



## E-COMMERCE (INFORMATION) Information on guarantees for the sale of consumer goods

### Goods regulated by law

The Guarantees Law applies to personal property, i.e. consumer goods ranging from household appliances to vehicles, including furniture, objects of all kinds, including works of art. By their very nature, services and real estate are exempt. The Law excludes sales and purchases between individuals.

For new consumer goods the guarantee will be for two years, while for second-hand products the guarantee will be for one year. During the first six months of a new product's warranty, it is assumed that the damage is caused at the factory and the seller must bear all the costs of repair, as well as parts, transport and work hours. The warranty period is suspended while the product or object is being repaired.

### Product in good condition

The law considers that a consumer must be satisfied with the product purchased if they meet the following requirements: that the product meets the description given by the seller and has the features displayed by a demonstration or model. It should also be used for what is indicated in the instruction book, as well as in any verbal instructions given by the seller or in a demonstration video. Common use of the product also includes what can be seen in advertising, indications that appear on a label, or a use that is a result of the features of the product itself. If the consumer has requested a special use and the seller has assured them that the goods purchased will be offered to them, they must be. In addition, the product being purchased must be of appropriate quality and performance. Therefore, a pressure cooker must cook faster than a traditional pot.

### Application of the Law

The Law binds the sellers of consumer goods on the one hand, and the consumers as final recipients on the other. In other words, contracts between private individuals are excluded, since the contract only provides for the sale and purchase between a professional seller and a consumer.

It applies whenever a consumer good is purchased, i.e. any object or product for private consumption. Property acquired in a judicial sale (auction of confiscated property) is excluded. The distribution of unpackaged water or gas for sale is not subject to this law either.

### Claim in case of product failure

The first person responsible for the product is the seller. However, the consumer can go directly to the manufacturer or importer if going to the seller is an inconvenience. For example, if during a holiday away from home you purchase a digital camera that does not correspond to what was offered in the store, it is easier for the consumer to go to the manufacturer or importer rather than to the establishment where it was bought.

When the product's features do not correspond with those advertised, the consumer may choose to have the goods repaired or replaced, unless this is impossible or disproportionate. If repair or replacement is not possible or is disproportionate, the consumer may opt for an appropriate reduction in the price or for the termination of the contract, i.e. a refund.

The consumer may not request a replacement in the case of second-hand goods or goods which cannot be replaced. For example, replacement cannot be requested if the goods are no longer manufactured or stocked, if a second-hand vehicle is purchased, or if, because of the impossibility of doing so, the goods are an exclusive work of art, antique or clothing design. Replacement will be disproportionate where a small defect is easily or simply repaired. Repair will be disproportionate when it is uneconomical, i.e. more expensive than the value of the good.

**Claim periods**

The consumer must report the fault within two months of its detection. In this sense, if the problem has arisen within six months of the purchase of the product, the seller must enforce the guarantee, since within that period of time it is assumed that the problem comes from the factory. However, if those six months have elapsed, it is the consumer who must prove that the fault is from the factory and that it was not caused by misuse of the product.

The Law establishes that during the six months following delivery of the repaired goods, the seller will be liable for the faults that caused the repair, assuming that it is the same fault when defects of the same origin as those initially repaired reoccur. In order to be able to enforce this repair guarantee, the consumer must keep the proof of the repair and technical service that was given when the product was repaired.

**Failure after repair or replacement**

The Law provides for the following possibilities: If the consumer chose to replace a faulty product, they may ask the seller to repair it, provided it is not disproportionate, to reduce the price or to refund the money. On the other hand, if the first choice was to repair the product failure, the consumer may demand an exchange, a reduction in the price or a refund of all the money paid.

However, the Law does not specify the amount or type of price reduction that the seller must offer the consumer if that is the chosen option. Thus, both parties involved in the purchase must reach an agreement that satisfy both parties.

**Refusal to repair, reduce price or return money**

If it is still within the first six months, a repair must be requested, as well as a Complaint Form, and insist until reaching trial. It is presumed that there was a fault. But if the first six months have already passed, the opposite is the case. It is the consumer who must prove that the product was purchased with the fault.

In any case, the consumer will have to negotiate, and if they do not agree with the discount offered by the seller they can turn to an appraiser to determine the price of the product after the repair and request a price reduction in that sense.

**Instruction booklet and poor installation**

If a consumer misuses a product because the instruction booklet is incorrect, the guarantee law protects the consumer and may demand repair or replacement of the product. Likewise, the seller is also responsible if the failure is due to a bad installation caused by incorrect instructions in the manual or by the technicians sent by the seller.

**In case of repair or transfer to a technical service centre, ¿what must the consumer pay?**

Nothing. During the period in which the warranty is effective, the seller or manufacturer must bear the cost of travel, parts and repair time. Additionally, the guarantee period is suspended for as long as the product remains in service. In other words, the clock is not ticking. On the other hand, in addition to demanding the guarantee to be applied (repair, exchange, price reduction or refund), the consumer can claim compensation for damages resulting from the fault and repair time. For example, if a user purchases a refrigerator and it breaks down within a week of purchase, in addition to requesting the guarantee to be applied, the user can demand compensation for the food that has broken down due to the malfunctioning of the appliance.

**Commercial guarantee**

The commercial guarantee is that which the manufacturer, distributor or seller gives and which must always exceed that offered by law, since this is understood by the consumer to be the minimum required. It is also a marketing tool

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for businesses. However, this guarantee must meet certain requirements, such as making clear what it applies to, the object or product that has such guarantee, and the name and address of the person offering it.