

• **Contacts**

Lloyd Collins

lloyd@collinsmay.co.nz

DD: 576 1403

Paul May

paulm@collinsmay.co.nz

DD: 576 1400

Eugene Collins

eugene@collinsmay.co.nz

DD: 576 1407

Nicola Goss

nicola@collinsmay.co.nz

DD: 576 1404

Paul Whitmarsh

paulw@collinsmay.co.nz

DD: 576 1409

Davina Rowan

davina@collinsmay.co.nz

DD: 576 1411

Amy Haste

amy@collinsmay.co.nz

DD: 576 1405

Michael Moohan

michael@collinsmay.co.nz

DD: 576 1417

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The Consumer Guarantees Act - Supply of Goods

— By Davina Rowan



The aim of the Consumer Guarantees Act 1993 (“the Act”) is to protect consumers during transactions with parties acting in business and trade for the supply of goods and services for personal, domestic or household use.

The Act does not apply if the goods are supplied:

- In any other manner than trade;
- By auction or tender;
- By a charitable organisation (in only some situations);
- To a purchaser with the intent to resell them or to be used to create a product to sell.

For example:

- A business selling vacuum cleaners for use in the home is subject to the Act;
- A business selling vacuum cleaners for commercial cleaning is not covered by the Act;
- A person selling his/her second hand vacuum cleaner on trade me is not covered by the Act;

If a transaction is covered by the Act, the supplier of goods guarantees:

- That the supplier has the right to sell that good;
- That the goods are of acceptable quality in appearance, finish, are free from minor defects, safe, durable and fit for all purposes for which that type of good is commonly used;
- That if the consumer has told the supplier what use they

want the product for, then the product is fit for that described use;

- That the product matches the description given;
 - That the supplier is selling the product at a reasonable price;
 - That should the product need repairs, there are spare parts available for repair and they remain available for a reasonable time after purchase.
- To remedy a breach of the Act in regard to supply of goods, a supplier can:
- Take action to ensure that they have the right to sell the product;
 - Repair the product;
 - Replace the product;
 - Refund the price if the product cannot be repaired.

The consumer has the right in certain circumstances to reject the good at time of supply and demand a refund.

A claim for a breach of one of the guarantees of the Act must be made within six years of that breach being made.

A supplier cannot demand or expect a consumer to waive their rights pursuant to the Consumer Guarantees Act.

For example: Jodi wants a new sofa and meets with Mr Bad Stuff of Mr Bad Stuffs Furniture

Creation. Jodi explains the sofa she wants and explains that the sofa is for her lounge and that she frequently has visitors who will sit on the sofa. Jodi signs a contract for the supply of the sofa, which states the Consumer Guarantees Act does not apply. Within one week of the sofa being delivered the fabric is torn and one leg is broken. Jodi complains to Mr Bad Stuff who says too bad you signed the contract.

Jodi contacts the Commerce Commission who is the watch dog for New Zealand consumers. The Commerce Commission advises:

- Mr Bad Stuff has breached the guarantee to acceptable quality;
- Mr Bad Stuff has breached the guarantee to fitness for purpose;
- That even though he has stated that he is not bound by the Act, he is.

Jodi therefore has the right to request that the sofa be repaired or replaced or that if Mr Bad Stuff is not willing to repair the sofa that he refund all her money.

If you have any queries regarding the Consumer Guarantees Act or the supply of goods and services please don't hesitate to give us a call.

Next Newsletter—Failure of Gifts in the Will.