



Consumer Rights Act 2015

2015 CHAPTER 15

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?

42 Consumer's rights to enforce terms about digital content

- (1) In this section and section 43 references to digital content conforming to a contract are references to the digital content conforming to the terms described in sections 34, 35 and 36.
- (2) If the digital content does not conform to the contract, the consumer's rights (and the provisions about them and when they are available) are—
 - (a) the right to repair or replacement (see section 43);
 - (b) the right to a price reduction (see section 44).
- (3) Section 16 also applies if an item including the digital content is supplied.
- (4) If the trader is in breach of a term that section 37 requires to be treated as included in the contract, the consumer has the right to recover from the trader the amount of any costs incurred by the consumer as a result of the breach, up to the amount of the price paid for the digital content or for any facility within section 33(3) used by the consumer.
- (5) If the trader is in breach of the term that section 41(1) (right to supply the content) requires to be treated as included in the contract, the consumer has the right to a refund (see section 45 for provisions about that right and when it is available).

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- (6) This Chapter does not prevent the consumer seeking other remedies for a breach of a term to which any of subsections (2), (4) or (5) applies, instead of or in addition to a remedy referred to there (but not so as to recover twice for the same loss).
- (7) Those other remedies include any of the following that is open to the consumer in the circumstances—
 - (a) claiming damages;
 - (b) seeking to recover money paid where the consideration for payment of the money has failed;
 - (c) seeking specific performance;
 - (d) seeking an order for specific implement;
 - (e) relying on the breach against a claim by the trader for the price.
- (8) It is not open to the consumer to treat the contract as at an end for breach of a term to which any of subsections (2), (4) or (5) applies.
- (9) For the purposes of subsection (2), digital content which does not conform to the contract at any time within the period of six months beginning with the day on which it was supplied must be taken not to have conformed to the contract when it was supplied.
- (10) Subsection (9) does not apply if—
 - (a) it is established that the digital content did conform to the contract when it was supplied, or
 - (b) its application is incompatible with the nature of the digital content or with how it fails to conform to the contract.

43 Right to repair or replacement

- (1) This section applies if the consumer has the right to repair or replacement.
- (2) If the consumer requires the trader to repair or replace the digital content, the trader must—
 - (a) do so within a reasonable time and without significant inconvenience to the consumer; and
 - (b) bear any necessary costs incurred in doing so (including in particular the cost of any labour, materials or postage).
- (3) The consumer cannot require the trader to repair or replace the digital content if that remedy (the repair or the replacement)—
 - (a) is impossible, or
 - (b) is disproportionate compared to the other of those remedies.
- (4) Either of those remedies is disproportionate compared to the other if it imposes costs on the trader which, compared to those imposed by the other, are unreasonable, taking into account—
 - (a) the value which the digital content would have if it conformed to the contract,
 - (b) the significance of the lack of conformity, and
 - (c) whether the other remedy could be effected without significant inconvenience to the consumer.
- (5) Any question as to what is a reasonable time or significant inconvenience is to be determined taking account of—

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- (a) the nature of the digital content, and
 - (b) the purpose for which the digital content was obtained or accessed.
- (6) A consumer who requires or agrees to the repair of digital content cannot require the trader to replace it without giving the trader a reasonable time to repair it (unless giving the trader that time would cause significant inconvenience to the consumer).
- (7) A consumer who requires or agrees to the replacement of digital content cannot require the trader to repair it without giving the trader a reasonable time to replace it (unless giving the trader that time would cause significant inconvenience to the consumer).
- (8) In this Chapter, “repair” in relation to digital content that does not conform to a contract, means making it conform.

44 Right to price reduction

- (1) The right to a price reduction is the right to require the trader to reduce the price to the consumer by an appropriate amount (including the right to receive a refund for anything already paid above the reduced amount).
- (2) The amount of the reduction may, where appropriate, be the full amount of the price.
- (3) A consumer who has that right may only exercise it in one of these situations—
- (a) because of section 43(3)(a) the consumer can require neither repair nor replacement of the digital content, or
 - (b) the consumer has required the trader to repair or replace the digital content, but the trader is in breach of the requirement of section 43(2)(a) to do so within a reasonable time and without significant inconvenience to the consumer.
- (4) A refund under this section must be given without undue delay, and in any event within 14 days beginning with the day on which the trader agrees that the consumer is entitled to a refund.
- (5) The trader must give the refund using the same means of payment as the consumer used to pay for the digital content, unless the consumer expressly agrees otherwise.
- (6) The trader must not impose any fee on the consumer in respect of the refund.

45 Right to a refund

- (1) The right to a refund gives the consumer the right to receive a refund from the trader of all money paid by the consumer for the digital content (subject to subsection (2)).
- (2) If the breach giving the consumer the right to a refund affects only some of the digital content supplied under the contract, the right to a refund does not extend to any part of the price attributable to digital content that is not affected by the breach.
- (3) A refund must be given without undue delay, and in any event within 14 days beginning with the day on which the trader agrees that the consumer is entitled to a refund.
- (4) The trader must give the refund using the same means of payment as the consumer used to pay for the digital content, unless the consumer expressly agrees otherwise.
- (5) The trader must not impose any fee on the consumer in respect of the refund.