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trading standards law explained

# Mixed contracts

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In this guide, the words 'must' or 'must not' are used where there is a legal requirement to do (or not do) something. The word 'should' is used where there is established legal guidance or best practice that is likely to help you avoid breaking the law.

**This guidance is for England, Scotland and Wales**

In many cases, an agreement between a consumer and a trader won't be for just goods, services or digital content, but will contain aspects of more than one of these - for example, electronic equipment may contain digital content, or a garage may fit parts during a car service.

For 'mixed' contracts like these, the general rule is that all the relevant parts of the Consumer Rights Act 2015 (CRA) apply - for example, the goods elements of the contract attract the rights and remedies associated with goods, and the services elements attract the rights and remedies for services.

In addition to the general rule, there are special rules for contracts for the supply and installation of goods and for the supply of goods that include digital content.

## Deciding which rights apply

The CRA provides separate rights and remedies for contracts to supply goods, services and digital content

(more detail on the different types of contracts can be found in 'Selling and supplying goods', 'Supplying services' and 'Digital content'). Where the contract is to supply more than one of these, each or all of the sets of rights apply.

In any particular case, the remedies available to a consumer will depend on the nature of what has gone wrong. If the contract is to supply both goods and services, and there is something wrong with the service, then the remedies for services will apply; if there is something wrong with the goods, then the remedies for goods will apply. In practice, there may be some overlap between the available remedies, and in most cases consumers and traders will then agree between themselves the appropriate course of action.

### Example: goods and services

Where both goods and services are supplied, the rights for goods and the rights for services will both apply.

For example, when a consumer buys a meal at a restaurant, there is a sale of goods (the food and drink) and a supply of services (including waiter service).

If the food itself is not of satisfactory quality (for example, it has gone 'off'), or not as described (for example, beef where the menu says lamb), or not fit for a purpose made known (for example, it contains peanuts even though the customer has said they have a peanut allergy), then the consumer can use the 'goods' remedies: the short-term right to reject, repair or replacement. In practice, the consumer is likely either to reject the food by refusing to eat it, or to ask for a replacement. 'Repair' is less likely to be appropriate unless, for example, a minor component of the meal is missing and can easily be added.

If the food is acceptable but the service is poor, then the consumer can use the 'services' remedies: repeat performance or (in some cases) price reduction. In practice, repeat performance would be appropriate where, for example, a waiter makes a minor error that can easily be corrected; a reduction in price may be more appropriate for poor service where it is too late to put it right.

In either case, the consumer may also be entitled to damages (compensation) for losses that are not fully covered by these remedies. This could be the case where the food causes illness or injury, or where poor service ruins not only the meal but a bigger occasion, such as where the meal is being served to guests at a wedding celebration.

### Example: goods and digital content

Where both goods and digital content are supplied, the rights for goods and the rights for digital content will both apply.

For example, a video doorbell system would include goods (such as the camera / doorbell unit itself) and digital content in the form of an app to control the video doorbell, view and record visitors.

If the doorbell itself was defective and was not recording, then the consumer can use the 'goods' remedies: the short-term right to reject, repair or replacement.

If the software in the app did not work properly and therefore the consumer was not able to use the app to speak to visitors at the door, then the consumer can use the 'digital content' remedies of repair, replacement or (in some cases) price reduction.

### Example: services and digital content

Where both services and digital content are supplied, the rights for services and the rights for digital content will both apply.

For example, a computer retailer may offer a consumer a service to back up all their computer data. This service may work through a piece of software (digital content) that has to be installed on the consumer's computer and is supplied by the retailer as part of the contract.

If the software is defective and does not work properly on the computer, then the consumer can use the 'digital content' remedies of repair, replacement or (in some cases) price reduction. If the whole contract has a single price, then it may be difficult to determine which part of the price relates to the digital content. In this case, it may be simpler for the consumer to claim damages for their losses, which ultimately would be the cost of buying a similar backup product / service elsewhere.

If the software works but the service fails, such as where the supplier loses the consumer's data as a result of inadequate safeguards or backups of their own, then the consumer can use the 'services' remedies of repeat performance or (in some cases) price reduction. If data is already lost, then it may be impossible to 'repeat' the performance of the contract by recovering the data, in which case price reduction (maybe as much as 100%) would be more appropriate. In addition, the consumer may be able to claim compensation for losses caused by the loss of data, if these losses can be quantified.

### Example: goods, services and digital content

In this case, the rights for goods, services and digital content will all apply.

For example, an insurance company may offer a motor insurance policy where the consumer has to fit a 'black box' device to their car. This device records data on how, when and where the car is driven, and transmits this data to the insurer. Lower premiums may then be available to 'good' drivers, or those with low mileage or who avoid use at high-risk times of day. Typically, the supply of the device (goods) and the software in it (digital content) is bundled with the contract of insurance (service).

If the device itself is defective, then the consumer can use the 'goods' remedies: repair or replace, or (in some cases) the short-term or final right to reject, or price reduction. In practice, if the consumer wants the insurance to carry on, then a repair or replacement would be the most appropriate remedy. As there is no cash price for the device, a price reduction would not apply, but the consumer may be able to claim compensation for their losses (for example, if the insurance premium is affected by the device failure).

If the software (digital content) in the device does not work properly - for example, by recording the data incorrectly - then the consumer can use the 'digital content' remedies: repair, replacement or (in some cases) price reduction. In this case, repair (for example, by the insurer 'patching' the software) is likely to be the most appropriate remedy. Again, as there is no cash price for the software, a price reduction would not apply, but the consumer may be able to claim compensation for any losses arising.

If something goes wrong with the provision of the insurance itself, such as the insurer failing to handle a claim correctly or within a reasonable time, then the consumer can use the 'services' remedies of repeat performance or (in some cases) price reduction.

## Installation of goods

The CRA applies an additional rule where goods are to be supplied and installed as part of the same contract. In this case, if the goods are installed incorrectly, not only can the consumer treat this as a breach of the requirements for services, they can also treat it as a breach of the requirements for goods.

This means that, where goods are installed incorrectly, the consumer can choose to use the 'services' remedies or, with one exception, the 'goods' remedies. The exception is that the short-term right to reject is not available where the breach of the requirements for goods is only that they have been installed incorrectly.

A simple example would be where a retailer agrees to supply and install a new washing machine. If, on installation, the machine does not work, and this is because the machine itself is defective, then the consumer can reject it or ask for a repair or replacement. If the reason it does not work is that it was installed incorrectly, the consumer can ask for repair or replacement (under the 'goods' remedies) or for repeat performance of the installation (under the 'services' remedies). In practice, there will be little, if any, difference, in the way in which these remedies are provided; the retailer will simply have to reinstall the machine correctly (including repair or replacement of the machine if it was damaged by the original incorrect installation).

A more complicated example would be a contract for home maintenance or improvements, such as the supply and installation of double glazing. Here, the service element of the contract may be much more significant, including some services that directly involve the installation of goods (for example, fitting the windows) and others that do not (for example, measuring up and designing the installation). Yet the principles would be the same. If the goods are faulty, then the consumer uses the 'goods' remedies; if the installation services are done incorrectly, then the consumer can use either the 'goods' or 'services' remedies; and if other services are done incorrectly, then the consumer can use the 'services' remedies.

## Goods with digital content

The CRA applies another additional rule where goods are to be supplied and those goods include digital content. In this case, if the digital content does not meet the requirements it would have to meet if it had been supplied by itself, then the consumer can treat this as a breach of the requirements for the supply of goods (whether or not they also treat it as a breach of the requirements for the supply of digital content).

This means that, where digital content contained in goods is defective, the consumer can choose to use the 'digital content' remedies or the 'goods' remedies, including the short-term right to reject.

An example would be where a retailer supplies a 'smart' television that includes software to access certain music and video streaming services. If that software does not work, and as a result the consumer cannot access those services, they can:

- ask for a repair or replacement
- in some cases, use the short-term or final right to reject
- seek a price reduction under the 'goods' remedies (or repair / replacement, as appropriate)
- in some cases, seek a price reduction under the 'digital content' remedies

The main effect is that a consumer can sometimes reject goods, including digital content, where there would be no right to reject the same digital content if it had been supplied alone.

## Practical implications

Although it may look as if it is complicated to work out which rights apply to which parts of which contracts, in practice the rules are quite straightforward. There are specific rules for goods, for services and for digital content, and wherever you supply one of these (whether or not you supply anything else at the same time), the rules will apply. Limited additional rights apply for contracts for the supply and installation of goods, and for contracts for the supply of goods that include digital content.

Whilst an understanding of the detailed rules can be beneficial to both traders and consumers, a practical and acceptable resolution can normally be found wherever something goes wrong.

## Trading Standards

For more information on the work of Trading Standards services - and the possible consequences of not abiding by the law - please see 'Trading Standards: powers, enforcement and penalties'.

## In this update

No major changes.

Last reviewed / updated: February 2025

### Key legislation

- Consumer Rights Act 2015

### Please note

This information is intended for guidance; only the courts can give an authoritative interpretation of the law.

The guide's 'Key legislation' links go to the legislation.gov.uk website. The site usually updates the legislation to include any amendments made to it. However, this is not always the case. Information on all changes made to legislation can be found by following the above links and clicking on the 'More Resources' tab.

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