

S 10 Going South - Consumer Issues

This leaflet is for you if you live in the North and you want to go South to live or to shop. It describes your rights as a consumer of goods and services and the various agencies to which you may complain. It does not deal with transactions between businesses. It covers the general rules – there is not enough space to give all the details. You may get further information from the addresses and websites listed.

The information in this leaflet was compiled in January 2006. Subsequent changes may affect the accuracy of the content.

Consumer Rights

In general, consumer law in the South is broadly similar to consumer law in the North. It is mainly concerned with ensuring that you, the consumer, have information about prices and quality in order to facilitate your making a choice about what to buy. It is also concerned with ensuring that goods and services are safe, that ingredients in food are listed and that unfair terms are not used in consumer contracts.

Your rights as a consumer in the South are the same whether you live in the South or the North. There is a range of bodies which may help you to enforce your rights. Some of these are likely to change in the near future. A new National Consumer Agency has been established on an interim basis. It is proposed that this agency will be established on a statutory basis to promote and protect consumer interests and take over the functions currently exercised by the Office of Director of Consumer Affairs (ODCA)(See below).

National Consumer Agency
Wilton Park House
Wilton Place
Dublin 2
Consumer Helpline Lo-call 1890 432 432
E-mail: info@consumerconnect.ie
www.nca.ie
www.consumerconnect.ie

The Department of Enterprise, Trade and Employment has responsibility for consumer policy. www.entemp.ie

The European Consumer Centre provides information and advice on your rights and entitlements as consumer within the European Union and may be able to help you if your complaint has a cross border dimension:

European Consumer Centre
13a Upper O'Connell St.,

Dublin 1
Tel (01) 809 0600
E-mail: info@eccdublin.ie
www.ecic.ie

The various bodies to which you may complain are described here. Ultimately, your rights may have to be determined by a Court – see Leaflet S8 *Going South – Legal System*.

Small Claims Court

The Small Claims Court is particularly important for dealing with consumer complaints. It is not a separate court but is a special procedure which is available in the District Court in cases where the claim is less than €2,000.. The procedure involved is simple and you do not need legal assistance. You go to the Small Claims Registrar at your local District Court. You fill out an application form and you pay a fee of €15. The Registrar then tries to solve the dispute without a court hearing. If this does not succeed, the case goes to the District Court for a hearing. There is no further charge for a hearing and you do not need legal assistance for the hearing.

If the amount of money involved is more than the Small Claims Court limit, then you may have to take your case to District Court (for amounts up to €6,348.69), the Circuit Court (for amounts up to €38,092.14) or the High Court (no limit).

Standards for Goods and Services

Goods which are offered for sale in the course of business must be of merchantable quality, fit for their intended purpose and as described.

Merchantable quality means that they must be of an acceptable standard and as durable as is reasonable to expect in the circumstances.

Fit for their intended purpose – they must be able to do what they are supposed to do.

As described – the description must not be misleading or inaccurate. If there is a sample, then the goods must be in accordance with the sample. Labels must be accurate – some goods are required to have lists of contents and/or labels specifying safety standards.

If something you bought does not meet these general conditions, you may be entitled to have it repaired or replaced or to get your money back. If the seller agrees that you are entitled to some redress, there may be a dispute about what form it should take. There are no absolute rules about which is the appropriate redress – it depends on the circumstances. If you and the seller cannot agree about the redress which should be provided, you can get further redress only by using some form of dispute resolution (if it exists) or by going to Court.

You are entitled to redress only if there is something wrong with the goods – you are not entitled to redress if you do not like the goods when you get home. Many shops operate a policy of taking back goods and giving you a refund or credit note in these circumstances but they are not obliged to do this.

Signs in shops such as “No refunds” followed by “This does not affect your statutory rights” are completely meaningless. If you have a statutory right to a refund, you must get one.

Goods which are sold in sales must meet the same general conditions and the seller may not refuse a refund just because they were sale goods.

Guarantees

Many goods have a guarantee for a set period. You may pursue the people who gave the guarantee if the goods do not perform in accordance with the guarantee. If the goods do not meet the general conditions set out above, you should bring them back to the seller. You may also invoke the guarantee but the guarantee is not a substitute for your basic rights to receive quality goods.

General Standards for Services

If you contract with someone to supply services – for example, a plumber or carpenter, then, in general, you are entitled to expect that the supplier:

- has the skill to provide the service and to carry out the service properly,
- will provide the service with due care and diligence
- will use materials that are sound and fit for their purpose, and,
- will use goods which are of merchantable quality.

If these conditions are not met, you are entitled to have the problem put right or to a refund or compensation. Some service providers belong to a professional or trade organisation to which you can complain.

The statutory consumer rights relating to goods and services described above also apply to online shopping and other forms of distance selling and there are additional regulations relating to these forms of shopping in particular a ‘cooling-off’ period of seven days during which a consumer can withdraw from the contract without giving any reason.

Prices

In general, the prices of goods and services are not controlled. This means that retailers and service providers may charge any price. Previously retailers were prevented from engaging in what is usually called “below cost” selling – this means they could not charge less than the invoice showed they had paid for the item in question. This rule has now been abolished.

Some prices are regulated. This means that the providers must apply to the industry regulator for approval for any price increase. The most notable examples are electricity and gas. In these cases, the suppliers must apply to the Commission for Energy Regulation for approval for price changes. The suppliers may not charge more than the approved prices.

If you consider that, for example, the price charged by a particular retailer is too high, you may complain to the retailer. Your most effective remedy is to refuse to shop there. There is no external body to which you can complain as there is no law being broken. If all the retailers are charging the same amount for a particular product, you may consider that they are acting in a non competitive way and you can complain about that to the Competition Authority.

Competition Authority
14 Parnell Square, Dublin 1
Tel: (01) 804 5400
LoCall: 1890 220 224
www.tca.ie

Display of Prices

The prices of most consumer goods must be displayed. The price shown – whether it is the actual price being charged, the “recommended” price or the previous price – must be accurate and not misleading. In the case of a sale, the previous price shown must be the price at which the goods were offered for at least 28 successive days in the three months before the sale.

In the case of products which are sold by weight, volume or measure (for example, vegetables, cloth) the unit price for a relevant unit – a kilogram, a litre, a metre, a square metre or a cubic metre must be displayed. This is the case for almost all goods. There are exceptions for traders who do not have equipment for printing shelf edge labels or for point of sale scanning – in effect, people selling in open air markets do not have to display unit prices.

Goods in Shops and Supermarkets

The price of products sold in shops and supermarkets must be displayed either on the product itself or on the shelf edge label. In practice, as bar coding becomes more common, the price is usually displayed on the shelf in supermarkets.

Drink Prices

All drinking areas in pubs must have a clearly visible and easily read list of the prices of all drinks on sale. The prices of 16 of the most popular drinks must be on display immediately outside the entrance and immediately inside each entrance to the premises.

There is no control over the price of drinks and it is legal to charge more in some areas than in others. It is also legal to charge different prices at different times but the prices must be in accordance with the displayed prices.

Restaurants

Restaurants and other places where food is served (including pubs) must have a comprehensive price list which is clearly visible and capable of being read by you when you go into the premises – it should be either outside the premises or immediately inside the door. Charges such as minimum charges, service charges and cover charges must also be displayed.

Other Prices

Other prices which must be displayed include:

- Petrol and diesel prices (they must be displayed in large format and clearly visible from the road).
- Public concert and theatre performance (advertisements must show the admission price and any other charges)
- Hairdressing prices
- Airfares (must show the total price in advertisements and the currency involved)

If the price is not correctly displayed

If the price which is displayed is the wrong price, you may complain to the Office of the Director of Consumer Affairs (ODCA) and the ODCA may take action against the retailer. You are not necessarily entitled to get the product at the lower price. If you are told the correct price before you buy, then you have no redress. If you are not told the correct price before you buy, you may claim against the retailer (and complain to the ODCA). The ODCA's role is to ensure that the retailer displays the correct prices, it is not to get compensation for you.

Office of the Director of Consumer Affairs
4 Harcourt Road
Dublin 2
Tel (01) 402 5500
www.odca.ie

Safety standards

General Product Safety

Manufacturers, importers and traders are required to ensure that the products they put on the market are safe. This requirement applies when the products are used under reasonably foreseeable conditions. Unsafe products must be recalled and taken off the market.

Specific product safety

There is a specific legislation on the safety requirements for a number of products. It is

illegal to sell products which do not meet these requirements. The products concerned include

- toys
- low voltage electrical equipment – this covers almost all electrical equipment used in the home or in offices
- gas appliances, for example, cookers, patio heaters, gas fired barbeques
- personal protective equipment – for example, bicycle helmets, life jackets
- furniture must have specific labels for fire safety purposes – they must give information on how the fabric and other parts are resistant to fire.

The rules are detailed and technical. The ODCA is responsible for implementing product safety rules.

Liability for defective products

If goods are defective and the defect causes injury or damage, the manufacturer is liable for the damage caused. You do not have to prove that the manufacturer was negligent; you have to show that the product was defective and that the defect caused damage.

Labelling

There are specific regulations and standards covering the labelling of certain household and electrical goods including plugs, sockets and light fittings.

Food

There is a range of legislation governing food production – in particular, it deals with hygiene in the food production process and in the selling of food. There is also legislation dealing with the labelling of food.

The Food Safety Authority of Ireland (FSAI) is the principal body involved in implementing food safety legislation so, if you are not sure where to lodge your complaint, go to the FSAI. Its principal function is to take all reasonable steps to ensure that food produced, distributed or marketed in Ireland meets the highest standards of food safety and hygiene and complies with legal requirements or recognised codes of good practice. It co-ordinates the activities of all the food safety agencies – it has agreements about the implementation of food safety legislation with a large number of agencies.

These agencies include

- the Health Service Executive – they employ Environmental Health Officers who have a range of duties including food hygiene. If you want to complain about food you have bought or a premises in which food is sold or stored (including shops, restaurants), you should contact an Environmental Health Inspector at your local HSE office.
- the Office of the Director of Consumer Affairs - advertising of food,
- the Department of Agriculture and Food - meat hygiene (including all the major abattoirs and meat manufacturing and processing plants), milk and milk products, egg and egg products, pesticide control service, animal identification and tracing, the National Beef assurance scheme and animal welfare generally.

- the Department of Communications, Marine and Natural Resources and the Marine Institute – sea food

Medicines are subject to a licensing system which requires that they go through various testing processes before they are allowed to be sold. Medicines are regulated by the Irish Medicines Board.

Food Labelling

The rules on food labelling apply to pre packaged products. The rules are quite detailed but they deal mainly with listing the ingredients and quantities, stating the “best before” and “use by” dates and giving information on the origin of the food. It is not illegal to sell products whose sell before date has passed unless they constitute a risk to health. Food containing genetically modified organisms (GMOs) must be clearly labelled. GMOs are subject to an EU licensing system.

Details of the food legislation are available on the FSAI website.

Food Safety Authority of Ireland

Abbey Court, Lower Abbey Street, Dublin 1.

Tel: (01) 817 1300 Fax: (01) 817 1301

Advice Line: 1890 336 677

www.fsai.ie

Specific Services

Some industries are regulated and the Regulators have certain responsibilities towards consumers but consumer protection is generally not their primary function.

Water

Local authorities are responsible for water supply. At present, there are no charges for water supply.

Electricity and Gas

The CER is the statutory regulatory authority for the electricity and gas industries. It has a number of functions which include the protection of the final consumers of electricity and gas.

Commission for Energy Regulation (CER)

Plaza House, Belgard Road, Tallaght, Dublin 24

Tel: (01) 400 0800

Fax: (01) 400 0850

www.cer.ie

Domestic consumers may get their electricity supply only from ESB and their piped gas supply from Bord Gais but green suppliers may supply any customer. The non ESB suppliers of non green electricity only supply to large businesses – they do not supply to

domestic customers. From 19 February 2005, the non ESB suppliers will be entitled to provide supply to any customers. Information on other suppliers may be had from the Commission on Energy Regulation.

Airlines, Tour Operators and Travel Agents

The Commission for Aviation Regulation is the statutory regulator of certain aspects of the aviation and travel trade sectors. Among other things, it licences Irish airlines, tour operators and travel agents and administers the bonding scheme for them – the grant of a licence is dependent on entering a bond. It is responsible for ensuring that your rights are enforced in the event of flights being overbooked and delays.

Commission for Aviation Regulation

Alexandra House, Earlsfort Centre, Earlsfort terrace, Dublin 2

Tel: (01) 661 1700

www.aviationreg.ie

Telecommunications (Telephone, cable TV and post)

ComReg is the statutory regulatory authority for the telecommunications sector – this sector includes telephone service providers (fixed line and mobile), cable and MMDS (television) providers and the postal service. .

Commission for Communications Regulation (ComReg)

Abbey Court, Irish Life Centre, Lower Abbey Street, Dublin 1

Tel: (01) 804 9600

Consumer line: 1890 229 668.

www.comreg.ie

Further Information

Where to Complain is a guide for consumers and service users to the various agencies which help you enforce your rights and the appropriate bodies to which complaints are made within particular sectors. It is available from Citizens Information Centres and on www.comhairle.ie