



New Consumer Rights Act 2015

In March, the last government passed the Consumer Rights Act 2015, most of which came into force on 1st October 2015.

Why has this law been brought in?

This law brings most of the former consumer rights together into one piece of legislation. This is to try to remedy the current situation, where consumer rights are contained in a hotchpotch of different UK and EU laws. The new Act does also bring in several new rights and remedies for consumers, of which businesses should be aware. A few of the key changes are set out below:

What has changed?

Definition of consumer:- The new Act changes the definition of a 'consumer'. A consumer may now only be an individual. This is a change from some existing law, where companies and other businesses could be classed as consumers in certain circumstances. This does mean that businesses will need to look at their current Terms of Business to check how a consumer is defined and whether these current Terms will work under the new law.

Goods:- The Act contains some additional rights relating to goods for consumers. For example, goods are now treated as not conforming to the contract (and so triggering remedies for the consumer) where the trader incorrectly installs those goods.

Other changes:- The new law brings hire and hire-purchase contracts into the same framework as outright sales of goods, meaning that the same terms (e.g. fitness for purpose) are implied into the contract, although some of the remedies that the consumer has differ slightly from outright sale contracts.

The Act includes a new 'short-term right to reject' for consumers. This reflects a consumer's current right to reject unsatisfactory goods but sets a time-limit of 30 days for a consumer to exercise this right, rather than the 'reasonable time' under current law. The implication for businesses that sell to consumers is that this new right cannot be excluded, for example by imposing a shorter time

on the consumer after which he or she is taken to have accepted the goods. There is a danger that your business may not be able to rely on terms such as this when the new Act comes into force.

The new law includes provisions relating to 'digital content'. This gives consumers of items such as digital downloads similar protections to those currently enjoyed when they buy physical goods. It should also be noted that the goods provisions have been changed so that any digital content supplied with goods (e.g. the software in 'smart' appliances) must conform to the contract and that the goods themselves will not conform if this digital content is defective.

Services:- The laws relating to services are now covered by the same Act as goods supplied to a consumer. The consumer's existing rights relating to services have been preserved in the new Act with some additions.

For example, statements that the trader makes about the services could become part of the contract if the consumer takes them into account in making his or her decision. This means that businesses should be extremely careful in their marketing to consumers, since any statement could potentially be relied upon by the consumer as part of the contract and used against the trader.

The new Act also includes new remedies for defective services, available in certain circumstances. These are a right to require the trader to perform the service again and a right to a price reduction. The Act also restricts a trader's ability to limit its liability to a consumer relating to its services by, for example, stating that its liability is limited to the price of the services.

Unfair Terms and Notices:- The new Act replaces the existing legislation on unfair terms and notices aimed at consumers. The main change is that notices to consumers, for example signs in a shop, are now brought into the same regime as contract terms.

This means that notices may now be ineffective against consumers if they are deemed to be 'unfair'. An example might be a sign in a shop that states 'No Refunds' as this seeks to limit a consumer's statutory rights.

There is now also a requirement, similar to that for contracts, that consumer notices be 'transparent'. This means that businesses must make sure that any notices to consumers are sufficiently legible and written in clear language.

What should you do?

This new Act mostly consolidates existing law on this matter. However, it will still be worth checking your business's Terms and Conditions on which it supplies goods and/or services to consumers to make sure that they are ready for when the new law comes into force.

It would also be a good idea to make sure that your staff who deal with consumers are aware of the new law and the new rights enjoyed by consumers and to put policies in place to deal with these.

If you need your business's Terms and Conditions to be reviewed by a specialist legal adviser, then do not hesitate to contact Marina Maclennan or Ciaran Keane on 0117 929 2811.

Disclaimer: This does not constitute legal advice and is no substitute for taking advice from a regulated legal adviser.

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