

**A GUIDELINE ON THE IMPLEMENTATION OF  
CONSUMER RIGHTS OF REDRESS**

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# **A GUIDELINE ON THE IMPLEMENTATION OF CONSUMER RIGHTS OF REDRESS**

## **1.0 INTRODUCTION**

The Consumer Protection Act (CPA) 1999 provides the consumers with the rights of redress should the goods or services fail to meet the implied guarantees or express guarantees as stated in CPA. The right to obtain redress in general means the right to obtain a settlement or claim or compensation for goods or services which does not meet the intended purposes or characteristics.

Nevertheless, there are many suppliers, manufacturers and consumers who do not know the existence of legislation with regard to redress. Therefore, it is necessary for them to be made aware of this legislation in order for them to understand the law and their rights as well as their responsibilities in exercising redress.

At the same time, the supplier and manufacturer must have a clear policy to ensure the implementation of redress can be carried out effectively and in order.

In relation thereunder, the implementation of Guideline on Implementation of Consumer Rights of Redress is prepared for the following purposes of:-

- a. assisting suppliers, manufacturers and consumers on the understanding of the provision in the legislation related to redress;
- b. clarifying the rights and responsibilities of the suppliers, manufacturers and consumers in redress implementation; and
- c. assisting suppliers or manufacturers in developing policies relating to redress in their respective businesses.

## **2.0 THE APPLICATION OF THE GUIDELINE**

Coherent with the above mentioned purposes, this guideline is applicable to;

- a. a supplier who offers or supplies goods or services in trade to consumers;
- b. a manufacturer who assembles, produces or processes goods or services for sale; and
- c. a consumer who obtains or uses the said goods or services for personal or household use.

## **3.0 IMPLIED GUARANTEE AS TO GOODS OR SERVICES**

Every goods or services supplied to consumers must have a certain guarantee such as it is of good quality, in good condition and well-functioning. These guarantees are known as “Implied Guarantees”. These guarantees are to ensure that the consumer receives goods or services paid by them. If the implied guarantees are not complied with by the supplier or manufacturer, the consumer has the right to claim towards the supplier or manufacturer. These implied guarantees are provided in the CPA 1999.

### **3.1 Implied Guarantee as to Goods**

There are seven implied guarantees relating to goods. All of these seven implied guarantees are applicable to the supplier while three of them are also applicable to manufacturer. Implied guarantees applicable to the manufacturer are related to acceptable quality (Para 3.1.2), goods comply with descriptions (Para 3.1.4) and repairs and spare parts (Para 3.1.6).

### 3.1.1 Right as to the Title

A supplier who sells goods must ensure that;-

- a. they have the legitimate rights to sell it;
- b. the said goods must be free from undisclosed security;  
and
- c. the consumer has the right to own and use the said goods without any interferences.

**Example :** Consumer A has bought a used car from a seller but later found out that the previous owner has not settled the remaining loan and therefore the car is still owned by the bank. The consumer was not informed of this matter by the seller. Consumer A may make a claim stating that the seller did not meet the implied guarantee as to the right of the title.

### 3.1.2 Acceptable Quality

Every goods supplied must have acceptable quality. Any goods will be considered as of quality if it is acceptable in terms of appearances and the finishing are free from defects, safe and durable, as well as the consumer is fully acquainted with the nature and conditions of the said goods.

In deciding whether any goods comply with this guarantee, consumers must consider matters such as the nature of the goods, the price, or any information found on the goods' label or stated by the supplier or manufacturer, user manuals or promotional materials such as brochures or advertisements.

**Example :** Consumer B has bought a pair of high heels. However, the heel of the shoe broke the first time it was worn. Consumer B can make a claim that the

**said high heels did not comply with the implied guarantee as to acceptable quality.**

### **3.1.3 Fit for Any Particular Purpose**

The goods supplied must reasonably comply with any particular purpose such as:-

- a. requested by the consumer; and
- b. as stated by the supplier

**Example : Consumer C has requested the seller to recommend him a paint which is appropriate to paint the iron gates of his house. However, a few days after that he found that the paint which was used to paint the iron gates has peeled. Upon examining it, Consumer C realised that the paint that was used was actually a wood paint. Consumer C may make a claim that the paint that was supplied to him did not meet the purpose as required by him.**

### **3.1.4 Goods Comply With Description**

Every goods supplied must comply with the description or elements that have been stated or explained.

**Example : Consumer D has bought a computer stating that the memory capacity is 2 GB. However, Consumer D later found out that the computer has the memory capacity of 1GB. Consumer D may claim that the said goods he received did not comply with what had been stated earlier.**

### **3.1.5 Goods Comply With Sample**

Goods supplied to the consumer must be of the same quality and condition as that of the sample or model that was shown. The consumer must also be given the opportunity to compare the goods supplied with the sample or model shown.

**Example :** Consumer E ordered a curtain based on the sample of fabric shown by the seller. However, the consumer was supplied with a curtain that has a different type of fabric as compared to the sample. Consumer E may claim that the goods received did not comply with the sample shown.

### **3.1.6 Repairs and Spare Parts**

A supplier or manufacturer must take reasonable actions to ensure that the facilities for repairs and the supply of spare parts are reasonably available and for a reasonable period of time after the goods are sold to the consumer.

**Example :** Consumer F has bought an electric sewing machine and it broke down after being used for six months. However, the supplier failed to provide the facilities for repairs and the supply of spare parts for the machine. Consumer F may make a claim that the supplier did not comply with the implied guarantee for repairs and spare parts.

However, Consumer F cannot claim the right of redress if the consumer was informed by the seller before the purchase, that there were no facilities for repairs and no spare parts available for the said sewing machine.



### **3.1.7 Price**

Implied guarantee on price is as in Para 3.3

## **3.2 Implied Guarantee on Services**

There are four guarantees on the supply of services and these guarantees are only applicable to the supplier.

### **3.2.1 Reasonable Care and Skill**

The supplier must use his reasonable care and skills in providing services to consumers. They must make sure that all the materials used are appropriate for the purpose of the services supplied.

**Example : Consumer G hired a plumber to repair a pipe leakage in his house but later found out that the leakage still occur the next day. Consumer G may make a claim that the service given was not done using reasonable care and skills.**

### **3.2.2 Fit for Particular Purpose**

Every service or outcome from services, must meet the particular purpose as required by consumer.

**Example : Consumer H engaged a carpenter to make a built-in cabinet to place a 42 inch television, but the cabinet that was made was smaller than what he has required. Consumer H may make a claim that the**

**carpenter did not meet the purpose in which it was required.**

### **3.2.3 Time of Completion**

If there was no agreed time limit earlier between the consumer and the supplier then the said service must be completed within a reasonable time. Reasonable time depends on the type of services and other factors that are beyond control such as weather conditions and availability of materials used in providing the said service. It also depends on the level of difficulty or complexity of the work.

**Example : Consumer J has hired a contractor to paint his house which normally would take a month to be completed. However, the contractor often postponed the work which has extended to three months to completion. Consumer J may claim that the said contractor did not complete his work within reasonable time.**

However, if the contractor was not able to complete his work within the time period given due to bad weather condition such as the rainy season or flooding, then the said delay can be considered as reasonable.

### **3.2.4 Price**

Implied guarantee on price as in Para 3.3

### **3.3 Implied Guarantee on Price for Goods and Services**

Other than the implied guarantee in Para 3.1 and 3.2, each goods or services supplied to the consumer have its implied guarantee on price.

Consumer does not have to pay the supplier more than the reasonable price for any goods or services. A reasonable price is an issue of facts depending on the situation. If the price of the goods or services are fixed under legislation, therefore the reasonable price is the fixed price. The implied guarantee is not applicable if the price of goods or services have been or will be determined by contract or any other agreement between the supplier and the consumer.

Suppliers who fail to meet with the implied guarantee on price, the right of redress for consumer is only to refuse to pay more than the said reasonable price and not to proceed with the purchase.

## **4.0 Manufacturer Guarantee**

The manufacturer has the responsibility in complying with two types of guarantees. The guarantees are implied guarantee and express guarantee.

### **4.1 Implied Guarantee**

Implied guarantee that is applicable for manufacturer are on acceptable quality (Para 3.1.2), goods comply with descriptions (Para 3.1.4) as well as repairs on spare parts (Para 3.1.6).

## **4.2 Express Guarantee**

Express Guarantee refers to manufacturer's guarantee or undertaking to consumer on:

- a. quality, performance or characteristic of goods that have been produced;
- b. services required in respect of goods (for example: after sale services);
- c. supplying of spare parts;
- d. availability of similar goods or components which are produced;  
or
- e. refund of money or other returns if goods that were bought by the consumer did not meet the assurance or undertaking by the manufacturer.

## **5.0 Failure to comply with implied guarantee by Supplier**

If any of the implied guarantees for supplying goods or services in Part 3 failed to be fulfilled by the supplier (except for implied guarantees relating to price), the consumer has the right to a redress depending on the below situations:

- a) failures that can be repaired; or
- b) failures that cannot be repaired.

### **5.1 Failures that can be repaired**

In general, this is referred to failures that can be repaired or rectified within a reasonable time period. Among the examples of failures that can be repaired are:

- a. newly bought shoes with a broken heel;
- b. the colour of shirt received is not the same as the colour of the shirt that is ordered;
- c. the memory capacity of a computer is lower than what is informed at the time of purchase;
- d. a dining table which was bought has loose legs;
- e. the radio which was bought is not functioning well;
- f. a painter has applied a wrong paint colour for the house wall;
- g. a carpenter makes a cabinet which does not comply with the required size.

## **5.2 Failures That Cannot Be Repaired**

Generally, this type of failure refers to failures that cannot be repaired or is too difficult to be repaired within a reasonable time. This includes substantial failure.

### **5.2.1 Substantial Failures in relation to goods are in the situations where:-**

- A. A reasonable consumer will not buy the goods if he knows/realises about the problem of the goods.

**Example : Consumer K bought a washing machine but was not functional after a month. However, the washing machine cannot be repaired for the spare parts are no longer available in the market.**

- B. The said goods have significant differences and do not meet the description, sample or demonstration model.

**Example : Consumer L bought an LCD television which has high resolution similar to the display set but he was given a television which has a low picture quality unlike the display set.**

C. The said goods are not suitable for the purpose in which it is supplied.

**Example : Consumer M bought a raincoat but it is not waterproof because it was made using a wrong material.**

D. The said goods do not have the acceptable quality because it is unsafe.

**Example : Consumer N bought an iron which has a heating coil problem.**

**Example : Consumer P bought a water heater which has electrical leakage problem.**

#### **5.2.2 Substantial Failures in services are in a situation where:-**

A. The outcome of said service is unfit for the purpose for which the service is supplied for.

**Example : Consumer Q has purchased a TV service with the purpose of watching a live telecast of the Olympic Games and has informed the television service company before signing the agreement for 12 months. However, the company only activated its services after the Olympic Games were over.**

B. The outcome of service supplied did not meet the need or expected result as requested by the consumer from the supplier.

**Example : Consumer R has obtained a service to make a custom made “*baju kurung*” with a certain design but the outcome was unlike the design that was informed initially.**

C. The outcome of services was found unsafe.

**Example :** An electrician who made a wrong electrical wiring in the kitchen of Consumer S' house has caused a short circuit.

## **6.0 REDRESS REMEDIES BY SUPPLIER**

### **6.1 Remedies for Repairable Failure**

For repairable failure, consumer must give the suppliers opportunity to choose among the following remedies:-

#### **6.1.1 Repair or Correction**

For repairable failure of goods, supplier can choose to repair the goods within a reasonable period of time. And as for services, the supplier may choose to take appropriate steps to correct the mistakes made so that the end results meet the consumer's needs.

#### **6.1.2 Repair of Curing Defect in Title**

If the goods supplied have defects in title, the supplier must take measures to repair the said defect. This will settle the problem of transfer of title from supplier to the consumer who bought the goods.

#### **6.1.3 Goods Replacement**

If the supplier chooses to replace the goods, the replacement of goods must be of the same type.

#### **6.1.4 Refund**

If the supplier is unable to repair or recover the defects on the goods, the supplier can choose to make a refund of the paid amount or give other returns to the consumer.

#### **6.1.5 Repairs by Third Party**

If the supplier refuses to repair any failures of the goods or services, the consumer may repair the failure elsewhere and claim the cost of repair from the supplier.

### **6.2 Remedies for Irreparable Failure**

#### **6.2.1 Rejecting Goods**

If the consumer chooses to reject goods, he must inform the supplier about the decision. The consumer has the right to choose the remedy of either replacement of goods (Para 6.1.3) or refund of any money paid (Para 6.1.4).

#### **6.2.2 Cancellation of Services Contract**

If the consumer chooses to cancel the service contract, he must inform the supplier of the decision. He has the right to a refund of any money paid (Para 6.1.4).

The consumer can obtain additional remedy that is obtaining compensation for any losses or damages incurred by the consumer apart from the depreciation of the value from the results of the service, but only if the consumer is able to prove that the losses or damages are caused by the supplier's failure to comply with the guarantee of providing or preparing the said service.

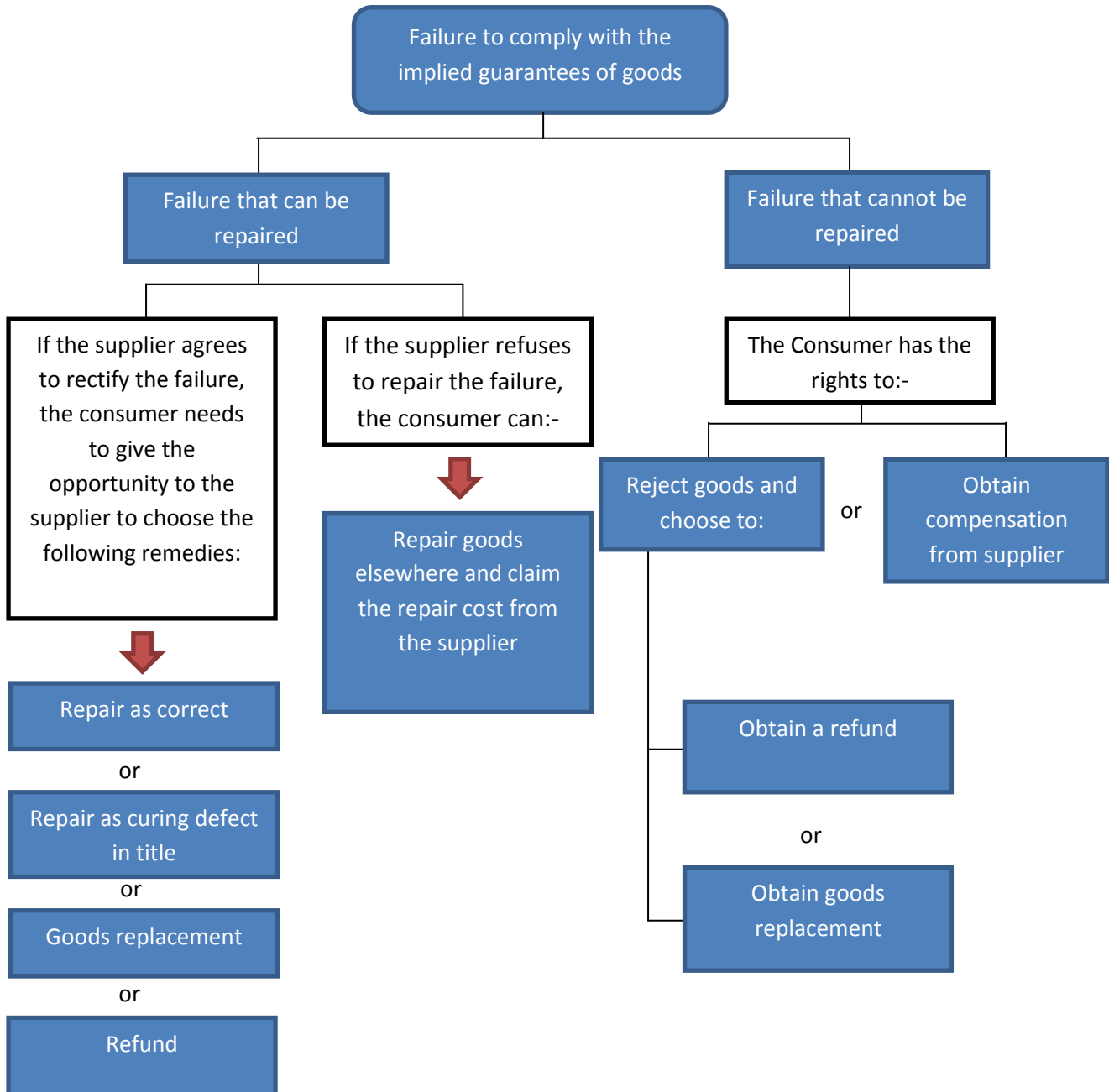


### **6.2.3 Obtaining Damages for Goods or Services**

The consumer may choose to get compensation from the supplier. Damages are a type of compensation, usually in a form of cash paid by the supplier to the consumer for the losses on the depreciation of the value of the goods or services.

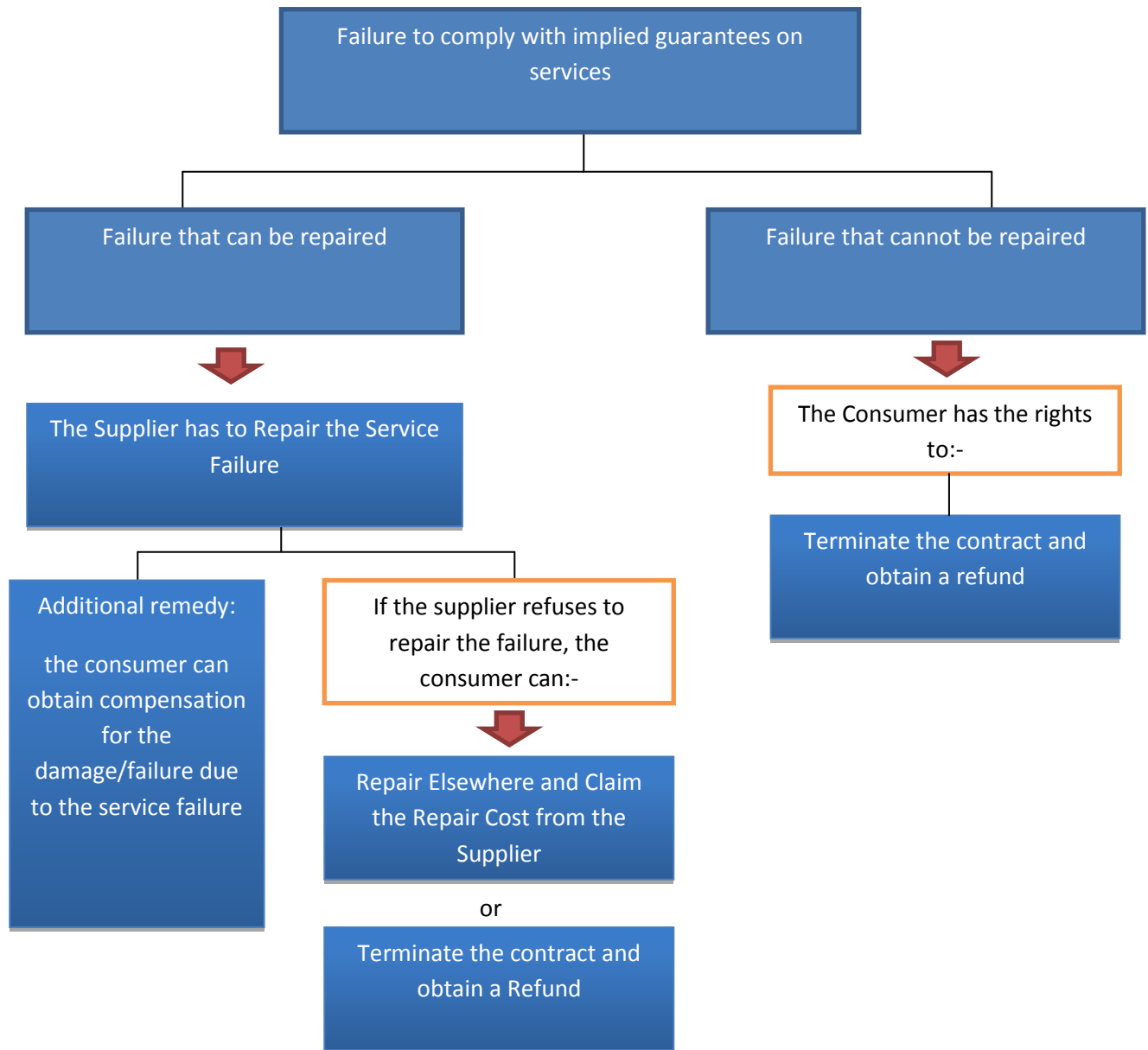
The implementation of redress by the consumer towards the supplier and the remedy obtained can be summarized in diagram 1 and 2.

**Diagram 1**  
**Claim of Redress on the Supplier and Remedy for Goods**



**Diagram 2:**

**Claim of Redress on the Supplier and Remedy for Services**



## **6.3 Loss of Right to Reject Goods or Cancel Service Contract**

### **6.3.1 The Loss of Right to Reject Goods**

The right of the consumer to reject goods will not be applicable if:

- a. The right is not exercised within a reasonable time. The determination of reasonable time will take into consideration the type of goods as well as the ways, duration and frequency of use, or whether the goods have been disposed by the consumer;
- b. The goods are missing or damaged in the hands of others besides the supplier;
- c. Damages to the goods were caused by the consumer after it has been delivered to the consumer; or
- d. The goods are fixed or joined with other goods and are unable to be dismantled from the other goods without damaging it.

### **6.3.2 The Loss of Right to Cancel Service Contracts**

The right of the consumer to cancel the contract will not be applicable in a situation where the services provided are only accidental to complement the goods supplied and the consumer has the right to refuse the said goods.

## 7.0 FAILURE TO FULFIL GUARANTEE AND REMEDY BY MANUFACTURER

If the manufacturer fails to comply with the implied guarantee on acceptable quality (Para 3.1.2), goods comply with descriptions (Para 3.1.4) and repair and spare parts (Para 3.1.6), the consumer may claim damages from the manufacturer for:-

- a. any depreciation on the value of the goods; or
- b. any losses or damages inflicted onto the consumer when using the goods.

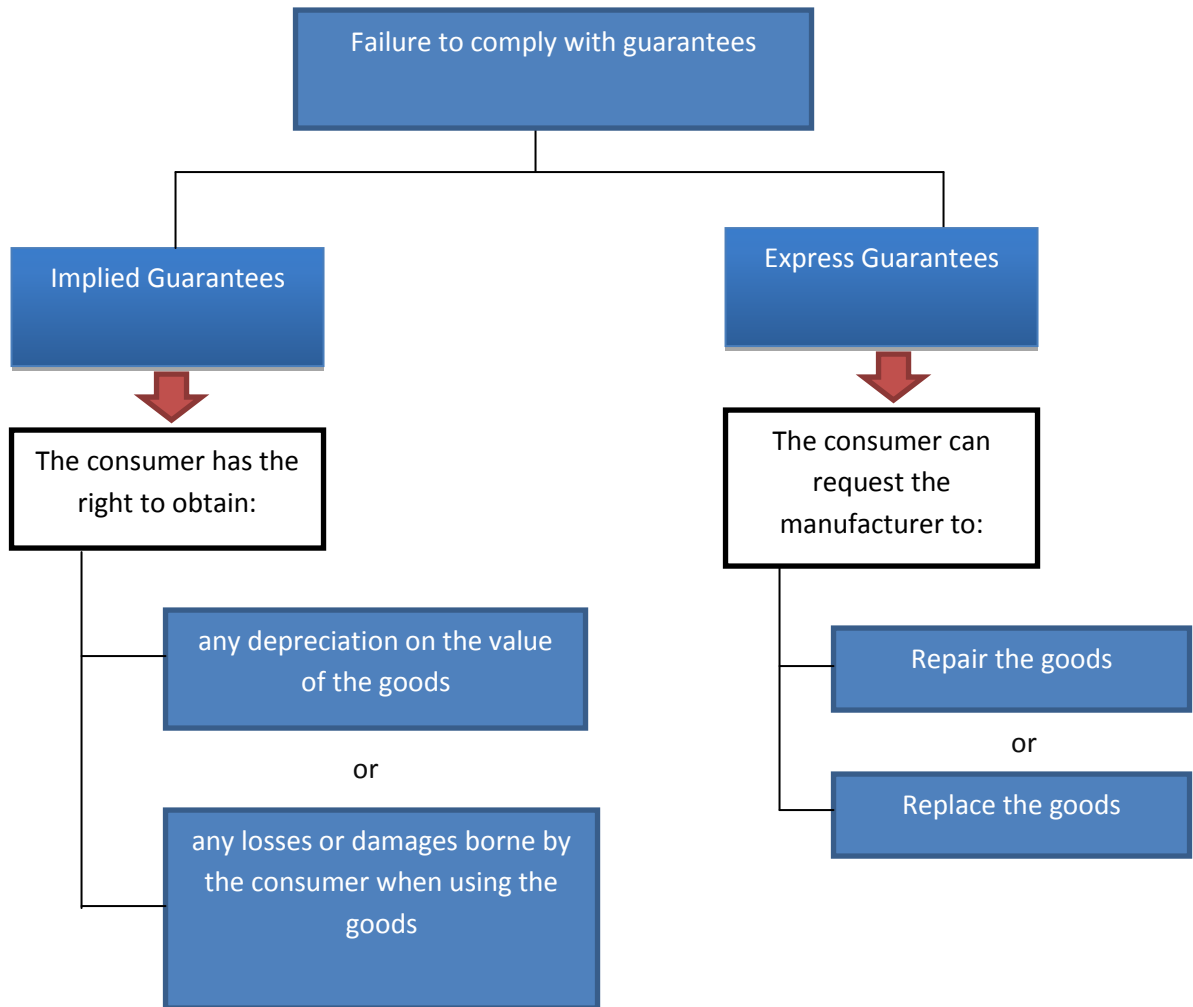
For the failure to fulfil express guarantee, the consumer have the right to request the manufacturer to:-

- a. repair the goods; or
- b. replace the goods

The implementation of the consumer rights of redress towards the manufacturer and its remedies can be summarized in **Diagram 3**.

**Diagram 3:**

**Redress Claims on the Manufacturer and its Remedy**



## **8.0 Terms and Conditions of Redress Claims by the Consumer**

In exercising the consumer's right to a redress, the consumer is responsible to:-

- a. keep the receipts or proof of purchase of each payment made for the goods or services;
- b. keep the warranty which is attached to the purchased goods, if any;
- c. stop using the damaged goods until the goods are able to be returned to the supplier or manufacturer; and
- d. report the damaged goods or failure of services to the supplier or manufacturer within a reasonable time.

## **9.0 THE RIGHTS AND RESPONSIBILITIES OF THE SUPPLIER AND THE MANUFACTURER**

### **9.1 The Rights of the Supplier and the Manufacturer**

Although the consumer can exercise their rights of redress, the supplier and manufacturer have the rights to refuse the consumer claims if:

- a. The consumer fails to proof or show any proof of purchase;
- b. The consumer has purchased the goods or services but later discovered the same goods or services are sold at a cheaper price by a different supplier;
- c. The consumer is aware of the defects/damages of the said goods before the purchase;
- d. The damages to the goods are due to the negligence or inappropriate use by the consumer;
- e. The consumer is dissatisfied with the manner of the supplier in delivering its services although the objective of the services are achieved;
- f. The failure to fulfil the guarantees in regard to the services are because of the actions or representation of others, other than the supplier, manufacturer, agent or employees; and
- g. The failure to fulfil the guarantees in regard to the service is because it is beyond human control.

## **9.2 The Responsibilities of the Supplier and the Manufacturer**

The responsibilities of the supplier and the manufacturer in implementing redress are as follows:-

- a. The supplier or manufacturer must provide a clear redress policy that does not conflict with matters stated in this guideline;
- b. The supplier or manufacturer must display the summary of their policy (as in Paragraph 10) in clear printing and placed at places that can be easily seen by a consumer;
- c. The supplier or manufacturer must not fix or impose a policy with unfair contract terms;
- d. The supplier or manufacturer must provide a friendly claim procedure which does not burden the consumer;
- e. The supplier or manufacturer must set up a more responsive customer care-line or customer centre by training their employees to manage consumer claims efficiently and effectively;
- f. The supplier must not display notices such as “No Refund”, “Goods Sold Are Not Returnable”, “No Exchange Allowed” or anything else that is equivalent to the above mentioned because it will cause confusion among the consumers and imply refusal of consumer rights to seek redress; and
- g. The supplier must settle the failure to fulfil the guarantee with regard to the goods and must not leave it to the consumer to seek redress from the manufacturer of the said goods.

## **10.0 THE PREPARATION OF SUMMARY POLICY ON REDRESS**

For the convenience of the consumer to know the company’s redress policy, the supplier or manufacturer must prepare a policy summary that contains the following details:-

- a. duration of time the claim can be made;
- b. a brief claim procedure; and
- c. contact persons.



**Example 1:  
Company Selling Goods**

**NOTICE**

Our company will treat redress claims by consumers for goods which are:

- Returned within the specified xxx days from the purchase date;
  - Still in good condition;
  - Attached with the original purchase receipts.

Please contact 03-XXXXXXXX or meet our Customer Service Officer at level 2 for further clarification.

**Example 2:  
Translation Services Company**

**NOTICE**

If you are dissatisfied with our services, you can make a claim for redress if:

- You did not receive the translation outcome within 2 working days from the promised date.
    - The translation did not meet the customer's expectation.
    - The translation still contained errors after amendments.
- Any request for redress must be in written.

Please contact us at our phone line XXX-XXXX-XXXX if you experience difficulty or for further clarification.

## **11.0 GOOD PRACTICES RELATING TO THE IMPLEMENTATION OF REDRESS**

Consumer confidence towards supplier can be enhanced if they are able to implement best practices relating to the implementation of redress. These are among the good practices to be implemented:-

### **11.1 Refund or Replacement of Repairable Goods**

The supplier can choose either to offer a refund or to replace goods to the consumer although the failure of the goods is repairable.

### **11.2 Change-of-Mind**

Change-of-Mind is a situation where the consumer wishes to change the received goods or services because the consumer finds that the goods or services are not to his desire. Although this situation is not caused by the failure of the goods or services to fulfil its implied guarantee, the supplier's action to allow the exchange based on the change-of-mind can be one of the company's marketing strategies that can help to enhance the consumer confidence as well as increasing their image/reputation in the eyes of the consumer.

## 12.0 COMPLAINTS ON IMPLEMENTATION OF REDRESS

Any complaints or enquiries with regard to the implementation of redress can be made through/to:-

- a. Kementerian Perdagangan Dalam Negeri, Koperasi dan  
Kepenggunaan  
Bahagian Penyelidikan dan Dasar Kepenggunaan  
Aras 4, Blok Menara  
No. 13, Persiaran Perdana, Presint 2  
Pusat Pentadbiran Kerajaan Persekutuan  
62623 Putrajaya  
No. Tel: 03-8882 6556/5944/5864/5958  
No. Faks: 03-8882 6860  
Laman web: [www.kpdnkk.gov.my](http://www.kpdnkk.gov.my)
  
- b. Pusat Pengurusan Aduan Pengguna  
Kementerian Perdagangan Dalam Negeri, Koperasi dan  
Kepenggunaan  
Aras 4, Podium 1  
No. 13, Persiaran Perdana, Presint 2  
Pusat Pentadbiran Kerajaan Persekutuan  
62623 Putrajaya  
Talian Call Centre: 03-8888 6328/8688  
Hotline: 1-800-886-800  
Email: [e-aduan@kpdnkk.gov.my](mailto:e-aduan@kpdnkk.gov.my)  
Sistem e-Aduan: <http://e-aduan.kpdnkk.gov.my>
  
- c. Tribunal Tuntutan Pengguna Malaysia (TTPM)  
Kementerian Perdagangan Dalam Negeri, Koperasi dan  
Kepenggunaan  
Aras 5, Podium 2  
No. 13, Persiaran Perdana, Presint 2  
Pusat Pentadbiran Kerajaan Persekutuan  
62623 Putrajaya  
Talian Bebas Tol: 1800-889-811  
SMS: 15888  
Faks: 03-8882 5831  
Laman web: <http://ttpm.kpdnkk.gov.my>  
e-Tribunal: [http://ttpm.kpdnkk.gov.my/etribunal\\_en/user/user\\_login.php](http://ttpm.kpdnkk.gov.my/etribunal_en/user/user_login.php)