislation

The Consumer Rights Act is not the only piece of legislation you need to comply with in relation to supplying goods to consumers. In addition there is other consumer law, such as the Consumer Protection from Unfair Trading Regulations 2008¹⁰. There are also rules which apply to most business (e.g. tax law, employment law). There may also be specific requirements for your sector. There may also be specific rules for operating your business in your region of the UK. These other rules are out of the scope of this guidance.

Compliance with the Consumer Rights Act is required in addition to, not as an alternative to, compliance with those other regimes. However, it replaces, the Supply of Goods and Services Act 1982 and the Supply of Goods (Implied Terms) Act 1973 and certain provisions the Sale of Goods Act 1979 in relation to business to consumer contracts entered into once it is in force. But if you sell to other business you will need to comply with those pieces of legislation for your contracts with other businesses. There are also general rules under the Sale of Goods Act 1979 – for example rules as to when property or ownership of goods passes - which will continue apply to all sale of goods contracts, including business to consumer contracts. Similarly, the Unfair Terms in Consumer Contracts Regulations 1999 have been replaced by the Consumer Rights Act, as has the

¹⁰ The Regulations are at <http://www.legislation.gov.uk/ukdsi/2008/9780110811574/contents> and guidance is available at https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/284442/oft1008.pdf

Unfair Contract Terms Act, in relation to business to consumer contracts entered into once the Consumer Rights Act is in force.

Limiting liability

If you are conducting business with a consumer under a contract, either a written or oral contract, you must comply the provisions in the Consumer Rights Act. You may not use that contract to exclude or limit your liability for complying with the consumer's rights in relation to goods under Consumer Rights Act (see the '**Goods: What the Consumer Can Expect**' section of this guidance for information on those rights). This also means that you cannot state in your contract that you will not provide the redress provided for in the Act if the goods that you supply do not meet the requirements under the Act – nor can you include terms which would have this effect, even if not expressly stated.

Even if the consumer agrees to the term of a contract which excludes or limits your liability in these ways, the term is not binding on the consumer. You should also be aware of the separate rules within the Act on "Unfair Terms"¹¹.

In relation to hire of goods, a contractual term which seeks to exclude or limit liability for breach of the requirements that you have the right to transfer possession of the goods and that no undisclosed persons will disturb the consumer's use is not automatically non-binding (the unfair terms protections in the Act may apply and you should refer to the associated guidance for those protections).

Enforcement

The consumer rights in the Consumer Rights Act are "private rights". They are enforced by one party to a contract against another – so the consumer can themselves exercise their rights against you, the trader. If a dispute cannot be resolved between those parties, the consumer would have recourse to an Alternative Dispute Resolution service (if one is available for your sector) and ultimately to a court.

If there is a breach of the rights in the Consumer Rights Act on a scale which harms the collective interests of consumers, then regulators such as the Competition and Markets Authority are also able to take action.

¹¹ Guidance is available at

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/398206/CMA37con_Unfair_contract_terms_guidance.pdf

