

CONSUMER RIGHTS ACT 2015

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 1: Consumer Contracts for Goods, Digital Content and Services

Chapter 3 Digital Content

What remedies are there if statutory rights under a digital content contract are not met?

Section 44: Right to price reduction

214. *Section 44* sets out the circumstances in which the consumer is entitled to a price reduction and establishes that the price reduction could be as much as a full refund or the full amount they already paid (if they had only paid in part for the digital content). What is an appropriate amount will depend on the circumstances. For example, for digital content such as a film that is fundamentally substandard and fails to play at all, this may be for a 100% refund because the consumer will have obtained no benefit or no substantial or meaningful benefit from the film. In contrast, for a game which the consumer has played for five months and which is exhibiting a minor bug at a later stage in the game play (e.g. a character “floats” instead of “runs”), the consumer has already had some enjoyment from playing the game and the bug does not prevent the game from being played, the appropriate amount might be quite a small proportion of the amount paid. If a single film failed to stream satisfactorily, as part of a monthly subscription, the appropriate amount may reflect the portion of the monthly subscription that could be ascribed to that film. For free digital content given away with, for example, a paid-for magazine, any price reduction would reflect the portion of the price paid that could be ascribed to the digital content instead of the magazine. We expect the reduction in price here to reflect the difference in value between what the consumer paid for the content and what they actually receive.
215. *Subsection (4)* requires a trader to provide any refund due to the consumer without undue delay and at the latest within 14 days from when the trader agrees the consumer is entitled to it. *Subsection (5)* makes clear that the refund must be given using the same means of payment as the consumer used to pay for the digital content, unless the consumer expressly agrees otherwise. If a consumer has paid a trader money to buy in-game currencies (a virtual currency) that can then only be used to buy other digital content from that trader, any digital content bought using the virtual currencies would still be covered by the digital content quality standards in out in sections 34, 35 or 36 (satisfactory quality, fitness for purpose and meets the description) by virtue of section 33(3). However, subsection (5) does not mean that a trader can refund the consumer by giving them back the virtual currency. Rather, to satisfy this requirement a trader must give the consumer back the money originally paid for the in-game currency, using the means of payment that the consumer used to buy that in-game currency (unless the consumer expressly agrees otherwise). However, digital currencies (or cryptocurrencies) that can be used in a variety of transactions with a number of traders, and exchanged for real money, are much more akin to real money (e.g. bitcoins). Where

*These notes refer to the Consumer Rights Act 2015
(c.15) which received Royal Assent on 26 March 2015*

the consumer uses these types of digital currency to pay for digital content, the trader can (and must, unless the consumer agrees) repay the consumer in the digital currency. The trader cannot charge the consumer a fee for the payment of the refund.