

SWIMMING POOL RETAIL & SERVICE SECTOR

Repair, Replace, Refund Guide

Have one of your customers brought a pool pump, filter or other product from you that was broken or did not do what you told them it would do?

Since 1 January 2011, customers have the right to ask for a repair, replacement or refund in certain circumstances.

Customers can use their rights for:

- Pool and Spa products they buy from your pool shop or your online pool business
- Pool and Spa Service services that consumers pay you for
- Pool and Spa equipment that your business may hire out

Consumers can use their rights even if the product or service you have provided them has:

- A voluntary warranty offered by the supplier
- An extended warranty that they have bought from you
- A voluntary or extended warranty that you provided but has expired

What happens when a consumer asks you for a repair, replacement or refund?

As the business owner you may:

- ask the consumer for proof of purchase such as a receipt or bank statement
- discuss with the consumer and ascertain whether the problem is major or not

If it's a major problem the consumer will be able to choose a refund, repair or replacement (or compensation in the case of services).

If it's not a major problem you as the business owner will be able to choose whether you will repair, replace or refund the product, or fix the problem with the service.

What is a major problem?

A major issue is one that would have stopped the customer from buying a product or service from you if they'd known about it.

A product is considered to have a major problem if:

- it has a problem that would have stopped the customer from buying it if they'd known about it
- it is unsafe
- it is significantly different from the sample or description
- it doesn't do what the advertising or your salesperson said it would do
- it can't easily be fixed

A service has a major problem if:

- The service is problematic and would have stopped the customer from buying it if they'd known about it
- It does not meet the specific purpose the customer asked for and cannot easily be fixed within a reasonable time
- the service is unfit for its common purpose and can't easily be remedied within a reasonable time
- it creates an unsafe situation

Your customer will also be able to choose a refund or replacement (or compensation in the case of services), where your business can't:

- repair the product or fix the problem with the service
- repair the product or fix the problem with the service within a reasonable time.

Note: It's illegal for you to advise your customers, or display signs that state "you do not give refunds under any circumstances".

Consumers are able to report businesses to their local consumer protection agency or the ACCC directly if your business makes or displays such statements.

When can a consumer ask you for a repair, replacement or refund?

There are eight rules that consumers are able to use to establish whether they can enforce their rights:

Rule 1: Acceptable quality

All goods you sell must be of an acceptable quality.

This means that products you sell must be:

- Safe
- Lasting
- Have no faults
- Look acceptable, and
- Do all the things that is expect from them

Examples:

- You sold a pump a month ago and it has stopped working
- The new suction pool cleaner your salesperson recommended does not clean the surface of the pool as explained
- The automatic controller timer does not work as it should

Exceptions to the rule:

The customer cannot ask you for a repair, replacement or refund if they have:

- caused the problem by being careless or misusing the product
- haven't followed the instructions

Rule 2: Goods must fit the purpose

The goods purchased by your customer must fit the purpose you discussed with them before selling it to them, or the purpose for which the goods are commonly supplied.

Examples:

- The salt chlorinator you recommended and sold the customer is too small for their size pool
- The solar heating your business recommended and installed is not sufficiently working due to lack of strip coverage on the roof

Rule 3: Goods must match the description.

Any description of the goods given by your business or written on associated packaging or labels must be accurate.

Examples:

- The blue pool cover the customer ordered from you arrives at their home in the wrong colour – (green).
- The pool light your business recommended and sold does not match the photometric data on the pool light specification sheet

Rule 4: Goods must match any sample or demonstration model.

If the customer sees a sample in your shop or on site, or they ask for a trial run or demonstration and ask to buy the same product, what they get must match the sample or demonstration.

Examples:

- The pressure cleaner that the customer brought from your business does not climb the walls like the one that you demonstrated at their home

- The three speed pump installed at the customer's home doesn't match the display variable speed pump they saw and were advised they were getting

Rule 5: Businesses must meet any extra promises they make.

Any additional promises your business makes about the condition and quality of goods or the way they work are called 'express warranties'.

If your business makes any extra promises, you must make sure you are able to deliver them.

Examples:

Your salesperson advises the customer that:

- the salt chlorinator for sale is adjustable and will cater for any size swimming pool
- is compatible with all equipment (adapters are in the box)
- no maintenance is ever required

When the salt chlorinator arrives by courier and the customer has their local service technician attempt to install it, the service technician advises:

- the salt chlorinator is adaptable but is still too small for their size pool
- the existing pipe diameters are different to the salt chlorinator fittings and no adapters have been provided
- the cell is not self-cleaning

Rule 6: Services must have an acceptable level of care and skill.

Your business must provide services with an acceptable level of care and quality.

Example:

A customer engages the services of a pool and spa technician to remove black spot from the pool. The pool and spa technician empties the pool and acid washes the surface of the pool only to be faced with the following scenario(s):

- acid washing the pool has removed some of the marks the customer complained of but added some new blemishes over a larger area
- the pool has shifted (popped) by three centimetres
- undiluted acid has spilled and marked various areas from the front entrance right up to the pool area

Rule 7: Services customers asked for should fit the purpose or give the results you and they agreed to.

Example:

The customer has asked you for a sound proof filter enclosure to be installed to house their pool equipment. Instead, the customer ends up with an enclosure that has the following issues:

- due to the quality of the installation, the enclosure is far from being sound proof
- the enclosure is so tight that some of the equipment is touching the side walls and causing a noisy vibration

Rule 8: Customers should receive services in a reasonable time.

Your business should provide service contracts with a date of when the customer will get the service, or in the case of longer term contracts, a finish date. If your agreement doesn't state this, you are expected to deliver the service in a reasonable time.

Example:

A customer has paid you a deposit to repair leaking pipes between the pump and the filter over a fortnight ago. Despite repeated requests by the customer you have not commenced the work or provided a start date.

FOR FURTHER INFORMATION:



www.accc.gov.au



www.consumerlaw.gov.au