

The Consumer Protection Act, No. 68 of 2008 (“the CPA”) The Implied Warranty of Quality and the Warranty on repaired goods

The Implied Warranty of Quality

What are the rights of the consumer?

The general rule in the CPA is that every consumer has the right to safe and good quality products. This rule does not apply if the goods were bought at an auction. Auctions are governed by separate provisions in the CPA. The rule also does not apply if the consumer was expressly informed that particular goods were offered in a specific condition and the consumer expressly or through his actions agreed to accept the goods in that condition.

More specifically every consumer has a right to receive goods that:

- are reasonably suitable for its intended purpose;
- are of good quality, in good working order and free of any defects;
- will be useable and durable for a reasonable period of time;
- comply with any applicable standards set under the Standards Act, No. 8 of 2008.

A standard is a document that provides for common and repeated use, rules, guidelines or characteristics for products, services, or processes and production methods, including terminology, symbols, packaging, marking or labelling requirements, as they apply to a product, service, process or production method.

If a consumer informs the supplier of the particular purpose for which he wishes to acquire the goods and the supplier ordinarily offers to supply such goods or acts knowledgeable about the use of those goods, the consumer has a right to expect that the goods are reasonably suitable for the specific purpose that he has indicated.

To determine if particular goods satisfied the requirements, all of the circumstances of the supply of those goods must be considered. This will include the manner in which, and the purposes for which, the goods were marketed, packaged and displayed, the use of any trade description or mark, any instructions for, or warnings with respect to the use of the goods, the range of things that may reasonably be anticipated to be done with the goods and the time of production and supply.

What about latent defects?

It is irrelevant whether a product failure or defect was latent or patent, or whether it could have been detected by a consumer, before taking delivery of the goods and a product failure or defect, may not be inferred in respect of particular goods solely on the grounds that better goods have subsequently become available.

What does the implied warranty of quality mean?

If the goods do not meet the above requirements the consumer may within six months after delivery of the goods, without penalty and at the suppliers risk and expense, return the goods to the supplier. The implied warranty and right to return

goods are in addition to any other implied warranty or condition imposed by law, or stipulated by the producer, importer, distributor or retailer.

What are the duties of the supplier in terms of the implied warranty of quality?

The supplier must at the direction of the consumer, either repair or replace the defective goods or refund to the consumer the paid price. If a supplier repairs the goods or any component thereof and the defect is not remedied within three months after the repair, or a further defect is discovered, the supplier must replace the goods or refund to the consumer the paid price.

The Warranty on repaired goods

What does the warranty cover?

The warranty applies to new or reconditioned parts installed during any repair or maintenance work and the labour required installing such parts.

For how long is the warranty operative?

The warranty is operative for a period of three months after the date of installation of the parts, or such longer period as the supplier may specify in writing. The warranty is also concurrent with any other deemed, implied or express warranty.

What exclusions exist?

The warranty is void if the consumer has subjected the part, or the goods or property in which it was installed, to misuse or abuse. The warranty does also not apply to ordinary wear and tear, having regard to the circumstances.

This article was written by Carla Budricks, Associate Director –Internal Risk Management at PriceWaterhouseCoopers and member of the SAICA Legal and Compliance Committee.