



The Consumer Rights Bill

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Overview

- ▶ Bill is divided into three Parts
 - Consumer contracts for goods, services and digital content
 - Unfair contract terms
 - Miscellaneous provisions, including consolidation of investigatory powers and new consumer redress powers under the Enterprise Act 2002



Focus of this session

- ▶ The changes made to consumer rights and remedies in relation to sale and supply contracts
- ▶ The new approach to:
 - the right to reject
 - the hierarchy of remedies
 - services
 - digital content



An ambitious project

- ▶ “A draft Bill will be published establishing a simple set of consumer rights to promote competitive markets and growth” (Queen’s Speech)
- ▶ To give consumers clearer rights in law and to make sure that consumer rights keep pace with technological advances
- ▶ To provide important new protections for consumers alongside measures to reduce regulation for business, all with the aim of making markets work better



Does it work?

- ▶ A key test – the “new” right to reject
- ▶ If the goods do not conform to the contract, consumer has three potential remedies
 - the “early right to reject”
 - the right to repair or replacement
 - the right to a price reduction or the “final right to reject”
- ▶ So this is the simple way forward?



Right to reject

- ▶ Early right to reject applies unless time limit has passed or consumer has accepted the goods
- ▶ Time limit is 30 days after the occurrence of the last of the following:
 - Ownership (or possession if hire/HP) transferred to consumer
 - Goods have been delivered
 - Contract has been completed
- ▶ Explanatory Notes give example of a contract for installation of double glazing – completed when they are installed



A worked example (1)

- ▶ Consumer buys a new car on HP, paying the deposit by way of part exchange of his old car. Dealer sells on the p/x car
- ▶ Brakes fail on the way out of the dealership
- ▶ When does the 30 days start?
- ▶ What “refund” is the consumer entitled to?
 - No right to a refund if the consumer transferred a “thing” that “cannot be given back in its original state
 - So what happens to the deposit?



A worked example (2)

- ▶ Suppose the consumer wants a repair instead
- ▶ If this happens during the time limit for the early right to reject, it suspends that period
- ▶ Time limit is then the later of:
 - 7 days after the waiting period ends; or
 - If later, the original time limit extended by the waiting period
- ▶ But when does the waiting period begin?
 - See clause 21(5) for the three variables



A worked example (3)

- ▶ Suppose the dealer fixes the brakes, but they fail again outside the time limit
- ▶ Consumer can require a price reduction or assert the “final right to reject”
- ▶ Seller can make a “deduction for use” from the refund to the consumer
 - If there is a “proven second-hand value”, the deduction cannot reduce the refund to below that value
 - No deduction if rejection within six months and no proven second-hand value
- ▶ Can you lose the final right to reject by acceptance?



Services – contract terms

- ▶ Much less change in this area
 - Contracts for the provision of services must be performed with reasonable care and skill (just as before)
 - Anything spoken or written to the consumer about the trader or the service is a term of the contract if the consumer took it into account when deciding to enter into the contract or making any decision about the service after entering into the contract (new – ish)



Services – remedies

- ▶ Consumer can ask for a repeat performance, or a reduction in price, if not performed with reasonable care and skill or in line with information provided about the service
- ▶ Price reduction only in the case of service not performed within a reasonable time or not in line with information provided about the trader



Digital content

- ▶ “Data produced and supplied in digital form” – software, music, computer games, “apps”, e-books etc
- ▶ To be treated in line with the regime for goods, so:
 - Has to be of satisfactory quality (freedom from minor defects?)
 - Fit for purpose, including any specified purpose
 - Conformity with description and any trial version



Digital content – some tweaks

- ▶ Issues as to quality where technical problems occur, e.g with downloads
- ▶ Accessibility of interactive products, such as online multiplayer for games
- ▶ Modification of digital content
- ▶ Remedies:
 - No right to reject
 - Repair or replacement
 - Price reduction