



BRIEFING PAPER

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Sale of Goods Act 1979

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Contents:

1. Introduction
2. Current legal position
3. Main provisions of SGA 1979
4. Where to go for help and advice



Contents

Summary	3
1. Introduction	4
2. Current legal position	5
2.1 Changes in the consumer landscape	5
2.2 Organisational changes	5
2.3 Main provisions of the new CRA 2015	6
3. Main provisions of SGA 1979	8
3.1 Introduction	8
3.2 Implied terms	8
3.3 Burden of proof	10
3.4 No right to return a good	10
3.5 A manufacturer's product warranty	11
3.6 A retailer's obligation to comply with the law	11
4. Where to go for help and advice	12

Summary

- In consumer contracts for the sale of goods, services and digital content, certain provisions are implied by statute in order to provide protection to purchasers; the provisions derive from the [Consumer Rights Act 2015](#) (the "CRA 2015"). This Act came into force on **1 October 2015** and replaced many of the provisions contained in the [Sale of Goods Act 1979](#) (the "SGA 1979") and the [Supply of Goods and Services Act 1982](#) (the "SOGASA 1982") where there is a consumer sale.
- Since the CRA 2015 does not have retrospective effect, the [SGA 1979](#) will continue to apply to faulty goods purchased by consumers on or before **30 September 2015**.
- It is also important to note that the [SGA 1979](#) and the [SOGASA 1982](#) have not been repealed and still apply to contracts for the sale of goods and the supply of services outside a consumer context (e.g. business-to-business transactions).
- Most of the [SGA 1979](#) and the [SOGASA 1982](#), which prior to the existence of the CRA 2015 provided the buyer with rights in cases of faulty goods, mis-described goods or substandard services, still applies to business-to-business contracts.

The new [Consumer Rights Act 2015](#) (CRA 2015) gives consumers new improved rights to a refund, repair or replacement if something they buy develops a fault. In addition, the CRA 2015 gives a consumer new rights when they buy digital content.

The CRA 2015 came into force on **1 October 2015**, without retrospective effect. This means that the date the consumer purchased the good will determine which legislation applies:

- If the good was purchased on or after **1 October 2015**, then the new CRA 2015 will apply.
- If the good was purchased on or before **30 September 2015** then the SGA 1979 will still apply.

This briefing paper provides a detailed overview of a consumer's statutory rights to return a defective good under the [SGA 1979](#).

There is a separate Commons briefing paper on the new '[Consumer Rights Act 2015](#)' (CBP 6588), which sets out the background to the new Act and the main provisions of **Parts 1** and **2**. Specifically, it considers the new rules which apply to consumer contracts for goods, services and digital content. It also considers the treatment of unfair terms in consumer contracts and notices.

1. Introduction

The [SGA 1979](#) imposes certain “implied terms” into the contract of sale for the benefit of the consumer. For example, an important statutory implied term is the expectation that the purchased good will be of “satisfactory quality”. This includes fitness for any purpose specified, appearance and finish, freedom from minor blemishes, safety and durability. The failure of the product to meet any one of the implied terms may be a breach of the consumer’s statutory rights, enabling the consumer to go back to the retailer for a remedy, even after some months of use.

Also outlined in legislation is the required “burden of proof”; the extent to which the retailer is entitled to ask a customer to prove that an item was faulty when they bought it. The law states that a consumer can approach a retailer with a claim about a good they have purchased for up to **six years** from the date of sale (or **5 years** after the discovery of the problem in Scotland). This does not mean that every good sold has to last six years; it is simply the legal cut off point for bringing a contractual claim. A consumer cannot hold a retailer responsible for fair “wear and tear”.

2. Current legal position

2.1 Changes in the consumer landscape

Over the last few years, the UK's consumer protection regime has been reviewed, dismantled and completely rebuilt. Legislative reforms have been made against a backdrop of structural changes to consumer law enforcement bodies, creating a new consumer landscape. The aim being to empower consumers by creating a simplified and enhanced legal regime that affords greater rights when buying goods, services and digital content.

There have been two drivers of change:

- First, the adoption in October 2011 of the EU [Consumer Rights Directive](#) (2011/83/EC).
- Second, the [CRA 2015](#), which was introduced in the House of Commons on 23 January 2014 and received Royal Assent on 26 March 2015.

The new CRA 2015 represents the biggest overhaul of consumer law for many decades. It applies to all consumer contracts for the sale of goods made on or after **1 October 2015**.

2.2 Organisational changes

In addition to important legislative changes (see below), there have also been significant organisational changes. Notably, the Office of Fair Trading (OFT) closed its doors on 31 March 2014, and has been replaced by the following consumer bodies:

- [Citizen Advice](#) provide consumer advice and education.
- The [Chartered Trading Standards Institute](#) is now responsible for the Consumer Code Approval Scheme.
- Consumer law enforcement is split between the [Competition and Markets Authority](#) (CMA) and [local authority Trading Standards Services](#). Specifically, the CMA is responsible for unfair terms in consumer contracts (e.g. unfair ticket terms and conditions), while Trading Standards Services is responsible for preventing unfair trading practice (e.g. in advertising, promotion and selling practices).
- Consumer protection and education is also carried out by various sectoral regulators, including: the [Financial Conduct Authority](#) (FCA); [Ofcom](#); [Office of Rail and Road](#); [Ofgem](#); [Ofwat](#); and the [Civil Aviation Authority](#) (CAA).

2.3 Main provisions of the new CRA 2015

Box 1: Consumer's rights when buying a good under the CRA 2015

- A consumer has the right to reject the faulty good and get a refund **within 30 days** of purchase.
- The consumer can also ask the retailer to repair or replace a faulty item **within six months** of purchase.
- The consumer's rights against the retailer can last for up to **six years** but the onus is on the consumer to prove a fault was present at the time of purchase after the first six months.
- In addition to rights implied into the contract by the CRA 2015, a consumer can also elect to use a guarantee or warranty if the product develops a fault.

The [CRA 2015](#) applies only to consumer contracts made on or after **1 October 2015**. In a nutshell, the Act is designed to:

- Set out a framework that consolidates in one place key consumer rights covering contracts for goods, services and digital content (Part 1).
- Reform and consolidate the law relating to unfair terms in consumer contracts (Part 2).
- Introduce easier routes for consumers and small and medium enterprises (SMEs) to challenge anti-competitive behaviour through the Competition Appeal Tribunal (CAT) (Part 3).
- Consolidate and simplify enforcers' powers as listed in Schedule 5 to investigate potential breaches of consumer law and clarify that certain enforcers (Trading Standards) can operate across local authority boundaries (Part 3).
- Give the civil courts and public enforcers greater flexibility to take the most appropriate action for consumers when dealing with breaches or potential breaches of consumer law (Part 3).¹

Under the new regime of the CRA 2015, a consumer has the following core consumer rights:

- A right to get what you pay for – all information about the main characteristics of the goods, including statements made in advertising or on labels, to form part of the contract.
- A right to have faults in what you buy put right – clearer tiered remedies in the event that a consumer's rights are breached, including a mandatory 30-day period (from the date of purchase) in which to reject a faulty good and get a full refund. (However, this right doesn't apply to faulty digital content.)

In the first 30-days of purchase: an early right to reject a good and claim a refund

¹ For completeness, I should point out that **Part 3** of the [CRA 2015](#) has also changed the way in which judges are able to sit as chairs in the Competition Appeal Tribunal (CAT); imposes a duty on letting agents to publish their fees and other information; expands the list of higher education providers which are required to join the higher education complaints handling scheme; and includes certain requirements relating to resale of tickets for recreational, sporting and cultural events.

No deductions can be made from a refund in the first 6 months after purchase. The only exception to this is motor vehicles, where a reasonable deduction can be made by the retailer for the use the consumer has had of the vehicle.

If the consumer is **outside the 30-day right to reject**, he/she cannot demand a full refund in the first instance but still has the right to a repair or replacement of the faulty good. But the retailer can refuse if it can be shown that the consumer's choice is disproportionately expensive compared to the alternative.

It is important to note that traders are limited to one opportunity to repair or replace a faulty good, following which the consumer can demand a discount or return the goods and demand a refund. (If the consumer doesn't want a refund or price reduction, they have the right to request another repair or replacement at no cost to them.)

- Right that digital content is fit for purpose – digital content has its own separate regime of rights and remedies applied both to paid-for content (including where paid for with 'virtual currencies') and content that is provided free with other paid for items (e.g. apps and in-app purchases and open source software), and digital content supplied on a physical medium (such as a DVD). Provisions have been drafted to accommodate future developments (for example, content provided in return for consumer data).
- Right that traders perform services with reasonable care and skill, within a reasonable time. The consumer has the right to ask for a repeat performance of services not performed properly or, if that is not possible or done within a reasonable time, the right to a price reduction.
- Unfair terms in consumer contracts - drawing on the recommendations of the Law Commission, the CRA 2015 replaces and expands on the current rules regarding unfair terms in consumer contracts.

In effect, the aim of the CRA 2015 is to create a simple, modern framework of consumer law across all sectors. Of course, if the Act is to achieve its full impact, consumers and traders will need to become adept at using the new regime.

Outside the 30-days right to reject period: the consumer still has a right to a repair or replacement.

Right that digital content is fit for purpose.

Right that services are performed with reasonable care and skill.

Expanded rules on unfair contract terms.

3. Main provisions of SGA 1979

Box 2: Summary of the SGA 1979 (as amended)

The SGA 1979 provides that where there is a consumer contract for the sale of goods, there are the following implied terms:

- Goods must be **as described, of satisfactory quality** and **fit for purpose**.
'Fit for purpose' means both their 'normal' purpose, and also any specific purpose that the consumer agreed with the seller (for example, if the consumer specifically asked for a printer that would be compatible with a particular make of computer).
- Goods sold must also match any sample the consumer was shown in-store, or any description in a brochure.
- If goods purchased are faulty (i.e. in breach of the implied terms), the retailer is in breach of contract and the consumer may have a claim under the SGA 1979.

It is important to note that the SGA 1979 continues to apply to consumer contracts for the sale of goods made before 1 October 2015. After this date, the CRA 2015 will apply.

3.1 Introduction

When a retailer sells a good they enter into a legal agreement or contract with the consumer. In addition to any express terms agreed by both parties at the time the contract is made, the SGA 1979 implies additional statutory terms into the sale contract for the benefit of the consumer.

As a result, a consumer has statutory legal rights if the goods they have purchased do not conform to contract (are faulty). These rights are enforceable against the retailer, not the manufacturer. This is because an individual's legal rights are against the person who sold them the goods, since they have a contract with the seller, rather than with the manufacturer who produced those goods. It is the responsibility of the seller that the goods he sells are of satisfactory quality. The SGA 1979 works on a chain system. If someone claims against a retailer, they, in turn, may claim against the wholesaler, who can claim against the manufacturer.

If a product develops a fault, the consumer has the right to a refund, repair or replacement depending on the length of time they have owned the product.

Statutory implied terms

3.2 Implied terms

Under the SGA 1979 (sections 13 and 14) a consumer has the legal right to expect that any goods they buy be of satisfactory quality, taking account of all relevant circumstances, including: fitness for purpose, appearance and finish, freedom from minor defects, safety and durability. What is regarded as 'satisfactory' will depend, in part, on the price paid, and how the item was described (for example, if the goods in question are very cheap, or second-hand, the buyer cannot demand top quality). Consumers cannot expect a legal remedy in respect of:

If a product develops a fault, the consumer has the right to a refund, repair or replacement depending on the length of time they've owned the product.

- fair wear and tear;
- misuse or accidental damage; or
- if they simply decide they no longer want the item.²

Similarly, consumers cannot expect a legal remedy where goods have faults that they knew about before the sale or that should have been evident on reasonable inspection.

Under the SGA 1979, goods must also be fit for their normal purpose, and fit for any particular purpose that the buyer has made known to the seller. Goods must be the same as they have been described; either by the seller, when describing them or in any written description (for example, in packaging, display signs, etc.).

Legally, a consumer is only deemed to have accepted the goods they have purchased if they have been given a reasonable opportunity to inspect or examine the goods within a reasonable time.³ The Office of Fair Trading (OFT) has stated that inspecting items in a shop is not always considered a reasonable opportunity to inspect; due to the restrictions of packaging. However, a consumer is deemed to have accepted a good (in the legal sense) if they have told the retailer that they have accepted it, or if they have held on to the good for some time after its defective nature has become apparent.

Acceptance of goods

If the good does not conform to contract (i.e. is faulty) and the customer has accepted the goods (in the legal sense), under the SGA 1979, the consumer is entitled to:

- claim repair or replacement of the good; if either a repair or replacement is not possible, or the cost is greater than the value of the item ('disproportionately costly'), or either option is taking an unreasonable amount of time, the consumer may be entitled to:
 - (i) Keep the goods and claim a price reduction from the retailer to compensate them for the fault in the goods (this would usually be the difference between the value of the product in perfect condition and the value of the product in faulty condition); or
 - (ii) Return the goods and rescind the contract altogether and claim a full or partial refund (depending on whether or not the consumer derived some benefit from the good).

If the retailer offers to repair the good, they must do this within a reasonable time, at no additional cost to the consumer and without causing any significant inconvenience. Alternatively, if repair is impossible or unfeasible, the consumer should be offered a replacement good on a 'like for like' basis (and not simply the cheapest and most basic model). If a repair or replacement is not offered, any refund given may take account of any use the consumer may have had of the good

Offer to repair a good

² There are a few exceptions to this rule, including goods sold by mail order or over the internet

³ Section 2, [Sale and Supply of Goods Act 1994](#)

since they took possession of it, and the purchase price reduced by an appropriate amount.

3.3 Burden of proof

Box 3: Burden of proof for a faulty consumer good

- It doesn't matter whether the consumer bought the goods **before or after 1 October 2015** - in the **first six months** from purchase, the onus is on the seller to prove the good was of satisfactory quality when the consumer received it.
- It's not for the consumer to prove that the item was not of satisfactory quality in order to get it repaired or replaced during the first six months after purchase.

Included in the sale of goods legislation is a section on burden of proof.⁴ This outlines whether a retailer is entitled to ask a consumer to prove that an item was faulty when they bought it. If a consumer has accepted the good and is requesting a repair or replacement because the good is faulty, the onus on who is required to prove the fault depends on how long ago the good was purchased:

- Where a faulty good is returned within the first six months of purchase, the consumer has the benefit of a presumption that the goods were faulty when delivered (i.e. the consumer will be entitled to a remedy). If the retailer does not agree, it is for him to prove that the goods were satisfactory at the time of sale.
- After the first six months (and for up to six years) – the retailer is entitled to ask the consumer to prove the item was faulty when they bought it. If they are able to do this they are entitled to a repair or replacement.

Legally, a consumer can approach a retailer with a claim about an item they have purchased for up to six years from the date of sale (or five years from discovery of the in Scotland). This does not mean that everything sold has to last six years; it is simply the legal cut-off point for bringing a contractual claim. A consumer cannot hold a retailer responsible for 'fair wear and tear'.

Limitation period

3.4 No right to return a good

A consumer will have no statutory rights to return a defective good in circumstances where:

- the consumer was aware of the defect before they bought the good;
- the consumer bought the good from a private buyer (i.e. the seller was not acting in the course of business);
- the consumer was invited to carry out a thorough inspection of the product and failed to spot a defect which that inspection ought to have revealed;

No right to return a faulty good

⁴ [Sale and Supply of Goods to Consumers Regulations 2002](#)

- the consumer has changed his/her mind about the product (i.e. they simply decide that do not like it) or the item was not appropriate due to colour, size or style.

3.5 A manufacturer's product warranty

Box 4: Warranties and guarantees under both the SGA 1979 and the new CRA 2015

- Many consumer goods, particularly electrical goods, are sold with a manufacturer's warranty (or guarantee), often for 1 or 2 years.
- Legally, the warranty is a contract between the manufacturer and the consumer (separate from the contract of sale between the consumer and the retailer).
- The terms of warranties vary, but usually provide for the repair or replacement of a faulty item.
- If a product becomes faulty, the retailer may offer to contact the manufacturer on the consumer's behalf, but they are not obliged to do so.
- In addition to any manufacturer's warranty, a consumer will still have rights against the retailer under the CRA 2015 or the SGA 1979 (even if the warranty has expired). A manufacturer's warranty does not replace these statutory rights and retailers cannot ignore them.

There is no obligation on manufacturers to offer warranties (or guarantees). Any rights of redress against the manufacturer, given to the consumer under a product warranty, are in addition to their statutory rights against the retailer. This means that the retailer (not the manufacturer) should be their first port of call when a product turns out to be faulty.

However, if a good has an inherent fault, the retailer cannot evade responsibility by simply referring the consumer to a manufacturer's warranty. A warranty does not replace or limit a customer's statutory rights. If they wish, consumers are entitled to rely on the remedies available to them under sale of goods legislation rather than their rights under a warranty.

Similarly, the fact that a warranty has expired does not mean that the consumer's statutory rights have been extinguished. The SGA 1979 imposes strict liability on the seller; therefore the seller is legally required to assist the consumer if there is a defect with the product.

3.6 A retailer's obligation to comply with the law

A retailer cannot remove a consumer's legal rights, for example, by displaying a notice saying '*We do not give refunds under any circumstances*' or '*credit notes only in the case of faulty items*'.

It is also illegal to mislead consumers about their legal rights. This would be a breach of the [Consumer Protection from Unfair Trading Regulations 2008](#).

4. Where to go for help and advice

As a first step, the consumer could seek free legal advice from his/her local Citizens Advice Bureau (CAB). The [Citizens Advice website](#) contains a useful search tool to help people to find their local CAB. The websites of [Citizens Advice Scotland](#) and [Citizens Advice Bureau Northern Ireland](#) provide the same search facility.

Citizens Advice

Alternatively, if the retailer refuses to properly deal with a complaint about a faulty good, the consumer could complain to the [Consumer Ombudsman](#).

Consumer Ombudsman

If a consumer has bought a good with a dangerous fault, or thinks a company has broken the law or has acted unfairly, then he/she might be able to report them to their local authority Trading Standards office.

Trading Standards

Of course, in the event of a dispute it is far better for the consumer and the retailer to try to reach a satisfactory solution. Where this is not possible, use of a trade association or alternative dispute resolution (ADR) procedure could be considered.⁵ ADR describes a range of methods (such as mediation and arbitration) designed to avoid the need to go to court to enforce legal rights. Usually these methods are a cheaper and quicker route for resolving a dispute. A separate Library briefing paper provides detailed information about the operation of ['Alternative Dispute Resolution \(ADR\)'](#).

Alternative Dispute Resolution (ADR)

A Commons briefing paper, ['Legal Help: where to go and how to pay'](#) (CBP 3207) may also be of assistance.

⁵ Information about Alternative Dispute Resolution schemes should be obtainable from the Community Legal service or a Citizens Advice Bureau

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