

Oury Clark Quick Guides:



Consumer Rights Act



The Consumer Rights Act 2015 ("CRA 2015" or "the Act") came into force on 1 October 2015, under which a single set of rules now apply to all contracts where goods or services are supplied by businesses to consumers, including sale and hire contracts.



For the first time there are also specific rules relating to digital content.

The rules apply only to business-to-consumer contracts, and will not apply to business-to-business contracts or consumer-to-consumer contracts.

Contracts made before 1 October 2015

For contracts made before 1 October 2015, different legislation and different rules may apply. In most cases, there will be little difference in the practical steps required by both consumer and trader in resolving a complaint. However, there may be some cases where a consumer has the right to reject goods under an older contract even where they would not have the same right under a new contract.

Supply of Goods

What can the consumer expect?

Under the CRA 2015, certain standards apply to every transaction for the sale and supply of goods. The person transferring or selling the goods must have the right to do so and the goods must:

- **Be of satisfactory quality**
- **Be fit for a particular purpose** – where it is obvious goods are intended for a particular purpose and a trader supplies them to meet that requirement.
- **Match the description, sample or display mode**
- **Be installed correctly** (if installation forms part of the contract).
- **Remedies**

If the trader breaches any of the required standards listed above, then the consumer has the right to certain remedies as follows:

Short-term right to reject

There is a short period during which the consumer is entitled to reject the goods. This short-term right to reject goods lasts for 30 days. If the consumer asks for repair or replacement during this initial 30-day period, the period is paused so that the consumer has the remainder of the 30-day period or 7 days (whichever is longer) to check whether the repair or replacement has been successful and to decide whether to reject the goods. When a consumer rejects goods he or she is entitled to claim a refund. This would either be a full refund, or in the case of hire, a refund for any part of the hire that was paid for but not supplied. A refund must be given without undue delay and within 14 days of the trader agreeing that the consumer is entitled to a refund.

Repair or Replacement

When there is a breach of contract but the consumer chooses not to reject the goods, they will be entitled to demand a repair or replacement.

Where this is claimed, the trader must undertake the relevant repairs or issue the replacement at no cost to the consumer, within a reasonable time, and without causing significant inconvenience.

Price reduction and final right to reject

If the remedies of repair or replacement are not available or are unsuccessful, or are not provided within a reasonable time and without significant inconvenience to the consumer, then the consumer can claim a price reduction or reject the goods.

A price reduction must be an appropriate amount, which will depend on all circumstances of the claim. It can be any amount up to the whole price.

If the consumer rejects the goods, they will be entitled to a refund. The refund may be reduced to take account of any use the consumer has had from the goods. A deduction cannot be made where goods are rejected within 6 months of supply (except where the goods are a motor vehicle).

Burden of Proof

If the consumer chooses repair, replacement, price reduction or final right to reject, and if the defect is discovered within 6 months of delivery, it is assumed that the fault was there at the time of delivery unless the trader can prove otherwise. If more than 6 months have passed, the consumer has to prove the defect was there at the time of delivery.

Exceptions – when a consumer cannot claim

A consumer cannot claim as follows:

- For defects brought to their attention before the sale
- If the consumer examines the goods before purchase, any defects that should have been obvious upon inspection
- For damage they cause or if they simply change their mind about wanting the goods
- If they chose the product for a purpose that is neither obvious nor made known to the trader and they then find that the item is unsuitable for that purpose
- Faults that appear as a result of fair wear and tear

Supply of services

Under the CRA 2015, the following standards apply to every contract for the supply of services:

- The service must be carried out with reasonable care and skill
- Information said or written to the consumer is binding where the consumer relies on it
- The service must be done for a reasonable price
- The service must be carried out within a reasonable time

If the trader breaches the contract by failing to meet any of the above required standards, then the consumer is entitled to repeat performance of the service (at no additional cost) or to a price reduction (only where repeat performance is impossible or cannot be done within reasonable time).

Exceptions – when a consumer cannot claim

A consumer will be unable to make a claim where, despite the service being carried out with reasonable care and skill, it does not achieve the consumer's desired outcome, unless that outcome has been agreed first.

A consumer also cannot claim for damage that they themselves cause, nor if they simply change their mind about wanting the goods or services unless the contract allows them to do so through a cooling-off period or right to cancel.

Digital content

For the first time, the Act now covers digital content as distinct from goods and services, whilst also clarifying that any goods containing digital content are protected by the remedies provided for faulty goods, i.e. the digital content must be as described, fit for purpose and of satisfactory quality.

The Act defines “digital content” as meaning “data which are produced and supplied in digital form”. Examples of digital content include computer games, films/television programmes, computer software, mobile phone apps and systems software for operating goods – for example, domestic appliances, toys, motor vehicles etc.

Under this new provision, the customer is entitled as follows:

- If the digital content is faulty, the customer is entitled to a repair or a replacement
- If the fault can't be fixed, or if it hasn't been fixed within a reasonable time and without significant inconvenience, the customer can get some, or all of their money back
- If the customer can show the fault has damaged their device and the supplier hasn't used reasonable care and skill, the customer may be entitled to a repair or compensation

Most computer systems' software, games and apps have minor defects that are corrected over time with fixes or upgrades. As such, a trader will not be liable for the unsatisfactory quality of a product if any of the following circumstances apply:

- The customer's attention was drawn to an unsatisfactory aspect of the digital content before a contract was made
- Where the consumer examines the digital content before the contract is made and that examination ought to reveal the unsatisfactory aspect
- Where a trial version is examined by the consumer before the contract is made and a reasonable examination of the trial product ought to make the unsatisfactory aspect apparent

However, it is crucial that the digital content must match any description the trader gives to the consumer about it.

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