

Contracts and The English Law

"Wisely and slow; they stumble that run fast"

William Shakespeare, *Julius Caesar*

These sage words from The Bard resound when it comes to the fineprint of agreements of any kind.

On how many occasions (following a meeting with say those providing mobile phones, kitchens and holidays *at a*) are you – at the end of the presentation – provided with a 3 to 4 page document and asked to sign right away on the dotted line?

What follows is not comprehensive; rather a summary of key considerations to bear in mind when making agreements or striking bargains of any kind:-

1. *Statements made before the contract is made*

If something important is said before you sign and persuades you to go ahead then causes loss, you may have a claim for misrepresentation. This is quite apart from anything that the contract may have to say.

2. *The entire agreement*

Many businesses seek to restrict or exclude any liability for anything not set out within the terms of their contract. For instance it may contain a sentence which states "*This is the entire agreement*".

Is it?

Sometimes contracts will contain a link. This in turn will take you to the company's website and other terms and conditions. Those too actually form part of the contract also. You might not have been so aware unless you looked closely at the fineprint..

Such supplemental material could well affect your rights, expectations and obligations.

3. *Cooling off period*

When you purchase something which you have not physically seen, the law stipulates that there must be a "*cooling off period*" from the date of your purchase; the statutory minimum is 14 days; this means that you can change your mind and cancel the agreement without penalty. You need not give a reason for doing so.

4. *Termination and cancellation*

Some of the most important parts of the agreement may be highlighted. Many years ago, the late Master of the Rolls, Lord Denning, suggested that all important aspects of the contract should be highlighted by a "*red hand*". Although this helpful advice is not

necessarily followed today some enlightened organisations take care to ensure that important items are contained in **bold type**.

Satisfy yourself as to your rights and liabilities when it comes to cancellation.

5. *The Consumer Rights Act 2015*

This Act applies where there is an agreement between a trader and consumer for the trader to supply goods, digital content or services. Such contracts, broadly put, include sales, hire of goods, hire purchase or the transfer of goods, allowing for some very specific exceptions (eg. currency trading).

Section 9 requires any goods to be of satisfactory quality.

Section 10 requires them to be fit for their particular purpose.

Section 11 requires them to match their description.

Any attempt by a trader to exclude or restrict its liability in relation to these duties is outlawed by Section 31.

The Act provides a number of remedies for breach: partial or short-term rejection; the right to repair or replacement or a right to a reduction in price.

Section 62 also stipulates that contract terms and notices are must be *fair*, else they may not be binding upon the consumer.

6. *Reputation*

It may be also instructive to do a little research before you commit. Take stock of what is said on the internet in relation to a particular organisation's reputation and other customers' reviews.

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