

Refunds for goods

'No refund' and other signs

Signs that state 'no refunds' are unlawful, because they imply it is not possible to get a refund under any circumstance – even when there is a major problem with the goods or service.

For the same reason, the following signs are also unlawful:

- no refund on sale items
- exchange or credit note only for return of sale items.

Signs that state 'No refunds will be given if you have simply changed your mind' are acceptable.

What if a consumer changes their mind?

You do not have to give a refund when a consumer simply changes their mind about the goods.

But you can have a store policy to offer a refund, replacement or credit note when this happens. If so, you must abide by this policy.

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Who has to fix a problem with goods?

When goods fail to meet a guarantee, a consumer has a right to a remedy – an attempt to put the situation right. Common remedies include repair, replacement and refund.

The **supplier** has to provide the remedy when goods do not meet the following consumer guarantees:

- fit for any disclosed purpose
- match sample or demonstration model
- title
- undisturbed possession
- undisclosed securities.

The **manufacturer** has to provide the remedy when goods do not meet the consumer guarantee on repairs and spare parts, and any express warranty. The importer is responsible for these things when the manufacturer does not have an office in Australia.

The consumer can claim from the manufacturer and the supplier, if goods:

- are not of acceptable quality
- do not match description.

Whether you offer a repair, replacement, refund or other remedy depends on whether the problem is:

- major – cannot be fixed or too difficult to fix
- minor – can usually be put right.

Consumer guarantees apply to both. When goods fail to meet a consumer guarantee, the consumer can also claim for consequential losses – compensation for their costs in time and money because something went wrong.

Handling major problem with goods

For major problems, the consumer can choose to:

- reject the goods and get a refund
- reject the goods and get an identical replacement, or one of similar value if reasonably available, or
- keep the goods and get compensation for the drop in value caused by the problem.

A major problem with goods is when:

- a reasonable consumer would not have bought the goods if they had known about the problem. For example, no reasonable consumer would buy a washing machine if they knew the motor was going to burn out after three months.
- the goods are significantly different from the description, sample or demonstration model shown to the consumer. For example, a consumer orders a red bicycle from a catalogue, but the bicycle delivered is green.
- the goods are substantially unfit for their normal purpose and cannot easily be made fit, within a reasonable time. For example, a ski jacket is not waterproof because it is made from the wrong material
- the goods are substantially unfit for a purpose that the consumer told the supplier about, and cannot easily be made fit within a reasonable time. For example, a car is not powerful enough to tow the consumer's boat, because its engine is too small – despite the consumer telling the supplier they needed the car to tow a boat.
- the goods are unsafe. For example, an electric blanket has faulty wiring.

Handling minor problems with goods

If the problem is not major and can be repaired within a reasonable time, the consumer cannot reject the goods and demand a refund.

They can ask you, as the supplier, to fix the problem. You may choose to:

- provide a refund
- replace the goods
- fix the title to the goods, if this is the problem
- repair the goods. It is your responsibility to return goods to the manufacturer for repair. If the cost of repairing the goods is more than the value of the goods, you could offer the consumer a replacement instead.

When a consumer rejects or returns goods

A consumer must tell you if they intend to reject goods, and explain why. They must:

- return the rejected goods to the supplier, or
- ask the supplier to collect the rejected goods, if the goods cannot be returned without significant cost to the consumer.

A consumer cannot reject goods when:

- the goods have been thrown away, destroyed, lost or damaged through no fault of the supplier, after delivery to the consumer
- the goods have been attached to other property and cannot be removed without damage. For example, removing wallpaper will damage it
- too much time has passed. The right to reject the goods runs from the date of supply to the consumer, until the fault or problem would reasonably be expected to appear. This depends on:
 - the type of goods
 - how a consumer is likely to use the goods
 - the length of time the goods could reasonably be used, and
 - the amount of use the goods could reasonably be expected to tolerate before the problem or fault became apparent.

Who is responsible for returned goods?

When the consumer tells you they are returning the goods, the goods become your property. You are responsible for any loss or damage to the goods from this time.

The consumer must return the goods to you unless the cost of returning, removing or transporting is significant – for example, the size makes transportation costly.

If so, you must collect the goods at your own expense and within a reasonable time.

Examples of goods you would have to collect:

- a 127 cm LCD TV
- a bed
- a swimming pool filter connected to a pool by fixed pipes
- an extension ladder stuck in the extended position.

Refunds

You must repay any money paid by the consumer for the returned goods, and return any other form of payment made by the consumer – for example, a trade-in.

If this is not possible, you must refund the consumer the value of the item.

You must not:

- offer a credit note, exchange card or replacement goods instead of a refund. A consumer cannot accept this kind of offer
- refuse a refund, or reduce the amount, because the goods were not returned in original packaging or wrapping.

Replacements

You must provide goods of the same type and similar value. If such a replacement is not reasonably available, the consumer may choose a repair or a refund.

The consumer must return goods to you. If this involves significant cost to the consumer, you must collect the goods at your own expense.

The consumer guarantees that applied to the original goods will apply to the replacements.

For example, a consumer buys a new mobile phone. Due to a problem, the supplier replaces it. Consumer guarantees apply to the replacement phone as if it were a new mobile phone.

Repairs

What if I can't repair the goods?

If a supplier cannot repair the goods (for instance, because the supplier does not have the requisite parts) or cannot do so within a reasonable time, the consumer can:

- reject the goods and seek either a refund or replacement, or
- have the goods fixed elsewhere and claim reasonable costs from the supplier.

For example, several buttons came off a consumer's new shirt due to poor stitching. The tailor who made the shirt could not supply matching buttons. The consumer is entitled to ask for a replacement or refund.

How long do I have to fix the goods?

You must fix the problem within a reasonable time. What is 'reasonable' will depend on the circumstances.

For example, a supplier would be expected to respond quickly to a request for a repair to an essential household item, such as a water heater. For goods used less often, such as a lawnmower, the reasonable time for repair would be longer.

What if I refuse, or take too long to repair the goods?

If you refuse or take more than a reasonable time to repair the goods, the consumer can:

- take the goods elsewhere to be fixed and ask you to pay reasonable costs of this repair
- reject the goods and ask for a refund, or
- reject the goods and ask for a replacement, if one is reasonably available.

There are some restrictions on this – see When a consumer rejects or returns goods.

You cannot reduce a refund when the consumer has brought the goods back without their original packaging. See When the consumer chooses a refund. Consumer guarantees will also apply to replacement goods. See When the consumer chooses a replacement.

When the consumer takes goods elsewhere for repair

If the consumer has no option but to take goods elsewhere for repair, they do not have to get your agreement or provide quotes. However, you only have to pay the 'reasonable costs' of repair.

A reasonable cost would be within the normal range charged by repairers of such goods, and include:

- the cost of the repair
- any other associated costs incurred by having the goods fixed elsewhere, such as transport costs.

For example, the zip on a pair of trousers breaks after one week. The retailer tells the consumer the repair will take a month. The consumer explains he needs the trousers for work urgently but the retailer offers no other option. The consumer gets the zip replaced by a tailor for \$35. When the consumer asks the retailer to pay for this, the retailer says that their dressmaker would have done it for \$15. If the higher price is a normal price for a tailor (not a dressmaker) to fix the trousers, the retailer would have to reimburse the consumer.

Prescribed requirements for repairs of consumer goods

A repairer of goods (whether or not this is the supplier) must notify the consumer of particular information before accepting the goods for repair.

Repairers that fail to comply may face:

- a civil penalty of \$50,000 for a body corporate and \$10,000 for an individual
- a criminal penalty for the same amount
- an infringement notice
- legal action (for example, an injunction) by either a consumer protection agency or the consumer.

Services connected to returned goods (linked service contracts)

Consumers often buy goods linked to certain services. An example is a mobile telephone, often linked to a contract for network services.

A consumer who has returned goods within a reasonable time and is entitled to a refund, may also cancel the linked service contract. They can do this when returning the goods, or within a reasonable time.

Such contracts do not terminate automatically.

For example, a consumer signs up for a package that includes a modem and internet access. She rejects the modem because it turns out to be faulty but chooses to keep her internet connection. Alternatively, she could reject the faulty modem and cancel the connection.

A consumer who cancels a linked service contract is entitled to a refund or can refuse to pay for any services not yet received.

You do not have to give a refund for any services the consumer has received up to the time they reject the related goods.

For example, a consumer subscribes to 12 editions of a cooking magazine for \$200, including \$80 for delivery. She receives only three editions in six months, so cancels the subscription and delivery. The supplier must refund \$150 for nine magazines not received - \$90 for the magazines and \$60 for delivery.