



**Law
Commission**
Reforming the law

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promoting law reform

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FAULTY GOODS: FAIR REMEDIES FOR CONSUMERS

The Law Commission and the Scottish Law Commission today open a consultation on the legal remedies available to consumers when they buy goods which do not conform to contract.

UK consumers are currently entitled to reject faulty goods and obtain a refund. However, it is unclear how long the right to a refund lasts. The Law Commissions provisionally propose that a consumer should normally exercise the right within 30 days.

The Department for Business, Enterprise and Regulatory Reform (BERR) asked the two Law Commissions to look at this as part of a wider review of the eight existing European Commission consumer directives. In October 2008, the European Commission published a proposal for a new directive which would (among other things) reform the law on consumer remedies.

David Hertzell, the Commissioner leading the project for the Law Commission of England and Wales and the Hon Lord Drummond Young, Chairman of the Scottish Law Commission said:

“The key question we are asking is when should a consumer be entitled to reject faulty goods and receive a refund, and when should a retailer be entitled to choose to repair or replace the goods?”

Consumer sales are a major force in the UK economy. The problems are usually simple but the law is complicated. There are effectively two legal regimes: the traditional UK remedies; and the European remedies. The resulting confusion is bad for both consumers and retailers alike. Our aim is to provide a set of legal remedies that can be easily understood, consistently applied and which will be fair to both parties.

The European Commission is proposing that repair and replacement should be the first option, and the consumer should only be entitled to a refund in restricted circumstances. We believe that retaining the right to reject is crucial for consumer confidence and our research shows that consumers want this. We have also found that in several other member states, consumers have a right to a refund.

This is an important debate and we urge all interested parties to join it and tell us their views.”

BERR is conducting its own consultation on the European Commission’s proposal, which goes wider than the issue of consumer remedies.

The consultation closes on 2 February 2009. We expect to publish a report of recommendations next year.

NOTES FOR EDITORS

1. The Law Commission and the Scottish Law Commission are non-political independent bodies, set up by Parliament in 1965 to keep all the law of England and Wales and of Scotland under review, and to recommend reform where it is needed.
2. For further details on the Department of Business, Enterprise and Regulatory Reform (BERR) consultation – <http://www.berr.gov.uk/>. For further details on the European Commission review – http://ec.europa.eu/consumers/rights/docs/Directive_final_EN.pdf. Further details on the Law Commissions project can be found at http://www.lawcom.gov.uk/consumer_remedies.htm and <http://www.scotlawcom.gov.uk/html/cpconsumer.htm>. The full consultation paper and a summary are available to download.
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