

Contracts

A lot of consumer law is the basic contract law. The consumer must show that he had a contract with the supplier of goods or services, show that the buyer is in breach of this agreement, and convince the supplier that he would have a good chance of winning if he took the case to court. Contracts between businesses are usually full of detailed agreements, but everyday transactions involving private individuals are more informal. Very little is written down or even spoken, and the consumer must show that a contract has been implied by law. To help him there are consumer laws implying certain terms into consumer agreements.

In English law, for example, the 1979 Sale of Goods Act implies a term that the seller has a right to sell. This protects the honest buyer from a seller who had no right to sell goods because they had been stolen. Another implied term is that goods correspond to any description given to the buyer. Another is that they be of "merchantable quality" - but this only applies if the seller is in business. When buying from a private seller the buyer may have to rely on express terms about quality. The 1982 Supply of Goods and Services Act implies similar terms regarding services. It also implies that services must be provided with reasonable care at a reasonable cost and within a reasonable time. In deciding what is reasonable an English court will refer to similar previous cases. However, the most important guideline is usually common sense in the context of the transaction in question.

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This means that the buyer has the right to discharge the contract - to refuse the goods - if the terms are breached. He may also be entitled to damages. But where services are concerned, the implied terms are intermediate stipulations. This means that the consumer may only refuse the services if this is reasonable in the circumstances. The court may decide that he must accept work which has been done, but award him damages where the work has been done badly or too slowly or at too high a cost.

A difficult problem in consumer law is deciding who is responsible when goods are lost in delivery or delivered late. If no express agreement has been made about this, the Sale of Goods Act provides complicated rules. In general, the buyer has no responsibility until the time he takes possession of the goods. If goods arrive late he may be able to discharge the contract (refuse delivery) if he can show that time was of the essence (of vital importance). Sometimes this is implied by the nature of the transaction – for example, a contract to deliver fresh food or newspapers. In other cases, the consumer may make time of the essence by specifying a time for delivery. In the 1950 case of *Richards vs. Oppenheimer*, the buyer of a car continued to ask for delivery even after the date in the contract had passed. This implies that he had given up (waived) his right to discharge the contract for late delivery. However, he then gave the supplier another 30 days to deliver. Time was once again of essence and when the car was finally delivered more than 30 days later the buyer was entitled to refuse the car and to refuse to pay any money.