

When you buy particular products or services in Australia, they automatically come with guarantees under the Australian Consumer Law (**ACL**) that cannot be excluded. This guide sets out your key rights under the ACL.

## IS MY PRODUCT OR SERVICE GUARANTEED UNDER THE ACL?

Any product or service that you purchase will come with automatic consumer guarantees if the purchase price is less than \$40,000 (or greater than \$40,000 if the goods/services are normally acquired for personal or household use).

The consumer guarantees will apply to new and second-hand products, regardless of whether the supplier you purchased from includes a warranty for the product or service. These guarantees cannot be contracted out of, however there are ways for suppliers to minimise their exposure in certain circumstances.

## KEY CONSUMER GUARANTEES

The ACL sets out the following key consumer guarantees that apply to *products*:

GUARANTEE	DESCRIPTION
Guarantee as to title	You must get good title (ownership) in the goods.
Guarantee as to undisclosed securities	The goods must be free from any security, charge or encumbrance.
Guarantee as to acceptable quality	Goods must be of acceptable quality, that is they must be fit for all purposes which the goods are commonly supplied, acceptable in appearance and finish, free from defects and safe and durable. If the seller explicitly discloses any defects to you, then you purchase the goods subject to those defects.
Guarantee as to fitness for any disclosed purpose	The goods must be reasonably fit for any purpose which you make known to the seller or for any purpose which the seller represents they are reasonably fit for.
Guarantee relating to the supply of goods by description	The goods must correspond with their description.
Guarantee relating to the supply of goods by sample or demonstration	The goods must correspond with the sample or demonstration model in quality, state or condition.
Guarantee as to repairs and spare parts	The manufacturer must take reasonable action to ensure that facilities for the repair of the goods and parts are available.
Guarantee as to express warranties	The manufacturer of the goods must comply with any express warranty given.

The ACL sets out the following guarantees that apply to *services*:

GUARANTEE	DESCRIPTION
Guarantee as to due care and skill	The services must be rendered with due care and skill.
Guarantee as to fitness for a particular purpose	The services and any product resulting from the services must be reasonably fit for any purpose which you make known.
Guarantee as to reasonable time for supply	The services must be supplied within a reasonable time.

## WHO CAN YOU CLAIM A REMEDY FROM?

If the product or service does not meet one or more of the consumer guarantees you can claim a remedy from the supplier of the product or service (except for those guarantees that are express obligations on the manufacturer).

## REPLACEMENT VS REFUND

For the sale of goods, if the breach is classified as major, then you may require the supplier to replace or refund the price paid for the goods. If the breach is not considered major, then the supplier may choose to repair, replace or refund the goods. The supplier is not allowed to refuse to help you by sending you to the manufacturer or importer. In certain circumstances, you may be able to seek a remedy directly from the manufacturer.

For the supply of services, if the breach is classified as major, you may terminate the supply of services and recover compensation for any reduction in the value of the services (generally a refund and/or damages for any losses you have suffered in connection with the faulty services).

If the breach is not considered major, you may require the supplier to remedy the failure and potentially compensate you for any losses you have suffered.

### KEY TAKEAWAY

The ACL includes consumer guarantees that cannot be excluded by law. If you believe that a product or service you purchased does not meet one or more of the consumer guarantees, or if you are a supplier and a claim has been made against you that you do not believe is valid, contact our dispute resolution team today.