

# Returns & Refund Policy



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## OVERVIEW

The Trade Practices Act 1974 (the Act) protects consumers when they buy goods and services.

It does so by saying that there are legal rights and obligations in every contract between a buyer and a seller. For example, the law requires that goods must be free of defects, and do what they are meant to do. Services must be carried out with care and skill.

Consumers' rights, which the Act says automatically form part of every contract between buyer and seller, are called statutory rights.

If a seller of goods or services does not meet any one of the obligations, it is a breach of their contract with the consumer. When this happens, consumers are entitled to a remedy from the seller.

The type of remedy depends on the circumstances but may include repair or replacement of goods, compensation for loss or damage, a refund or having an unsatisfactory service performed again.

Statutory rights have no set time limit – depending on the price and quality of goods, consumers may be entitled to a remedy after any manufacturers' or extended warranty has expired.

In addition to the legal obligations that the Act says are a part of any contract between a consumer and a seller, some businesses offer extra promises about their goods and services, even though the law does not require them to.

These promises, often called voluntary or extended warranties, provide extra customer protection if problems arise after a sale. Voluntary and extended warranties may also entitle consumers to a refund, replacement or repair in the event of a problem.

This kind of promise, if it is offered, is in addition to consumers' statutory rights – statutory rights cannot be overruled.

## WHO IS A CONSUMER?

The statutory rights in this guide apply to people who fit the definition of a consumer.

The Act says a 'consumer' is a person or corporation who acquires:

- Goods or services normally meant for personal or household purposes
- Any other type of goods or services costing less than \$40 000
- A commercial road vehicle or trailer used mainly
- to transport goods on public roads.

A person or business that acquires goods in order to on-sell them or to make a profit is not a consumer.

## GOODS AND SERVICES: WHAT THE LAW REQUIRES IN EVERY SALE

Every time a consumer buys goods or services, they are entering into a contract with the seller.

The Act says every one of these contracts contains a number of obligations that sellers must honour. In legal language, these are 'implied' into the contract and exist even if they are not set out in writing.

There are two types of **statutory obligations** implied into contracts by the Act: statutory conditions and statutory warranties.

**Statutory conditions** are the essential terms of a contract – that is, they 'break' the deal between consumer and seller if they are not met.

**Statutory warranties** are secondary considerations that are important but do not necessarily 'make or break' the deal in the same way as statutory conditions.

## SUPPLY OF GOODS

In all contracts for goods, consumers are protected by the inclusion of a number of statutory conditions and statutory warranties.

The **statutory conditions** require that:

- 1) Goods must be of merchantable quality – they must meet a level of quality and performance that would be reasonable to expect, given their price and description. They should also be free from defects that were not obvious at the time of purchase.
- 2) Goods must be fit for their intended purpose – they should be suitable for any particular purpose the buyer made known to the seller
- 3) The goods must match the description given to the consumer, or the sample shown.
- 4) A consumer must receive clear title to the goods – that is, the seller must be entitled to sell the goods.

The **statutory warranties** require that:

- 1) The consumer will enjoy quiet possession of the goods.
- 2) The goods are free from any charge or encumbrance not disclosed or known to the consumer.

# CONSUMERS' LEGAL RIGHTS

## Problems with goods – remedies

If goods do not meet a statutory condition or statutory warranty, it is a breach of the contract between buyer and seller. When this happens, consumers are entitled to a remedy from the seller. Types of remedies include refunds, having goods replaced or having goods repaired.

The form of remedy depends on a number of factors, including when the problem arose and whether the problem relates to a breach of a statutory condition or statutory warranty.

## REFUNDS

In accordance with the Act, there are some circumstances where consumers are entitled to receive a full refund for goods that breach a statutory condition.

A consumer in this instance is entitled to receive a full refund when they cancel (or 'rescind') their contract of sale with the Vocal.

Under the Act, the consumer has the right to cancel the contract and get a refund limited to 14 days of entering into the contract which is considered to be a reasonable timeframe in order to ensure that the goods have not been used extensively or are soiled.

Under the Act, the consumer also has the right to cancel a contract for goods that breach a statutory condition by:

- returning the goods to Vocal (at the consumers expense), having first notified Vocal of the problem, within 14 days a

reasonable time after the consumer has had a reasonable opportunity to inspect the goods

- not disposing of, losing or destroying the goods.

To cancel a contract of sale, the consumer must also:

- have taken reasonable care of the goods
- not have damaged the goods by using them in a way they were not meant to be used
- be able to prove they bought the goods from the seller.

If a consumer cancels their contract of sale with the seller, they are entitled to insist on a full refund. A seller may not insist the consumer receive another form of remedy (such as repair or replacement goods) or insist that the refund be issued as store credit.

A consumer is generally entitled to receive any refund in the form of their original payment. For example, if they paid for an item with a credit card, it is reasonable for the seller to give the consumer a credit card refund.

Consumers may not receive a refund on the grounds where it is understood that they had simply had a "change of heart" or changed their mind". In such cases, Vocal is entitled to refuse a refund and/or return.

In the event that a return is approved for refund, we will initiate a refund to the original method of payment only.

Consumers will receive the credit within 10 business days, depending on the original payment method or card issuer's policies.

## SHIPPING COSTS

Consumers will be responsible for paying for your own shipping costs for returning any goods.

Shipping costs are non-refundable.

If you receive a refund, the cost of the original shipping cost or any return shipping cost will be deducted from your refund.

## OTHER TYPES OF REMEDIES

If a good does not meet a statutory condition or statutory warranty after a consumer has owned it for some time or used it a lot, it is still a breach of contract. However, the consumer may not be entitled to rely upon the right under the Act to cancel or rescind the contract and claim a full refund.

In these cases, the consumer may still be entitled to another form of remedy from the seller for the breach of contract, such as:

- the replacement of the goods, or the supply of equivalent goods
- repair of the goods, or paying for the cost of repair.

It is up to the consumer and seller to negotiate a solution that is acceptable to each party. If the consumer and seller cannot negotiate a remedy, a court or tribunal may decide what is reasonable in the circumstances in accordance with the law.

As a guide, if a seller breaches a contract with a consumer because a good does not meet a statutory condition or warranty, the consumer will be entitled to a remedy which puts them in the same situation as if there had been no breach of contract.

Having a good repaired is one of the most common ways this result can be achieved.

## **CONSUMERS' RESPONSIBILITIES – GOODS**

The law aims to give consumers and sellers a fair go. It is not designed to protect consumers if they are careless or make unreasonable demands.

There are several circumstances when consumers are not entitled to a remedy from the seller.

Sellers do not have to give refunds, credit or exchanges if consumers:

- change their minds, decide they do not like the goods or have no use for them (except in cases where other legislation provides for a 'cooling off' period – for example, door-to-door sales)
- discover they can buy the goods cheaper elsewhere (except where the seller provides a guarantee that the goods cannot be purchased cheaper elsewhere)
- examine the goods before buying and ought to have seen any obvious fault
- had the defect drawn to their attention before buying (for instance, when goods were labelled as seconds, or faults were clearly marked)
- damage the goods by using them in a way they were not meant to be used.



## DISPUTES ABOUT GOODS

Further to our Complaints Handling Policy, if Vocal believes goods have met all the statutory conditions and statutory warranties, or that a fault was caused by the consumer, we may refuse to provide the consumer with a remedy. Alternatively, a consumer may not think the remedy offered to them is reasonable or appropriate.

In such rare situations, consumers may consider options to remedy the matter put to them or have the right to refer the matter to the ACCC to investigate complaints and take action if there was found to be a breach of the Act – for example, by engaging in misleading or deceptive conduct (see the Misleading consumers about their rights section of this guide for more information).

Complaints can be made to the ACCC Infocentre on 1300 302 502.

## CONTACT INFORMATION

If you require further information regarding Vocal's Returns and Refunds Policy, you can contact Vocal Customer Service Centre on:

Telephone: **1300 796700**

Vocal Channels Pty Limited  
PO Box 1020  
Surry Hills NSW 2010

Questions about the Returns and Refunds Policy should be sent to us at **[info@vocal.com.au](mailto:info@vocal.com.au)**



Retail Service Provider of



**1300 796 700** | [www.vocal.com.au](http://www.vocal.com.au)

Vocal Channels Pty Limited  
(ABN 44 131 307 858) PO Box 1020, Surry Hills NSW 2010

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Hours: 9am - 6pm AEST Mon - Fri  
[support@vocal.com.au](mailto:support@vocal.com.au)