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TRADING STANDARDS SERVICE

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Guarantees and Warranties for Vehicles

The consumer's statutory rights

When a consumer buys a motor vehicle from a trader, the consumer has certain *statutory rights* under the Sale of Goods Act 1979 (as amended). These rights apply at all times, and cannot be removed.

These statutory rights focus primarily on the condition of the vehicle when it is sold to the consumer. The consumer can expect the vehicle to be of satisfactory quality, etc. but this expectation will depend on the circumstances of the sale. The age, mileage and price paid for the vehicle will all be relevant factors to be taken into consideration.

In the case of hire purchase and conditional sale agreements, the buyer's statutory rights will be against the finance company.

What can a consumer expect of the vehicle?

- It should be as described. The vehicle must conform to any description applied to it, whether that description was in writing or only spoken.
- It should be of satisfactory quality. Satisfactory quality means that the vehicle should be of a quality that a reasonable person would expect, taking into account any description, the intended purpose, and the price that is paid.
- It should be fit for the purpose. If a consumer intends to purchase a vehicle to use for a specific purpose (other than that for which it is intended), and this is made known to the seller, then the vehicle should be suitable for that purpose.

What if the vehicle is faulty?

Generally, a consumer can claim a repair or replacement of the vehicle if it becomes faulty or does not conform to the contract. If this is not possible (or not economical), the consumer can look to claim a full or partial refund. If the consumer notices the fault, misdescription, etc. soon enough after purchase, they may be able to reject the goods for a full refund.

When buying a second-hand vehicle, the purchaser must take into account its age, condition and price. Consumers have the same rights when purchasing second-hand as when buying new, except in relation to a fault which is related to reasonable wear and tear or a fault which you specifically point out to the consumer before the sale is concluded.

Faults – who needs to prove what?

If a vehicle develops a fault after purchase, it may indicate that it was faulty when first sold to the consumer. For new vehicles, the law states that if a fault develops within the first six months it is legally presumed that it was faulty at the time of sale (unless the seller can prove otherwise). This particular six month rule does not apply rigidly to second-hand vehicles, and the law allows for its application to take into account the *nature of the goods or the nature of the lack of conformity*.

What does this mean in practice? A consumer would have difficulty claiming, for example, that a six year old, 75,000 mile car which developed a gearbox fault five months after purchase was faulty at the time of sale. However, a consumer who bought a six month old ex-rental car from a main dealer which developed the same gearbox fault would almost certainly be able to rely on the fact that the car was defective when sold. Again, it would be up to the seller to prove that the car was not defective at the time of delivery. This six month *reversed burden of proof* rule does not apply to goods supplied via hire purchase agreements.

Guarantees and Warranties

The statutory rights discussed above do not cover some after-sale problems. Faults may occur which cannot be linked to any defect in the vehicle when first sold. For example, the alternator stops functioning in a four year old car ten months after purchase. In this situation the mechanical breakdown of this component would almost certainly be attributed to fair wear and tear, and not to a fault present at the time of sale. Consumers may wish to be protected against these sorts of unforeseen problems, and that is why it is common for retailers to offer a free guarantee or to sell an extended warranty.

What is a guarantee?

A guarantee is considered in law to be an agreement to provide some benefit for a set period of time in the event of the goods being defective. The guarantee usually promises free repairs for any problems that can be attributed to manufacturing defects or faults that were not obviously present at the time of sale.

Manufacturers and retailers are not legally obliged to provide consumers with a guarantee - but if they do, it must be in plain English and must clearly explain how to make a claim.

The legal definition of a **consumer guarantee** is *any undertaking to a consumer by a person acting in the course of his business, given without extra charge, to reimburse the price paid or to replace, repair or handle consumer goods in any way if they do not meet the specifications set out in the guarantee statement or in the relevant advertising*.

So, if you give any undertaking to fix any problems or to compensate a consumer for faulty goods this will be a 'consumer guarantee' and must meet the minimum requirements set out in the legislation.

What are the *Minimum Requirements* for Guarantees?

The Sale and Supply of Goods to Consumers Regulations 2002 sets out the minimum requirements for a guarantee.

- If goods come with a guarantee, and are available within the United Kingdom, the guarantee must be written in English. The contents of the guarantee should be set out in plain, clear language. It should be clear what a customer has to do to make a claim. This includes the time-scale and territorial scope of the guarantee. It should also give the name and address of whoever is giving the guarantee.
- A prospective buyer can ask for a copy of a guarantee. This should be provided in writing (or another durable medium such as email or fax) within a reasonable time.
- Any guarantee must state that it does not affect the consumer's statutory rights.

What is a warranty?

A warranty provides the same sort of cover that a guarantee does, but the consumer will often have to pay extra for it. Most car manufacturers offer a free, fixed period warranty to cover against the cost of repairs and replacement parts for up to five years after purchase. These sorts of warranties are insurance policies, issued and underwritten by insurance companies. Just to confuse matters, these are sometimes known as *extended guarantees* or *extended warranties*. These sorts of warranties are also within the remit of the Financial Ombudsman Service, and as a dealer you should provide your customers with a written summary of your complaints handling procedure at (or immediately after) the point of sale.

See www.financial-ombudsman.org/publications/guidance/telling-your-customers.htm

What legal protection does a consumer get with warranties and guarantees?

As both are contracts, warranties and guarantees give consumers the right to make a legal claim against the person issuing them. Guarantees are contracts, because the Sale and Supply of Goods to Consumers Regulations 2002 say that they are. This means that if the manufacturer or retailer refuses to honour the warranty or guarantee, a consumer can take them to court to force them to meet their promises. For example, if the company that issued the guarantee will not carry out a repair within a reasonable time when the guarantee says it will, a consumer can sue for the cost of employing someone else to put the problem right.

Enforcement

If you issue guarantees that do not meet the minimum standards set out above, then the Trading Standards Service has a duty to take appropriate action to make sure you comply. This may include going to court.

Additional Rights

It is important to remember that both warranties and guarantees are in addition to the statutory rights given to buyers under sale of goods law. Legislation requires retailers and manufacturers to make it clear that any guarantee they offer are additional rights. You must ensure that the guarantee contains a statement that the consumer has statutory rights in relation to the goods which are sold or supplied, and that those rights are not affected by the guarantee.

Many retailers will be familiar with the statement *This does not affect your statutory rights*.

The Office of Fair Trading (OFT) has given additional guidance on the wording of these sorts of statements, due to concerns that the term *statutory rights* may not mean much to the average consumer. There is a general obligation that all contract terms have to be written in plain and intelligible language. If there is any suggestion that the consumer will not understand the statement, then you must clearly direct the consumer to his or her local Trading Standards Service or Citizens Advice Bureau for further advice.

Examples of statements approved by the OFT.

- If the consumer has any doubts about his statutory rights, he should contact his local Trading Standards Service or Citizens Advice Bureau.
- Nothing in these terms and conditions will reduce your statutory rights relating to faulty or misdescribed goods. For further information about your statutory rights contact your local authority Trading Standards Service or Citizens Advice Bureau.
- Contract does not reduce consumer's statutory rights and further information can be obtained from local Trading Standards Service or Citizens Advice Bureau.

Summary

Statutory Rights and *Guarantees* are not the same. Both give consumers the right to get faults put right. Statutory rights are compulsory, whereas guarantees are offered voluntarily by the dealer or manufacturer. If a free guarantee is offered with a vehicle its terms must be set out to clearly explain what it offers to the consumer and how to make a claim. You cannot just state, for example, *six months parts & labour* on a sales invoice and leave it at that. You must set out the full terms of the guarantee and make it perfectly clear that the guarantee does not affect the customer's statutory rights. Ideally, the guarantee should also tell customers where they can get further advice on those rights.

This is not an authoritative document on the law and is only intended for guidance.

For a copy of this document on audio cassette, in large print or Braille, or if you require assistance in reading this, please contact the Council's Policy Unit.

Shetland Islands Council Policy Unit
Town Hall, Hillhead, Lerwick, Shetland ZE1 0HB

Tel: 01595 744537

Email: policy@shetland.gov.uk

This document is also available at www.shetland.gov.uk/tradingstandards

Do you require the services of an interpreter?

If you do, please contact **01595 744537** for assistance.

We will provide an interpreter, or we can supply the document in your choice of language.

你是否需要傳譯服務？

如果需要，請致電 01595 744537 尋求幫助。

我們會適當地為你安排傳譯人員或者提供你需要文字的文件。

ਕੀ ਤੁਹਾਨੂੰ ਕਿਸੇ ਇੰਟਰਪਰੀਟਰ (ਤੁਰਾਜ਼ੀਆ) ਦੀਆਂ ਸੇਵਾਵਾਂ ਦੀ ਲੋੜ ਹੈ?

ਜੇਕਰ ਤੁਹਾਨੂੰ ਲੋੜ ਹੈ ਤਾਂ ਕ੍ਰਿਪਾ ਕਰਕੇ ਸਹਾਇਤਾ ਲਈ 01595 744537 ਤੇ ਸੰਪਰਕ ਕਰੋ।

ਜਿਥੇ ਸੰਭਵ ਹੈ ਸਕਿਆ ਇੰਟਰਪਰੀਟਰ ਉਪਲਬਧ ਕਰਵਾਇਆ ਜਾਵੇਗਾ ਜਾਂ ਤੁਹਾਡੀ ਪਸੰਦ ਵਾਲੀ ਭਾਸ਼ਾ ਵਿਚ ਦਸਤਾਵੇਜ਼ ਭੇਜਿਆ ਜਾਵੇਗਾ।

आपनि कि एकजन दोतशीर साहाय्य चान ?

यदि आपनार प्रयोजन থাকे ताहले अनुग्रह करे योगायोग करन -01595 744537
येथाने सञ्चन सेखाने एकजन दोतशीर व्यवस्था करन हबे अथवा आपनि ये भाषाते च
दलीलति अनुवाद करे आपनाके प्रदान करन हबे ।

کیا آپ کو انٹریٹریٹر کی ضرورت ہے؟

اگر ایسا ہے تو پھر (انٹریٹریٹر کی) مدد حاصل کرنے کیلئے فون نمبر 01595 744537 پر بات کریں۔

جہاں ممکن ہو اوہاں انٹریٹریٹر کی سہولت فراہم کی جائے گی یا پھر (مطلوبہ) دستہ دیز کارتر جمہ آپ کی

پسندیدہ زبان میں فراہم کیا جائے گا۔