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The Consumer's right to returning goods as per the CPA



Explaining the Consumer's Right to Return Goods as per the Consumer Protection Act (CPA).

The *Consumer Protection Act* 68 of 2002 (the "CPA") provides that a consumer has a right to **fair value, good quality** and **safe goods and services**. Poor-quality goods and services affect all consumers.

Since consumer rights cannot be excluded contractually, this part of the CPA plays a significant role when it comes to return policies.

When may a consumer return goods under the CPA?

It is important to note that the CPA does not afford consumers a general right of return. A consumer cannot simply have a change of heart and **may only return goods under the CPA in four instances**, namely:

- Goods that had not been inspected prior to being purchased;
- During the “cooling-off” period after direct marketing;
- Goods that do not meet a particular purpose; and
- An implied warranty of quality.

We will look closely at each of these four instances, for this week we deal with:

- Goods that had not been inspected prior to being purchased;
- During the “cooling-off” period after direct marketing;

Goods that had not been inspected prior to being purchased

Where a consumer did not have the opportunity to examine or inspect the actual goods received prior to the purchase, he/she is entitled to inspect the goods upon delivery thereof. If the consumer finds that:

- the goods **do not meet the type or quality** they could **reasonably have expected**; or
- if the goods were made in terms of a **special custom order** but **do not reasonably conform to the specifications of the order**,

Then the consumer may:

- **refuse** delivery;
- demand a **full refund**; and
- cancel the order **without penalty**.

The supplier will have to bear the cost of collecting the goods from the consumer.

During the “cooling-off” period after direct marketing

If a consumer purchased goods as a result of direct marketing, then the consumer may, within a period of **5 days after receiving the goods-**

- o **return** the goods;
- o cancel the entire contract **without penalty**; and
- o demand a **full refund**.

The consumer shall bear the cost of returning the goods to the supplier.

Don't miss the next article where we will have a look at the remaining two instances of consumer returns, the impact of Electronic Communications and Transactions Act 25 of 2002 ("ECTA") on consumer returns, as well as the importance of refunds and refund policies.

SERR Synergy assists businesses that supply goods or services with the compilation of a Refund and Return Policy that is *compliant with the provisions of the CPA and ECTA* (where applicable). We also review your existing policies to ensure that they are aligned with legislation and comply with the CPA and ECTA.

About the Author: Montenique Hayward is a BCom (Law) [2011], LLB [2013] and LLM [2017] graduate from the University of Pretoria. During her LLM studies, she specialised in Consumer Protection and was, subsequently, awarded the JUTA award for the highest mark obtained at the end of her LLM. She was also admitted as an attorney of the High Court in 2015 and practiced as such before joining our team in 2017 as a Corporate Legal Advisor.

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