

## CHAPTER 9 THE SALE OF GOODS AND SUPPLY OF SERVICES

*After studying this chapter students should be able to:*

### DESCRIBE THE TYPES OF CONTRACTS GOVERNED BY THE CONSUMER RIGHTS ACT 2015

- The Consumer Rights Act 2015 (CRA) applies to all consumer contracts for the supply of goods, digital content, or services made on or after 1 October 2015.
- A consumer sales contract is a contract for the sale of goods where a trader sells or agrees to sell goods to a consumer.
- The CRA does not apply to contracts for the sale of goods made between businesses, private individuals, or an individual who is not a trader, and a business.

### EXPLAIN WHAT IS MEANT BY A CONTRACT FOR THE SALE OF GOODS/SALES CONTRACT

- A contract for sale of goods/sales contract is 'a contract by which the seller transfers, or agrees to transfer, the property in goods to the buyer for a money consideration called the price'.
- 'Goods' are tangible moveable items, i.e. anything that can be moved.
- If the exact price is not specified, the buyer must pay a reasonable price.

### IDENTIFY TERMS THAT ARE TREATED AS PART OF THE CONTRACT WHERE A TRADER IS SUPPLYING GOODS, DIGITAL CONTENT, OR SERVICES TO A CONSUMER

- The trader has the lawful right to sell or transfer the goods.
- The goods/digital content are of satisfactory quality.
- The goods will match their description.
- The goods/digital content will be reasonably fit for their specified purpose.
- Pre-contractual information is part of the contract.
- The goods will match the sample/model.
- Service to be performed with reasonable care and skill.
- Information about the trader or service to be binding.
- Reasonable price and time.
- These terms cannot be excluded from a consumer contract.

### OUTLINE REMEDIES AVAILABLE TO CONSUMERS UNDER THE CRA

- The short-term right to reject goods, which usually lasts for 30 days
- If the consumer has lost or chooses not to exercise his right to reject goods, he will usually be entitled to claim a repair or replacement.
- If repair or replacement is not available or is unsuccessful, then the consumer can claim a price reduction or reject the goods.
- If the service does not conform to the contract, the consumer has the right to repeat performance and the right to a price reduction.

#### IDENTIFY TERMS THAT ARE IMPLIED INTO NON-CONSUMER CONTRACTS FOR THE SALE OF GOODS UNDER THE SALE OF GOODS ACT 1979

- The seller has the lawful right to sell the goods and transfer ownership of them. This term can never be excluded from the contract for sale of goods.
- The goods will match their description.
- The goods will be of satisfactory quality (only applies where the seller is acting in the course of a business).
- The goods will be reasonably fit for their purpose (only applies where the seller is acting in the course of a business)
- The goods will match the sample, and be free from any defect of quality not apparent on a reasonable examination of the sample.

#### DISTINGUISH BETWEEN THE RIGHT TO OWNERSHIP OF GOODS AND THE RIGHT TO POSSESSION OF GOODS AND EXPLAIN WHEN THESE RIGHTS MAY BE TRANSFERRED FROM A SELLER TO A BUYER

- Title (ownership) in goods does not have to pass from the seller to the buyer at the same time as physical possession of the goods
- Ownership of specific goods passes in accordance with intention of the parties or if no intention is evident according to the rules set out in s 18 of the Sale of Goods Act 1979.
- Where a contract for the sale of goods contains a 'reservation of title clause', ownership of goods will not pass to the buyer until payment is made by the buyer.
- The general rule on transfer of title is that only the owner or his agent acting with his authority can transfer ownership of goods to the buyer. There are a number of exceptions to this rule.

#### IDENTIFY THE RULES RELATING TO DELIVERY OF GOODS

- Delivery is the 'voluntary transfer of possession from one person to another'. It is the transfer of possession of goods not of ownership.
- Where no time is stated in the contract, the goods must be sent within a reasonable time at a reasonable hour of the day.
- The goods delivered must be those specified in the contract and comply with the express and implied terms.
- Unless otherwise agreed, a buyer does not have to accept delivery by instalments.

#### OUTLINE THE DUTIES OF A SELLER AND THE REMEDIES AVAILABLE TO A SELLER FOR BREACH OF A SALE OF GOODS CONTRACT

- It is the duty of the seller to deliver goods, and of the buyer to accept and pay for them, according to the terms set out in the contract of sale.
- The seller may take action against the buyer personally, by suing him for the contract price or for damages for non-acceptance of the goods. Alternatively, the seller may have the right of lien, the right to stop the goods in transit, or the right of resale. The buyer's primary remedy is to reject the goods and repudiate the contract where goods have not been accepted. Alternatively the buy may claim damages. Specific performance may be available if the goods are unique.

IDENTIFY TERMS THAT ARE IMPLIED INTO NON-CONSUMER CONTRACTS FOR THE SUPPLY OF GOODS AND SERVICES, CONTRACTS FOR THE HIRE OF GOODS, AND HIRE PURCHASE CONTRACTS

- Similar terms to those implied in the Sale of Goods Act 1979 are implied into the contracts for the transfer or hire of goods, the provision of services, and hire purchase agreements by the Supply of Goods and Services Act 1982 and the Supply of Goods (Implied Terms) Act 1973.
- In addition, implied into contracts for service are terms relating to care and skill, time, and price.