



Consumer market study on the functioning of legal and commercial guarantees for consumers in the EU

Country fiche: Iceland

EUROPEAN COMMISSION

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1. Iceland

1.1 Regulatory background

Directive 1999/44/EC on Sale of Consumer Goods was transposed into the Icelandic legislative system via Act 48/2003, 20th March, on the Sale of Goods to Consumers.¹ Act 48/2003² has been modified once, by Act 87/2006, 30th June.

1.1.1 Transposition of Directive 1999/44/EC

Despite not having transposed a few definitions from Directive 44/1999 EC, the Icelandic legislation (Act 48/2003) is in many ways more detailed. The Icelandic legislation is presented differently to Directive 1999/44/EC which complicates the comparison. It is divided into the following 13 chapters, the headings of which give an insight into the contents of the Icelandic legislation:

- Chapter I (Art. 1-4): Scope.
- Chapter II (Art. 5-12): Delivery.
- Chapter III (Art. 13-14): Risk of Consumer Goods (focuses on when the responsibility of the consumer good moves from seller to buyer).
- Chapter IV (Art. 15-18): Qualities of Consumer Goods, Defects etc.
- Chapter V (Art. 19-25): Delay of Payment. Consumer Solutions Regarding Delayed Delivery.
- Chapter VI (Art. 26-36): Consumer Solutions Regarding Defective Consumer Goods.
- Chapter VII (Art. 37-40): Consumer Obligations
- Chapter VIII (Art. 41-42): Cancellation and Right to Return Consumer Goods
- Chapter IX (Art. 43-48): Seller Solutions Regarding Default on Behalf of the Consumer
- Chapter X (Art. 49-51): Common Rules Regarding Termination and Replacement
- Chapter XI (Art. 52-54): Common Rules Regarding Compensation
- Chapter XII (Art. 55-61): Various Provisions
- Chapter XIII (Art. 62-65): Complaints Committee on Purchase of Cash/Liquid Funds and Service etc. (In case of disagreement the party/parties in question can contact the committee)

The Icelandic legislation is more detailed regarding the delivery and responsibility of consumer goods, solutions regarding delay of payment, delayed delivery, cancellation, right to return and default on behalf of the consumer, as well as consumer obligations. It also includes rules regarding termination, replacement and compensation. The following discussion is not exhaustive, but it discusses the main deviations.

Duration of legal guarantee

According to Art. 27.2 of Act 48/2003 the consumer must notify the seller of any defects within two years of delivery. If the good is supposed to have a considerably longer lifetime than goods in general, the time frame is 5 years.

Notification of defects and remedies

¹ The Consumers' Association of Iceland (Accessed: May 2015). "ECC Goods and Services". Available at: <http://www.ns.is/is/content/vorur-og-thjonusta-ecc>

² Act 48/2003 is available at: <http://www.althingi.is/lagas/144b/2003048.html>

Art. 16 of Act 48/2003 discusses defects. A good is considered defective if it is not in accordance with requirements listed in Art. 15, or if the seller has neglected giving certain information that could affect the purchase, or if the good is not in accordance with information given in advertisements or in the marketing of the good or if necessary information about the good are missing. According to Art. 27.2 of Act 48/2003 the consumer must notify the seller within a reasonable time. If the good is supposed to have a considerably longer lifetime than goods in general, the time frame is 5 years. The burden of proof is standard, with defects found in the first six months considered as being there at the time of purchase. After six months, the consumer must prove this.

According to Art. 26.1 of Act 48/2003 the consumer has five remedies if a good is defective:

- Withhold the purchase price payment according to Art. 28
- Choose between rectification or new delivery according to Art. 29 and 30
- Demand a discount according to Art. 31
- Require termination of contract according to Art. 32
- Claim compensation according to Art. 33
- The seller is responsible for providing a remedy.

Delivery

The Act (Articles 8-11) states that the seller has to fulfil additional requirements when the goods are shipped to the customer. The seller will have to make additional contracts to ensure the goods are sent to the delivery place in a relevant manner and according to normal terms regarding shipments. If the seller has not lent the amount to the customer nor given him/her an option of a delayed payment, the seller is not obliged to deliver the good, unless the good is paid for. The seller is obliged to pay for any cost relating to the good until it is delivered and has a right to keep cash flows arising from the good until it has been delivered according to contract terms.

Delay of payment / of delivery

According to Articles 19-24, if the consumer doesn't pay for the good or doesn't fulfil his/her obligations and the reason cannot be traced to the seller or events caused by the seller, the seller can require fulfilment, termination and/or compensation to the consumer. On the other side, in case of delay of delivery, the Act details what the customer can do if delivery is delayed, e.g. keep the payment, require fulfilment, termination and/or compensation.

Consumer obligations

There are some additional requirements regarding consumer obligations in the Act under Articles 37-40. If a good is bought without the price being stated in a contract or information from the seller, the consumer shall pay a fair value of identical goods, as long as the price is not unfair. If payment terms cannot be found in the contract the customer shall pay for the good when the seller requires. The consumer has the right to inspect the good before buying it.

If the consumer cancels the purchase before the good is delivered, the seller cannot require a payment for it. The parties can agree on compensation due to cancellation. However, after the good has been delivered the consumer is obliged to pay for it despite sending it back to the seller. The obligation is not relevant if the contract has been terminated or if both parties have agreed on a right to return beforehand. When a contract is terminated, and the goods already delivered, they must be returned. If the seller is supposed to make a new delivery the buyer can keep the already delivered good until the new delivery has been made. Termination has no effect on contract terms

regarding secrecy, solutions of dispute or rights and obligations due to the termination. The consumer only has the right to require termination of contract if he/she is able to return the good in the same condition and quantity as of delivery.

If the product is repaired or replaced, a new 2 year guarantee comes into force³.

Compensation

Under Articles 52-54, compensation (in the context of guarantees) is supposed to account for damage due to expenses, price difference and lost profit and does not apply to physical injuries or damages, which would be a separate matter entirely. A party that claims default on behalf of the other party must try to limit his/her damage if possible within reasonable limits. If he/she neglects it, he/she is responsible for the damage relating to the failure to limit the damage.

1.1.2 Table of the transposition

The next page displays the articles from Directive 1999/44/EC on Consumer Sales and its transposition into the Icelandic legislative system.

³ ECC-net, country fiche for Iceland (undated), available at: http://www.europe-consommateurs.eu/fileadmin/user_upload/eu-consommateurs/PDFs/PDF_EN/REPORT-_GUARANTEE/country_fact_sheets/Country_fiche_IS.pdf

Table 1: Transposition of Directive 1999/44/EC in the Icelandic legislation				
Areas	Art.	Content	Legislation	Comment*
Scope and definitions	1.1	Purpose		Not transposed
	1.2.a	Def. Consumer goods	48/2003 Art. 2	"The Act applies to a) ordering of a goods that shall be produced; b) delivery of water; c) purchase of claims and rights. Does not apply to a) purchase of real estate; b) contracts to construct buildings or other structures on real estate; c) the supply of electricity; d) contracts when the deliverer shall also provide labor or other services that include most of his duties"
	1.2.b	Def. Consumer	48/2003. Art. 1.3	<i>Direct transposition</i> - Meaning any natural person acting for purposes not related to his trade, business or profession
	1.2.c	Def. Seller		Not transposed
	1.2.d	Def. Producer		Not transposed
	1.2.e	Def. Guarantee		Not transposed
	1.2.f	Def. Repair		Not transposed
	1.3	Exclusion second hand		Not transposed
Conformity with the contract	1.4	Contracts of sale types		Not transposed
	2.1	Conformity requirement	48/2003 Art. 15.1	"Consumer goods must be in conformity with the contract of sale regarding type, quantity, quality, other characteristics and packaging"
	2.2	Good conformity	48/2003. Art. 15.2	Also clauses regarding suitable packaging, and the goods being free from third-party rights.
	2.3	Lack of conformity	48/2003. Art. 16.1. c) & 16.4	Also a clause regarding the information not affecting the purchase.
	2.4	Seller statements	48/2003. Art. 16.1. c)	No clauses regarding the first two points in 2.4. Third point can be found in 48/2003. Art. 16.1. c)
Rights of the consumer	2.5	Installation	48/2003. Art. 16.1. d)	"Consumer good is considered defective if necessary information about the installation, assembly, use, care and storage are not pertained"
	3.1	Liability	48/2003. Art. 18.3	"When the seller has guaranteed that the good sold has certain qualities or that it can be used in a standard or special manner he/she is responsible for any lack of conformity"
	3.2	Remedies	48/2003. Art. 29.1	"Consumers can choose between requiring the seller to fix defects on their own account or requiring a replacement. Does not apply if there is an obstacle that is not the seller's fault or if it includes unreasonable cost for the seller"

	3.3	Conditions	48/2003. Art. 29.1, 29.2 & 30.1	<i>Direct transposition</i> - Repair or replacement offered first and free of charge, unless implying disproportionate costs for the seller. Repair or replacement to be completed within a reasonable time taking into account the value of the good; the significance of the lack of conformity, or whether the remedy can be completed without inconvenience to the consumer
	3.4	Free of charge		Not transposed
	3.5	Reduction of the price	48/2003. Art. 31	"If defects are not fixed or replaced the consumer can demand a discount on the purchase price. Discount shall be calculated so that the ratio between the reduced price and the contracted price will correspond to the ratio between the value of the defective object and the agreed conditions at the time of delivery. If justified by special reasoning, discount may be determined with regard to the significance of the defect to the consumer. The consumer can not demand a discount in case he/she has purchased a second-hand item at an auction where he/she had the option of being present."
	3.6	Contract rescission		Not transposed
Right of redress	4	Final seller liability	48/2003. Art 35.1	"The consumer can carry his/her claim against seller on to a previous seller if the same claim is made by the seller or someone else who has acquired the goods from the previous seller."
Time limits	5.1	Time period	48/2003. Art. 27.2	"If the consumer doesn't file a complaint within two years of the delivery date, he/she cannot claim a defect later. If the intended use of a consumer good is for a substantially longer time period than general, the time limit to file a complaint is five years instead of two years. If the seller has guaranteed responsibility for a longer period he/she must fulfil his/her responsibilities."
	5.2	Defect confirmation	48/2003. Art 27.1	Never less than two months
	5.3	Reversed burden	48/2003. Art 18.2	<i>Direct transposition</i> - Any lack of conformity detected within six months of delivery of the goods is presumed to have existed at the time of delivery unless incompatible with the nature of the goods or the lack of conformity
Guarantees	6.1	Legally binding	48/2003. Art. 18.3	<i>Direct transposition</i> - Stating that the guarantee will be legally binding on the offerer of the guarantee under guarantee statement and conditions
	6.2	State rights and contents		Not transposed
	6.3	Written contract		Not transposed
	6.4	Language of guarantees		Not transposed
	6.5	Respect 6.2-4		Not transposed
Binding nature	7.1	Right restrictions		Not transposed
	7.1	Reduced period (2nd hand)		Not transposed

	7.2	Measures of protection	48/2003. Art. 3.2	"It is not allowed to opt for the law of a country outside of EEA as the law applicable to the contract where the contract has a close connection with the territory of EEA if it leads to less favourable terms for the consumer than according to Act 48/2003."
National law and minimum protection	8.1	Supplementary rights		
	8.2	National rules retain		
Information	9	Inform of the rights		
Modification	10	Directive 98/27/EC		
Transposition	11.1	Date		
	11.2	Provisions		
Review	12	Jul-06		
Entry into force	13	Day of publication		
Address	14	To Member States		
Recitals	15	Period-of-use deduction	48/2003. Art. 27.2	"If the consumer doesn't file a complaint within two years of the delivery date, he/she cannot claim a defect later. If the intended use of a consumer good is for a substantially longer time period than general, the time limit to file a complaint is five years instead. If the seller has guaranteed responsibility for a longer period he/she must fulfil his/her responsibilities."
	18	Suspension 2-year period	48/2003. Art. 27.2	See above.

* The mention of "direct" means a direct transposition, disregarding the fact that the sentences can be placed differently or paraphrased relative to the Directive formulation

Legend

	Articles at the discretion of the Member State (not mandatory)
	Rules on procedures to transpose
	Recitals –at the discretion of the Member State

1.1.3 Additional rights

Act 57/2005, 20th May, modifies the legal framework for unfair commercial practices and advertising for the improvement of the consumers and users protection⁴. Important Acts affecting consumer rights are the following:

- Act 46/2000 – Door-to-Door Sales and Distance Contracts
- Act 141/2001 – Prohibition Order and Court Case to Protect Aggregate Interests of Consumers
- Act 30/2002 – Electronic Exchange and Other Electronic Service
- Act 57/2005 – Surveillance of Business Practices and Market Transparency
- Act 56/2007 – Administrative Cooperation Regarding Consumer Protection in the EEA
- Act 76/2011 – Service Trade in the EEA Internal Market
- Act 33/2013 – Consumer Loans⁵

Right of information

- Act 57/2005 addresses the right of information.
- Article 14 states that it is prohibited to provide false, incomplete or misleading information in advertisements or in other commercial practices if the information is designed to influence the demand or supply of goods, real estate or services.
- Article 9 of Act 57/2005 states which information may not be false and that all information that makes a difference for the consumer will have to be provided.
- Article 10 of Act 57/2005 states which information will have to be provided if the seller decides to advertise.
- Article 16.b of Act 57/2005 states that if a guarantee is made by the seller the consumer will have to be informed of its scope and his/her rights.

Right of withdrawal

Chapter VIII of Act 48/2003 discusses cancellation and the right to return. If the consumer cancels the purchase before the good is delivered, the seller cannot require a payment for it. The parties can agree on compensation due to cancellation if the contract doesn't state otherwise.

After the good has been delivered the consumer is obliged to pay for it despite sending it back to the seller. The obligation is not relevant if the contract has been terminated or if both parties have agreed on a right to return beforehand.

Chapter III of Act 46/2000 discusses the right to withdraw from a contract. According to Article 8 of Act 46/2000 a contract doesn't commit the consumer until 14 days after the contract was made and the consumer is allowed to withdraw from the contract without an explanation or compensation.

1.2 Enforcement and redress

If services or products bought by a consumer prove defective he/she should turn to the seller, who is obliged to consider the consumer's complaint. If the consumer and seller fail to resolve the matter and reach an agreement, consumers can seek redress. There are

⁴ Incorporating Directive 2005/29/EC on unfair commercial practices and 2006/114/EC on misleading and comparative advertising.

⁵ The Consumer Agency (Accessed: June 2015). "Legislation and Regulations". Available at: <http://www.neytendastofa.is/?PageID=235>

examples of consumers appealing to the government or legislative appeals committees where membership is statutory.⁶

The Consumer Agency enforces the following legislative Acts:

- Regulation 156/1995 on Package Tours
- Act 80/1994 on Package Tours
- Act 121/1994 on Consumer Credit
- Act 46/2000 on Door-to-Door Sales and Distance Contracts
- Act 30/2002 on Electronic Commerce and Other Electronic Services
- Act 57/2005 on the Surveillance of Business Practices and Market Transparency

Notification 456/2006 on Appointed Authorities and Organizations Who are Entitled to Initiate Injunctions for the Overall Interests of Consumers

- Rules 384/2007 on the Itemization of Price of Medication Sold by Prescription
- Rules 385/2007 on Price Labelling of Automobile Fuel
- Rules 366/2008 on Sales or Other Retail Activities Where Goods are Sold at a reduced price

A case on the basis of the aforementioned Acts can be initiated by a notification from a consumer, complaint from a competitor or organizations. Consumers can submit notifications to the Agency by registering their own account at the Consumer Agency's e-Government On-Line portal on the Internet, by submitting an anonymous notification at its website, by telephone or in writing. A company that requests to have a case initiated does so in writing describing the main facts and submitting all relevant data. Not all submitted notifications and complaints are accepted for process by the Consumer Agency and only those having legally protected interests can be parties to such cases.

Following the gathering of evidence and due process most cases of the Consumer Agency result in recommendations or settlements. Part of the cases result in formal decisions and bans. The decisions of the Consumer Agency can be appealed to the Consumer Appeals Committee which is an independent committee.⁷

The Complaint Committee of Liquid Assets and Service Purchases (*Kæruneftnd lausafjár- og þjónustukaupa*), established by the Consumer Agency, enforces the following legislative Acts:

- Act 42/2000 on Services Purchases
- Act 50/2000 on Liquid Assets Purchases
- Act 48/2000 on Sale of Consumer Goods

Its rulings cannot be appealed to other authorities, but the parties involved may bring the issue to court.⁸

A case on the basis of the aforementioned Acts can be initiated by a written request, where name, address and identity number are requested. If the request is submitted by a third party, a power of attorney must be in place. An opinion request must describe the dispute

⁶ The Consumer Agency (Accessed: June 2015). "Means of Consumer Complaints in Iceland". Available at: <http://www.neytendastofa.is/library/Files/Kaerunefnd-lausafjar--og-thjonustu/kaeruleidir%20neytenda%20-%20Island.pdf>

⁷ The Consumer Agency (Accessed: June 2015). "Consumer Rights". Available at: <http://www.neytendastofa.is/english/consumer-rights-divison/>

⁸ Regulation No. 766/2006, Art. 2 (Accessed: June 2015). Available at: <http://www.reglugerd.is/reglugerdir/allar/nr/766-2006>

and the requirements made. The requirements must be justified and accompanied with evidence.⁹

The EEA is a joint market and therefore Icelandic consumers have access to products and services in every EEA country. Statutory appeals are possible in many countries, while in other countries they are based on an agreement between trade organizations and consumer organizations. When Icelandic consumers wish to file a complaint against an entity operating in the EEA market, they will have to fill in a form and send to the European Consumer Centre in Iceland which is responsible for submitting the complaint to the complaints committee concerned.¹⁰

Cases

A few Complaint Committee rulings are published on the Consumer Agency's website.

Box 1: Complaint committee ruling on cell phone sale, case 38/2014¹¹

A complaint was filed to The Complaint Committee of Liquid Assets and Services Purchased by a cell phone buyer. The phone was bought in May 2013. A month later a defect occurred that was fixed by the seller. The same defect occurred twice more, but the seller refused to pay for the repair the third time. The buyer claimed that the phone was defective and required the seller to replace the phone and refund previous repair costs. The Complaint Committee ruled that the phone was defective and ruled in favour of the buyer.

Box 2: Complaint Committee ruling on repair of computer, case 17/2014¹²

A complaint was filed to The Complaint Committee of Liquid Assets and Services Purchased by a computer owner. The computer was bought in August 2013. In the first half of 2014 the computer owner had difficulties updating the computer operating system and took it to a computer workshop. The computer owner claimed that the repair made had been unnecessary and required an annulment of the purchase of the computer and a refunding of the repair. Since the computer owner directed his claim only to the workshop and not the seller of the computer, the Complaint Committee didn't take a stand to the annulment claim. On the other hand, it ruled that the repair made had been defective and that it should be refunded.

⁹ Regulation No. 766/2006, Art. 6 (Accessed: June 2015). Available at: <http://www.reglugerd.is/reglugerdir/allar/nr/766-2006>

¹⁰ Consumer Agency (Accessed: June 2015). "Means of Consumer Complaints in Iceland". Available at: <http://www.neytendastofa.is/library/Files/Kaerunefnd-lausafjar--og-thjonustu/keruleidir%20neytenda%20-%20Island.pdf>

¹¹ Consumer Agency (3 November 2014). "Case 38/2014". Available at: <http://www.neytendastofa.is/library/Files/Kaerunefnd-lausafjar--og-thjonustu/Alit%20038-2014.pdf>

¹² Consumer Agency (27 June 2014). "Case 17/2014". Available at: <http://www.neytendastofa.is/library/Files/Kaerunefnd-lausafjar--og-thjonustu/Alit%20017-2014.pdf>

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