

CUSTOMERS have long had various warranty, return and refund rights under different state, territory and federal laws—but often buyers and sellers have not understood this or have not understood exactly what they can and should do.

From 1 January this year these different laws across Australia have all been replaced with one single, national law: the Australian Consumer Law (ACL).

The ACL outlines the rights all consumers automatically have whenever they buy, lease or hire a product or service. Consumer goods and services bought on or after 1 January 2011 anywhere in Australia come with a number of 'consumer guarantees'.

The law is not a radical change from the previous system and the underlying principle stays the same: suppliers must give consumers a remedy when goods or services don't meet a certain standard, aren't as described or don't do what they're supposed to do.

Suppliers and manufacturers often sell extended and voluntary warranties. These warranties are separate to rights under the consumer guarantees. So consumers may still have rights under the guarantees after the voluntary or extended warranty has ended.

Some stores will offer a refund or exchange when there is no problem with goods but the customer no longer wants them—so-called 'change-of-mind' returns. But this is not a specific right provided by the ACL.

What do the consumer guarantees apply to?

The guarantees apply to all goods and services costing up to \$40 000 and also to those goods which cost more than that, but are normally bought for personal, domestic or household use or consumption. The guarantees also apply to all vehicles and trailers that are generally used to transport goods on public roads, whatever they cost.

The consumer guarantees do not apply to goods bought for re-sale or to be transformed, then sold.

Consumer guarantees

You bought it, took it home, opened the box and—uh oh—it doesn't work. What are your consumer-law rights when you buy a good or service and then hit trouble like this?

What rights are guaranteed?

Suppliers and manufacturers guarantee that goods:

- › are of acceptable quality—that is, they are reasonably safe, durable and defect-free, are acceptable in appearance and suitable for their normal use, and
- › match any description given to the goods.

Suppliers and manufacturers also guarantee any extra promises they make about the goods.

Suppliers guarantee that goods:

- › are fit for any disclosed purpose—If a consumer tells a supplier that they want a product for a particular purpose and they buy it based on the supplier's claims or expertise, the seller guarantees it will meet your purpose—but not if the consumer buys it despite the seller advising it will not do so
- › match any sample or demonstration model shown to the consumer before purchase
- › come with 'clear title', they don't carry any hidden securities and no-one has a legal right to take the goods or stop the consumer using them.

Manufacturers guarantee repair facilities and spare parts will be reasonably available for a reasonable time.

Service providers guarantee that they will use an acceptable level of care and skill and that services will achieve any disclosed purpose or result. Services must also be provided within a reasonable timeframe if the contract does not specify one.

What happens if the guarantees aren't met?

If a guarantee is not met then the consumer is entitled to seek a remedy—generally replacement, repair, resupply of the services or a refund.

The consumer is entitled to the remedy regardless of whether they have the original packaging. If the consumer no longer has a receipt, alternative proof of purchase, for example a signed and dated warranty card or lay-by document, is enough.

If the guarantees of acceptable quality or matching description have not been complied with, consumers are entitled to seek a remedy from the supplier or the manufacturer. A supplier cannot tell a customer that they must deal with the manufacturer. Suppliers may, however, choose to send the goods back to the manufacturer to identify the problem and fix it.

The appropriate remedy will depend on how serious the problem with the goods or services is. If the problem is major, or cannot be fixed in a reasonable time, the consumers are entitled to choose whether they would prefer a refund, a replacement or to seek compensation for any drop in value from the price paid. If the problem with the good or service is minor, the supplier or service provider can choose to fix the problem with the goods or services, replace the good or give a refund.

If the problem with the goods or services causes other loss or damage—for example, an air conditioner leaks and damages carpet—the consumer may also seek compensation.

Consumers will not be entitled to a remedy if they have misused the goods or have been careless.

