



CONSUMER AFFAIRS

BERMUDA

Promoting Confident Consumers and Responsible Traders



The Laws and You

Acts



- Sale of Goods Act 1978 (as amended 2002) – civil. Sets out the law on sales of goods in Bermuda.
- Supply of Services Act 2003 – civil. Sets out the law on how services should be supplied.
- Consumer Protection Act 1999 – **criminal**. Sets out the law on unfair businesses practices, unconscionable acts and consumer safety.

Why You Should Know the Sale of Goods Act



- Civil Act
- Main piece of legislation to assist buyers to obtain redress when purchases go wrong
- It's in the interest of anyone who sells goods to understand the implications and their responsibilities under the Act
- Can use the knowledge to positively enhance customer relationships

Your **Legal** Responsibilities When Selling Goods



- Must have clear title to sell the goods.
- Goods sold must
 - Conform to contract
 - Be fit for their purpose
 - Be of satisfactory quality
 - ✦ Durable
 - ✦ Safe
 - ✦ Free from minor and major defects
 - ✦ Match their description
- All descriptions whether verbal, written, implied or given in an illustration must be accurate and not misleading.
- This also applies to goods sold by sample.
- You could be held liable for goods you supply which causes any damage, injury or death.

Responsibilities for Delivery of Goods



- Payment and delivery are concurrent unless otherwise agreed
- If not specified, goods must be delivered within a reasonable time
- If the quantity of goods is less than or more than contracted for, the consumer can reject some or all of the goods
- If the goods are mixed with goods of a different description not included in the contract, the consumer can reject some or all of the goods
- The consumer is not bound to accept delivery of goods by installment unless it has been agreed

What About Warrantees?



- Warrantees are offered by manufacturers of products
- It is an agreement to provide some benefit for a set period of time in the event of the goods being defective
- They are legally binding
- They are in addition to the consumer's statutory rights under the Act
- A supplier of goods cannot refuse to deal with a customer's complaint about a faulty product on the grounds that the warranty has expired

Breach of Contract



- If you sell goods that do not conform to contract, then you are *legally obliged* to resolve the problem if your customer seeks redress
- *If a customer wants to reject faulty goods it must be within a reasonable time
- If they reject faulty goods within this reasonable time, they are entitled to ask for their money back
- In the first 6 months the onus is on **you** to prove there was no fault at the time of the sale
- After 6 months the onus is on the **customer** to prove there was a fault at the time of the sale
- Customers have up to 6 years to claim compensation

Refund, Repair or Replacement



- If the faulty goods were purchased in a reasonably short time, then you should offer a refund
- If they ask for a repair or replacement honor their request. But if it is impossible or disproportionately expensive to repair a product, a replacement instead
- If neither a repair or replacement are practical options, then you can offer a partial or full refund if it is cheaper for the business
- When considering whether or not to give a partial or full refund, you need to take into consideration the benefits the consumer has gained since they bought the good

Why You Should Know the Supply of Services (Implied Terms) Act 2003



- Civil Act
- It applies to all businesses that supply a service
- It's in the interest of anyone who sells services to understand the implications and their responsibilities under the Act
- Can use the knowledge to positively enhance customer relationships

Your **Legal** Responsibilities When Supplying Services



- The supplier of the service will:
 - Carry out the service with reasonable care and skill. This is the same reasonable care and skill that is set by a person trained and practiced in that discipline
 - Will carry out the service within a reasonable time. Where a date has not been set for completion, the customer is legally entitled to have the work done in a reasonable time
 - Will charge a reasonable price

Remedies



- If a customer justifiably believes reasonable care and skill has not been done, the work must be put right at NO EXTRA COST to the customer.
- If you charge a customer more for the service than was agreed, the customer is only obliged to pay the price you quoted them. If no price was agreed, they must pay you a reasonable price.
- If you do not complete the work by an agreed deadline then you are in breach of contract. The customer can claim compensation for ANY losses.

Consumer Protection Act 1999

Nine Things You Must Know



NINE THINGS YOU SHOULD KNOW

1. The words “Estimate and Quote” now have a legally binding definition.
 - **Estimate** – a statement or representation, proposal whether written, oral or implied which is a provisional guide to the price that will be charged in respect of consumer goods or services
 - **Quote** – a detailed written statement dated and signed by both the supplier and the consumer, giving the price to be charged in respect of consumer goods or services



- a) Businesses will be held accountable for their estimates and quotes, under estimating will no longer be acceptable.
- b) Businesses will have to prepare proper professional costing for goods and services.



2. Businesses will be in violation of the Act if they engage in aggressive behavior towards a consumer. This is an action that is used to intimidate the consumer into complying with the businesses will. This behavior is often carried out by those who solicit work door to door.

3. When entering into an agreement with a consumer for goods or services you cannot have an agreement that is unjust, extremely one-sided in favor of the business, taking advantage of a consumer who is in a position of weakness i.e. mentally impaired, illiterate etc.



4. Businesses are now required to provide the consumer with all material information pertaining to the goods or services being offered. This affords the consumer the right to make an informed decision based on all the facts.
5. Businesses will be required to obtain the consumer's permission before they can proceed with providing additional goods or services outside the parameters of the original agreement. For example if a client brings in a clock to have its arms repaired the technician cannot repair any other problems discovered without first getting the expressed permission of the consumer.
6. Businesses will no longer be allowed to place liens on the consumer's property for the purpose of inducing them into paying for unauthorized services or goods.



7. Businesses will have thirty days to refund consumers their money from the date of their request. The circumstance where this is applicable is where the business has failed to supply or substantially supply the goods or services under the agreed terms and conditions.
8. There are new penalties for businesses found guilty of committing an unconscionable representation or an unconscionable act.
 - a) The Courts can now order compensation or award remedies to a consumer.
 - b) The Courts can award exemplary or punitive damages against those businesses found guilty under the Act.
9. If a business induces a consumer into entering an agreement by means of an unfair business practice the consumer may rescind the agreement and within six months claim a remedy by giving notice to the business in writing.