



Uncollected Goods and Warranties

Uncollected Goods

As a supplier, you may sometimes find you have goods that haven't been collected within a reasonable time frame. For example, customers may have left something with you for repair and not returned to collect it.

What can you do if the customer doesn't collect the goods?

You must notify customers when goods are ready to be collected if you have their contact details. You should contact them and ask if there is a problem, then inform them they have a month to collect the goods or they will be sold.

You should display in your shop your policy that uncollected goods will be sold.

Selling uncollected goods

Before you sell uncollected goods, you must put a notice in a newspaper with state-wide circulation. The goods can be sold by public auction only, unless you can certify the best price can't be obtained by that method.

In the case of motor cars, the Chief Commissioner of Police must be notified at least one month before the intended sale.

You are entitled to keep a portion of the money from the sale to cover reasonable costs incurred such as storage of the goods, and the cost of repairs.

Warranties

A guarantee policy is a powerful marketing tool. Whether written or verbal, providing guarantees indicate to customers you stand by your products.

Whether you're a manufacturer, retailer or repairer, you have certain obligations when setting warranty conditions. You must:

- check your product is suitable for the purpose for which it's sold
- ensure the product is not faulty
- ensure the product performs to an appropriate standard and achieves the requested result when you carry out a service
- ensure spare parts are available

If a customer returns a faulty item which was purchased from you, you can share the liability for the problem with the manufacturer. However, it's ultimately your responsibility to resolve the complaint. As a supplier, retailer or



manufacturer, it's illegal to exclude, modify or restrict the rights and remedies legally available to customers for personal or household goods.

Types of warranties

There are a number of different types of warranties and obligations that affect manufacturers, retailers and repairers.

- **express warranties:** express conditions or warranties are guarantees, given voluntarily and often in writing. In effect, you promise to rectify certain problems if they arise
- **implied conditions and warranties:** it's your legal responsibility to ensure every product or service you provide is suitable for the purpose for which it's sold. Goods must also do their job properly and perform according to their description. This is a legal obligation, whether or not you then decide to provide a written warranty or guarantee
- **service warranties:** as a general rule, you must carry out services with due care and skill. The service should achieve the result or the purpose agreed on before work started. The materials you supply must also be fit for that particular purpose and must be of a quality that will reasonably achieve the result the customer wants
- **manufacturers' warranties:** as a manufacturer, you must stand by your own warranty or guarantees and ensure a reasonable supply of spare parts or repair facilities when you supply goods for personal or household use. You also are liable to fix a problem with the product you sell for the period of the warranty

If you need more information about warranties and guarantees, contact the Australian Competition and Consumer Commission (ACCC).

Quality of goods

You need to make sure the goods you supply are not faulty in design or construction, and/or you have pointed out any defects to your customers prior to purchase. This applies to both manufacturers and retailers. You are not liable if:

- the goods become damaged after leaving your control
- the defect was brought to the customer's attention prior to purchase

Fit for purpose and supply by description

The goods must be fit for the purpose for which they were designed. They must match the description or the sample you've given the customer. For



example, a refrigerator must defrost automatically if that's the way it was described.

Remember, you're the expert in your field and the customer is entitled to expect your advice to be reliable and accurate. Your customers must also become the outright owner of the goods. Any legal restrictions to ownership must be fully and clearly explained by you before purchase.

Customers' obligations

Customers have obligations too. To get compensation, the customer must ensure goods aren't:

- damaged by being used in an abnormal way or due to neglect
- disposed of, lost or destroyed
- reduced in value by delaying their return

The customer must also return the goods or give you details of the problem within a reasonable time, after they've had a reasonable chance to inspect them.

Manufacturers' obligations

As a manufacturer, you may be liable to reimburse a retailer who has had to compensate a customer for a breach of any statutory obligation where the fault is yours. However, for goods that aren't ordinarily acquired for personal or household use, manufacturers are only liable to reimburse the retailer for the cost of:

- replacing the goods, or
- getting equivalent goods, or
- repairing the goods

A manufacturer is only liable for the cost that is the lowest amount, unless the retailer can show it's not fair or reasonable in the circumstances for the manufacturer to be responsible for a limited amount. This position can also be changed if the contract between the manufacturer and the retailer imposes a greater liability on the manufacturer.

What can retailers do if goods they receive from the manufacturer are faulty or incorrect?

In most circumstances, manufacturers or suppliers will remedy problems with goods supplied to retailers or distributors. However, if you're a retailer and are unable to get satisfaction from the manufacturer, you should refer to the conditions of the contract or supply agreement you have with the manufacturer and consider seeking legal advice or advice from Consumer Affairs Victoria.

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Further Information

If you need more information about warranties and guarantees, contact the Australian Competition and Consumer Commission (ACCC) on 1300 302 502 or download the Warranties and Refund Guide from the ACCC's website.

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