

Buying at auction

What the law says

In most circumstances when you buy goods, the law would require that they:

- **match their description.** This means they must be as described by the seller. This includes any description on the label. For example, if a pair of sheets is described as fitted, they must be fitted sheets. In most circumstances, it also means that they must conform to any advertising claims made about them; *and*
- **be of satisfactory quality and fit for their purpose.** This means the goods must meet the standards that any reasonable person would expect, taking into account the description, the price and all other relevant information. This includes the appearance and finish of the goods and whether they were safe, durable and free from defects (including minor faults).

These requirements are laid down in the Sale of Goods Act 1979. They normally apply to all goods that are bought from a seller who is selling in the course of a business. If the seller is an individual who is not selling in the course of a business, only the first requirement applies – the goods must match their description but they are not required by law to be of satisfactory quality or fit for purpose.

Your rights under the Sale of Goods Act apply to all new goods bought at auction and also to second hand goods bought at auction where you did not have the opportunity to attend in person, for example, internet auctions.

However, if you buy at an auction it is possible to lose these rights if:

- the goods are second hand; *and*
- you have the opportunity to attend the sale in person; *and*
- you are told that the **Sale of Goods Act 1979** (as amended) **didn't apply** or that the goods were **sold as seen**. This could be by way of a notice or exclusion clause in the catalogue; *and*
- the auctioneer can show that this was **reasonable**.

When you buy goods at auction, the **buyer** enters in to a contract with the **owner** of the goods, not the auctioneer. This means that if there is a problem with the goods, usually you have to **take action against the owner** of the goods, not the auction house. The auction house is **not obliged** to give you the owner's details, so tracing the owner can be difficult. However, the auction house does have some responsibilities, for example, it must not make a false statement about the goods. These responsibilities should be explained in the terms of business of the auction house which must be

displayed. These rules also apply to distance auctions in the UK. If you bought something on an internet auction from a firm based outside the UK, the law of that country will usually apply and you are going to need specialized legal advice.

If the goods are faulty

Refund

It is unlikely that you will be able to get your money back if it was clear when you bought the goods that the Sale of Goods Act **did not apply** (see above).

Where the terms of the Sale of Goods Act **do apply** (see above), you may be able to get your money back but this will be dependent on the seller being a trader and how long you have had the goods and the seriousness of the fault. If the seller was a private individual, you would not have the rights of satisfactory quality or fitness for purpose but you should still be able to rely on any **description** applied to the goods. Contact the **auction house** as soon as possible and ask for your money back. If you have paid an indemnity fee, check whether this covers your particular problem. For example, if you discover that the car you have bought at auction is recorded at HPI as a “write off”, you **may** have a claim under the indemnity policy.

If you were given a **guarantee** with goods you bought at auction, you may not be able to claim under it as guarantees are often non-transferable so do not rely on this when bidding.

Some car auctions give the purchaser a limited time to try out the vehicle and reject if not suitable. This may only be a matter of a few hours so it is worth looking closely at the terms of business.

Replacement or repair

If you bought new goods at auction on or after 31 March 2003, or secondhand goods at an auction where you cannot attend in person, you can ask the trader to replace or repair the goods free of charge if they are faulty. If you do this within six months of receiving the goods, and it is reasonable to expect them to have lasted for the period of time you have had them, it will be assumed that the problem existed when you bought the goods, unless the trader can show otherwise. However, you can still ask for a replacement or a repair for up to six years from the date that you bought the goods, if it is reasonable for them to have lasted that long. In this case, it will be up to you to show that the goods were faulty at the time of sale.

If:

- it is impossible to replace or repair the goods; *or*
- replacement or repair would be unreasonably costly for the trader when compared with alternative remedies; *or*

- the trader fails to replace or repair the goods within a reasonable time of having agreed to do so or causes you significant inconvenience; *or*
- the goods have worked for some time before they go wrong or only one of their functions has gone wrong

then:

- you can ask for a partial or full refund. The amount of money you get back may be reduced to take account of any use that you have had out of the goods.

The rights to a repair or replacement do not apply to second-hand items where you have the opportunity to attend the auction in person. Nor do they apply if the goods were sold by a private seller.

Compensation

You may be entitled to compensation if:

- the contract between the **buyer and the owner** has been broken (**breach of contract**); *or*
- the goods were **unsafe** or **dangerous and caused damage to people or property**. In this case, you may be able to take action against the manufacturer of the goods; *or*
- the auction house has been **negligent** and as a result you have **suffered loss or injury**; *or*
- the auction house knowingly made a **false statement** about the goods in order to persuade you to buy them.

The amount of compensation you would be entitled to would depend upon the seriousness of the injury or problem. **You should always take legal advice before deciding whether to accept an offer of compensation for personal injury.**

How to solve your problem

Decide what your rights are and who you need to contact. Even if you don't have any legal rights, sometimes it is possible to reach an agreement about a way forward which is acceptable to all parties. The following steps should solve the problem:

- **stop using the goods**
- **find your proof of purchase.** If possible, find your receipt and any indemnity certificate you were given at the time. Failing that, a credit card voucher or cheque stub will do

- **if the goods are dangerous and someone has suffered an injury** or if you feel the goods were seriously misdescribed, discuss the matter with Consumer Direct on 0845 4040 0506 before attempting to return the goods. **Always take legal advice before accepting an offer of compensation for personal injury.**
- **otherwise, contact the auction house.** If they tell you that your rights under the Sale of Goods Act were excluded, ask them to show you the sign or disclaimer so that you can check this. In any event, the auction house should not be able to disclaim liability if they have been negligent. If you feel that you were misled by a verbal statement made by the auctioneer, ask immediately if they have a tape recording of the sale. Auction houses often do but they may reuse the tape if you do not request this promptly
- **if you feel responsibility lies with the owner of the goods** and you have these details, contact them and explain your problem calmly but firmly and ask for a **full refund, replacement, repair or compensation**
- **if the auction house or owner makes you an offer**, you can either **accept** or **continue to negotiate**. Be realistic in what you will accept. You may not get a better offer by going to court
- **if the matter is still not resolved**, write to the owner or auctioneer repeating your complaint and the steps taken to resolve it. Say you are giving them fourteen days to resolve the problem, after which you will consider taking legal action. Send the letter by **recorded delivery** with a copy to the head office of the company, if applicable. **Keep copies** of all your letters and a note of any phone conversations you have in connection with the problem
- **if the owner or auction house doesn't respond**, refuses to do anything or makes a final offer you are unwilling to accept, your only other choice is to go to court. **Remember court is your last resort.** Before starting court action, you need to consider whether you have sufficient **evidence**. You also need to find out if the owner or auction house is **solvent**. It is not worth suing someone who has no money.

If you have lost money buying goods at auction, don't waste more money on a case you cannot win.

Other CAB fact sheets that might be helpful

- Credit
- Goods
- Guarantees
- Safety
- Services
- Starting court action

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