

Consumer Awareness: Distant contracts, cancellations and refunds

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Background

The Office of Fair Trading (**OFT**) has noted that there has been an increase in online purchases of goods by local consumers from local traders, particularly as a result of the Covid-19 pandemic.

In line with this trend the OFT has seen an increase in complaints and queries regarding cancellations and refund rights following online purchases.

This guidance should assist consumers understanding their rights when entering into a Distance Contract. If you would like to know more about these rights you may access the full text of the legislation [here](#).

Distant Contracts

A distant contract is made between a trader and a consumer where they are not physically together, and is negotiated and agreed, using a distance communication such as phone, post or internet.

Pre contract information

The following information must be provided by the trader before a sale:

1. Description of the goods;
2. Total price or manner in which it will be calculated, including delivery charges and any other costs;
3. How payment is going to be made;
4. Time of delivery;
5. Details of any right to cancel including the provision of a standard cancellation form (note however that consumers are not obliged to use the form in order to cancel);
6. Where there is a right to cancel who pays for the costs to return the goods; and
7. Geographical address and contact details of the seller.

Cancellation Rights

The following are the consumers' legal right to cancel the sale contract:

1. Consumers can cancel most distance contracts without having to give any reason, from the day they make the order and up to 14 days from when they receive the goods.
2. If the order consists of multiple goods and they arrive at different times, the 14 days run from when the last item of the order is received; and





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3. Consumers have 14 days to send the goods back after they decide to cancel.

Rights to a Refund

The following are the consumers' legal right to refunds:

1. Consumers have a right to receive a refund within 14 days from when the trader receives the goods back from them or from when they have provided evidence that they have returned the goods to the trader;
2. If the trader is collecting the goods from the consumer, the refund should be completed within 14 days from the date the trader was informed of the cancellation;
3. A deduction from the refund can be made if the goods have been handled more than was necessary. Goods can however be handled in the same manner as they would in a shop; and
4. A refund for the basic cost of the delivery of the goods to the consumer must also be made.

Delivery of Goods

The following are the consumers' legal right with respect to goods to be delivered at a later date.

1. Delivery should be made without undue delay and within 30 days unless another period of delivery has been agreed.
2. If the delivery is later than agreed and it was essential that they were delivered on time, then the consumer has the right to cancel and get a full refund;
3. If time isn't essential but another reasonable delivery time has not been agreed or adhered to, then the consumer has the right to cancel the purchase and obtain a full refund.

Exemptions

There are circumstances where a consumer would not have a right to cancel. To follow are some examples:

1. CDs, DVDs or software where the seal on the wrapping has been broken;
2. Perishable items and tailor made or personalised items;
3. Goods where a health protection or hygiene seal has been broken; and
4. Goods that have been inseparably mixed with other items after delivery.

Faulty Goods

The [Sale of Goods Act](#) applies to faulty goods generally and as such consumers have the same rights as if they had bought the faulty items in you store. Any terms and conditions that say that consumers have to pay for the cost of returning an item would not apply when the goods being returned are faulty or not in conformity with the contract.

The above information is provided for general guidance only and does not constitute legal advice nor should it be relied upon as such.



Terms and Conditions

As with all contracts it is very important that consumers check the terms and conditions. Some traders may offer better terms than others.

Additional Information

Before buying online

Not all websites are genuine or have good business practices. Some online businesses may have poor security provisions and as such your personal information and payment details may be at risk of misuse. Also, you may have problems receiving your goods or if you want to return your goods. It is therefore advisable to look for independent reviews for the website you are dealing with. Also take the time to think about the best way to pay for your goods as if something does go wrong with your purchase you may benefit from extra protection by using certain payment methods. It is therefore also advisable to check with your credit and or debit card provider to see what purchase protections (if any) they offer.

Purchases made using a Credit Card

Generally, you have additional rights if your credit card is issued in UK and if the goods or services cost more than £100 but less than £30,000. You may be able to claim against the credit company if you haven't been successful claiming against the trader

Purchases made using PayPal

You usually also have additional rights when you buy something from a seller who accepts PayPal. When applicable, PayPal Buyer Protection entitles you to reimbursement for the full purchase price of the item plus the original shipping costs you paid, if any. You can check their terms and conditions below: <https://www.paypal.com/uk/webapps/mpp/ua/useragreement-full#buyer-protection>

If buying from abroad consumers should also make themselves acquainted with the new measures in place in the Royal Gibraltar Post Office for online shopping deliveries to Gibraltar. With the New Parcel Post Digital Notification System, Royal Gibraltar Post Office now allows you to opt to pay any duty/import fees online and even have the item delivered to you for a fee.

Useful Links for further information

<https://post.gi/e-post/>
<https://epost.egov.gi/>
<https://epost.egov.gi/charges-import-duty>
<https://epost.egov.gi/faq>



Customs Clearance

If goods are received via courier consumers may opt for:

1. the courier to carry out customs clearance for them usually for a small fee; or
2. conduct the customs clearance themselves

There is a PC with free access by Customs public counters for anyone wishing to do their own customs clearance. The system requires a customs account created first to allocate an authorised log on user name and password. Consumers should see the Customs officer at the counter for assistance.

Useful contact information

- HM Customs, Waterport, Gibraltar,
Phone: +350 200 78879 General Enquires
Email: hmcustoms@gibraltar.gov.gi
- ICIS - Computer Clearance System Helpdesk
ASYCUDA World Functional Enquiries
Open on weekdays during office hours from 8.00 am to 3.00 pm (excluding Bank Holidays)
Phone: +350 200 46715 Centrex: 3715
Email: asycuda@gibraltar.gov.gi

Contact the OFT

If you have had any issues relating to online purchases or you need information on any consumer matter, the OFT's Consumer Protection Team may be able to assist.

Contact us: consumer.protection@oft.gov.gi or on 20071700

Or to place a complaint with us, use our online form: <https://www.oft.gov.gi/complaints>

This document is issued by the OFT for general guidance only to assist affected consumers' in Gibraltar. It should not be used or relied upon as legal advice.