



# Consumer Rights Act 2015

## 2015 CHAPTER 15

### PART 1

#### CONSUMER CONTRACTS FOR GOODS, DIGITAL CONTENT AND SERVICES

### CHAPTER 3

#### DIGITAL CONTENT

*What statutory rights are there under a digital content contract?*

#### **34 Digital content to be of satisfactory quality**

- (1) Every contract to supply digital content is to be treated as including a term that the quality of the digital content is satisfactory.
- (2) The quality of digital content is satisfactory if it meets the standard that a reasonable person would consider satisfactory, taking account of—
  - (a) any description of the digital content,
  - (b) the price mentioned in section 33(1) or (2)(b) (if relevant), and
  - (c) all the other relevant circumstances (see subsection (5)).
- (3) The quality of digital content includes its state and condition; and the following aspects (among others) are in appropriate cases aspects of the quality of digital content—
  - (a) fitness for all the purposes for which digital content of that kind is usually supplied;
  - (b) freedom from minor defects;
  - (c) safety;
  - (d) durability.
- (4) The term mentioned in subsection (1) does not cover anything which makes the quality of the digital content unsatisfactory—

---

*Status: This is the original version (as it was originally enacted).*

---

- (a) which is specifically drawn to the consumer’s attention before the contract is made,
  - (b) where the consumer examines the digital content before the contract is made, which that examination ought to reveal, or
  - (c) where the consumer examines a trial version before the contract is made, which would have been apparent on a reasonable examination of the trial version.
- (5) The relevant circumstances mentioned in subsection (2)(c) include any public statement about the specific characteristics of the digital content made by the trader, the producer or any representative of the trader or the producer.
- (6) That includes, in particular, any public statement made in advertising or labelling.
- (7) But a public statement is not a relevant circumstance for the purposes of subsection (2)(c) if the trader shows that—
- (a) when the contract was made, the trader was not, and could not reasonably have been, aware of the statement,
  - (b) before the contract was made, the statement had been publicly withdrawn or, to the extent that it contained anything which was incorrect or misleading, it had been publicly corrected, or
  - (c) the consumer’s decision to contract for the digital content could not have been influenced by the statement.
- (8) In a contract to supply digital content a term about the quality of the digital content may be treated as included as a matter of custom.
- (9) See section 42 for a consumer’s rights if the trader is in breach of a term that this section requires to be treated as included in a contract.

### **35 Digital content to be fit for particular purpose**

- (1) Subsection (3) applies to a contract to supply digital content if before the contract is made the consumer makes known to the trader (expressly or by implication) any particular purpose for which the consumer is contracting for the digital content.
- (2) Subsection (3) also applies to a contract to supply digital content if—
- (a) the digital content was previously sold by a credit-broker to the trader,
  - (b) the consideration or part of it is a sum payable by instalments, and
  - (c) before the contract is made, the consumer makes known to the credit-broker (expressly or by implication) any particular purpose for which the consumer is contracting for the digital content.
- (3) The contract is to be treated as including a term that the digital content is reasonably fit for that purpose, whether or not that is a purpose for which digital content of that kind is usually supplied.
- (4) Subsection (3) does not apply if the circumstances show that the consumer does not rely, or it is unreasonable for the consumer to rely, on the skill or judgment of the trader or credit-broker.
- (5) A contract to supply digital content may be treated as making provision about the fitness of the digital content for a particular purpose as a matter of custom.

- (6) See section 42 for a consumer's rights if the trader is in breach of a term that this section requires to be treated as included in a contract.

### **36 Digital content to be as described**

- (1) Every contract to supply digital content is to be treated as including a term that the digital content will match any description of it given by the trader to the consumer.
- (2) Where the consumer examines a trial version before the contract is made, it is not sufficient that the digital content matches (or is better than) the trial version if the digital content does not also match any description of it given by the trader to the consumer.
- (3) Any information that is provided by the trader about the digital content that is information mentioned in paragraph (a), (j) or (k) of Schedule 1 or paragraph (a), (v) or (w) of Schedule 2 (main characteristics, functionality and compatibility) to the Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013 ([SI 2013/3134](#)) is to be treated as included as a term of the contract.
- (4) A change to any of that information, made before entering into the contract or later, is not effective unless expressly agreed between the consumer and the trader.
- (5) See section 42 for a consumer's rights if the trader is in breach of a term that this section requires to be treated as included in a contract.

### **37 Other pre-contract information included in contract**

- (1) This section applies to any contract to supply digital content.
- (2) Where regulation 9, 10 or 13 of the Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013 ([SI 2013/3134](#)) required the trader to provide information to the consumer before the contract became binding, any of that information that was provided by the trader other than information about the digital content and mentioned in paragraph (a), (j) or (k) of Schedule 1 or paragraph (a), (v) or (w) of Schedule 2 to the Regulations (main characteristics, functionality and compatibility) is to be treated as included as a term of the contract.
- (3) A change to any of that information, made before entering into the contract or later, is not effective unless expressly agreed between the consumer and the trader.
- (4) See section 42 for a consumer's rights if the trader is in breach of a term that this section requires to be treated as included in a contract.

### **38 No other requirement to treat term about quality or fitness as included**

- (1) Except as provided by sections 34 and 35, a contract to supply digital content is not to be treated as including any term about the quality of the digital content or its fitness for any particular purpose, unless the term is expressly included in the contract.
- (2) Subsection (1) is subject to provision made by any other enactment, whenever passed or made.

### **39 Supply by transmission and facilities for continued transmission**

- (1) Subsection (2) applies where there is a contract to supply digital content and the consumer's access to the content on a device requires its transmission to the device under arrangements initiated by the trader.
- (2) For the purposes of this Chapter, the digital content is supplied—
  - (a) when the content reaches the device, or
  - (b) if earlier, when the content reaches another trader chosen by the consumer to supply, under a contract with the consumer, a service by which digital content reaches the device.
- (3) Subsections (5) to (7) apply where—
  - (a) there is a contract to supply digital content, and
  - (b) after the trader (T) has supplied the digital content, the consumer is to have access under the contract to a processing facility under arrangements made by T.
- (4) A processing facility is a facility by which T or another trader will receive digital content from the consumer and transmit digital content to the consumer (whether or not other features are to be included under the contract).
- (5) The contract is to be treated as including a term that the processing facility (with any feature that the facility is to include under the contract) must be available to the consumer for a reasonable time, unless a time is specified in the contract.
- (6) The following provisions apply to all digital content transmitted to the consumer on each occasion under the facility, while it is provided under the contract, as they apply to the digital content first supplied—
  - (a) section 34 (quality);
  - (b) section 35 (fitness for a particular purpose);
  - (c) section 36 (description).
- (7) Breach of a term treated as included under subsection (5) has the same effect as breach of a term treated as included under those sections (see section 42).

### **40 Quality, fitness and description of content supplied subject to modifications**

- (1) Where under a contract a trader supplies digital content to a consumer subject to the right of the trader or a third party to modify the digital content, the following provisions apply in relation to the digital content as modified as they apply in relation to the digital content as supplied under the contract—
  - (a) section 34 (quality);
  - (b) section 35 (fitness for a particular purpose);
  - (c) section 36 (description).
- (2) Subsection (1)(c) does not prevent the trader from improving the features of, or adding new features to, the digital content, as long as—
  - (a) the digital content continues to match the description of it given by the trader to the consumer, and
  - (b) the digital content continues to conform to the information provided by the trader as mentioned in subsection (3) of section 36, subject to any change to

---

*Status: This is the original version (as it was originally enacted).*

---

that information that has been agreed in accordance with subsection (4) of that section.

- (3) A claim on the grounds that digital content does not conform to a term described in any of the sections listed in subsection (1) as applied by that subsection is to be treated as arising at the time when the digital content was supplied under the contract and not the time when it is modified.

#### **41 Trader's right to supply digital content**

- (1) Every contract to supply digital content is to be treated as including a term—
- (a) in relation to any digital content which is supplied under the contract and which the consumer has paid for, that the trader has the right to supply that content to the consumer;
  - (b) in relation to any digital content which the trader agrees to supply under the contract and which the consumer has paid for, that the trader will have the right to supply it to the consumer at the time when it is to be supplied.
- (2) See section 42 for a consumer's rights if the trader is in breach of a term that this section requires to be treated as included in a contract.