

CONSUMER RIGHTS ACT 2015

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

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

Chapter 4 Services

Can a trader contract out of statutory rights and remedies under a services contract?

Section 57: Liability that cannot be excluded or restricted

277. This section addresses “contracting out” of the consumer’s statutory rights as established under sections 49, 50, 51 and 52. It also makes clear that a trader cannot limit its liability for breach of these sections to less than the contract price.
278. As regards the consumer’s statutory rights as established under section 49 (service to be performed with reasonable care and skill) and section 50 (information about the trader or service to be binding) the trader cannot “contract out” of complying with those rights. That is, the parties cannot agree in their contract that the trader has no responsibility in relation to those rights. They also cannot limit their liability for breach of those sections to less than the contract price.
279. As regards the consumer’s statutory rights as established under section 51 (reasonable price to be paid for a service) and section 52 (service to be provided within a reasonable time) the trader can dis-apply these sections by specifying the price (so that section 51 and the default rule which it imposes does not apply) or time (so that section 52 and the default rule which it imposes does not apply) for providing the service. Where these sections do apply, the trader cannot limit their liability for breach of those sections to less than the contract price.
280. Even if a term does not contravene this section (i.e. does not limit its liability to less than the contract price) it is still subject to Part 2 (Unfair Terms).
281. For example, a decorator cannot get around complying with the statutory rights by asking a consumer to sign a contract to paint a room where the contract includes a term such as ‘the decorator accepts no responsibility if the paint work is not completed with reasonable care and skill’. If this is in the contract, that term will be invalid.
282. This section also provides that an agreement to submit disputes to arbitration is not covered by the bars on excluding or restricting liability. It should be noted however that paragraph 20 of Schedule 2 makes clear that a term requiring the consumer to take disputes exclusively to arbitration may be regarded as unfair. Furthermore, the Arbitration Act 1996 provides that a term which constitutes an arbitration agreement is automatically unfair (under Part 2 of the Act) if the claim is for less than an amount specified in an Order made under section 91 of the Arbitration Act. This amount is currently set at £5000 in the [Unfair Arbitration Agreements \(Specified Amount\) Order 1999 \(SI 1999/2167\)](#). It is possible that this amount may change from time to time.