

Supply of Goods and Services – Continuing the Process of Consumer Law Reform

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The **Supply of Goods and Services (Jersey) Law 200-** (the “Law”) was recently approved by the States of Jersey legislature (the “States”) and is expected to come into force in September.

The introduction of the Law follows almost a decade of reform and improvement in the area of consumer protection and was heralded as “probably the most significant advancement in providing clarity of consumer contractual rights in Jersey’s history” in the report that accompanied its proposition to the States.

The new legislation clarifies and gives statutory effect to the respective rights of buyers and sellers in Jersey. It is similar to the equivalent English statutory provisions. However, important differences also exist and the influence of Jersey customary law means it is not always safe to assume

the Law will be identical to that in the UK. It will not only affect consumer transactions.

CONTRACTS FOR THE SUPPLY OF SERVICES

Part four of the Law will be particularly significant in the context of business to business transactions as it is widely drafted to catch contracts for the supply of services, (other than employment contracts), which are carried out in return for some form of payment.

Where a supplier is providing services in the course of business, the new legislation provides that a number of warranties will automatically be implied into their contractual arrangements. Firstly, suppliers will be deemed to warrant that they will carry out services with a reasonable level of care and skill. Secondly, unless the time for the service is either fixed by the contract; left to be

fixed in a manner agreed by the parties to the contract; or it can be determined by a course of dealing between the parties, then there will be an implied warranty that the supplier will provide the services within a reasonable time. Finally, where the price for the supply of services is not agreed and it cannot be determined either by a mechanism agreed by the parties or from their course of dealing, then the party contracting with the supplier shall be bound to pay a reasonable price.

The introduction of these warranties should help raise business standards by ensuring that contracting parties are bound to act reasonably in their dealings. However, in order to avoid potential disputes, it is still advisable when drafting such contracts to cover these warranties with express provisions.

CONTRACTS FOR THE SALE OF GOODS

The Law also deals with the formation of a contract for a sale of goods and provides that, amongst other things, whilst they may be made either orally or in writing, they must involve payment. This is significant as Jersey contract law, unlike English law, does not always require an element of consideration in order for a contract to be legally binding. The Jersey concept of “cause” is wider than that of the English concept of “consideration”.

Statutory protection is also provided for minors or persons entering into a contract of sale of goods who are intoxicated or afflicted by mental incapacity as the Law provides they shall pay a reasonable price for any goods purchased.

A contract of sale cannot be formed where the goods are unascertained and title to the goods under such a contract will pass when it is intended to pass. The respective obligations of the parties with regard to the performance of a contract for a sale of goods are also set out and there is a presumption that payment and delivery are concurrent conditions unless otherwise provided.

A buyer can reject goods provided that he is not deemed to have accepted them and can claim

compensation for any losses. In the event that there is a breach of contract but the buyer has lost the right to reject the goods he will still be entitled to claim compensation from the seller in order to be able to put right the breach. Where the buyer is a consumer there are additional remedies available. But, as would be expected, a remedy cannot be sought for breaches that are drawn to the attention of the buyer before the purchase. Further a buyer will have no remedy where he has just changed his mind or where he chooses the product for an unusual purpose which he does not disclose to the seller.

The Law implies various warranties in a contract for sale of goods. It adopts an objective standard whereby goods will be deemed to be of satisfactory quality if they meet the standard that a reasonable person would regard as satisfactory taking into account all the relevant circumstances. The extent of these warranties is set out in some detail and they include warranties as to title, description, quality, disclosure of defects and in respect of a sale by sample may be implied into a contract for the sale of goods. Similar warranties will also apply in the case of a hire purchase contract.

IMPROVED BUSINESS STANDARDS

The changes brought about by the Law will not only apply to consumer transactions but also to business to business services and are intended to further improve business standards and practices in the Island. Island businesses may wish to check their existing terms and conditions and modify them accordingly.

Should you have any questions or requests for further information, please contact:

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