



THE CONSUMER PROTECTION ACT AND THE KITCHEN INDUSTRY

Consumers in South Africa are offered protection by the CONSUMER PROTECTION ACT. The Act focuses on consumer protection by clearly setting out the rights of consumers and then also the responsibility of suppliers – both of goods and services. It gives the consumer the right to demand quality and safe goods as well as quality service and then it also gives consumers an implied warranty.

So what does this mean for both the consumer and the supplier with particular reference to the Kitchen Industry?

The KSA, as an organisation, stands by what is fair and all our members are bound by the KSA Code of Ethics which promotes the business practices that are envisioned in the Consumer Protection Act.

It is important to note that goods ordered from a Kitchen Manufacturer will be considered as “special-order goods” which means goods that are custom designed and made specifically to satisfy the consumer requirements.

As a consumer you have certain rights and you are entitled to enforce these rights. In the context of the Kitchen Industry, only certain aspects of the Act apply. Unfortunately the law as it pertains to special order goods, like a kitchen, is not tried and tested in court as such there are grey areas in particular relating to returning of goods and refunding of monies.

1) PART C – CONSUMERS RIGHT TO CHOOSE

- If a consumer has bought goods solely on the basis of a description or sample, or both, the consumer can reject the goods if the goods delivered do not correspond with the description given by the supplier or the examined samples. It is important to note that a sample is a small piece of a product. Colour, grain and pattern can look different on a large scale than it does on a small scale sample – this perceived difference in scale does not necessarily mean the sample and the product do not match. It is also important to note that timber and stone are natural products, and there are naturally occurring variations in pattern, colour, texture and grain that are part of the product which cannot always be controlled by the manufacturer or fabricator. There is a responsibility on the consumer to understand and inspect the materials they ask the company to work with. Please bear in mind that once the goods have been installed your right to return them is void.
- The consumer has a right to expect the supplier to deliver the goods or perform the services on the agreed date, if any, or otherwise within a reasonable time after concluding the agreement unless otherwise is expressly provided for in the agreement. If a fixed date for delivery is given and the deadline is not met the consumer may either accept the delivery or cancel the

agreement without penalty. You will be given an estimated manufacturing and installation timeline from the company as part of your contract. Please remember that if the delivery date is changed due to delays on your side, rather than by a delay on the supplier's side, you will have to adjust your new delivery date to one that works for both yourself and the supplier as he cannot be expected to compromise other clients to accommodate your delay. If you delay the delivery from the dates stipulated in the contract then this right is void.



- If the consumer has not had the opportunity to examine or inspect the actual goods received before purchase, on delivery of the goods they are entitled to inspect the goods. If on this initial inspection they find that the 'special-order' goods do not reasonably conform to the specifications of the order then the consumer can return the goods to the supplier and receive a full refund. This can only be done within 10 business days after delivery to the consumer and this right is not available once the goods have been installed. In certain instances the supplier can charge the consumer a reasonable charge when these goods are returned. Remember that if you have been given opportunity to examine the goods, or a sample thereof, and you refuse, you may be compromising this right. Also, if you authorise someone to inspect the goods for you, they are deemed to be acting on your behalf and may too compromise this right. Once again remember once the goods are installed this right falls away.
- The supplier must always provide a written sales record of each transaction to the consumer. Ensure you have a written contract and you sign off the drawings; any and all changes made after the initial contract is signed, are to be documented and signed. You will be asked to

sign off the technical drawings of your kitchen and in doing this you accept that the design and specs are correct. Should you question the specs and they have been made according to drawings you have signed off the company is not liable.

- Any person performing a service for a consumer at their premises must visibly display or wear some form of identification. For your own safety only allow people who are clearly identifiable as working for your contractor to enter your home.

2) PART D – RIGHT TO DISCLOSURE AND INFORMATION

- Any notice or document given to a consumer must be in a plain and understandable language. It is a good idea to ask your contractor to take you through the contract, clause by clause, so you can clarify anything you don't understand. They should also take you through the drawings, as once you have signed them off you are accepting that they are correct.

3) PART F – RIGHT TO FAIR AND HONEST DEALING

- Advertisements or any form of marketing to the consumer cannot be false, misleading or deceptive. Remember if an offer sounds too good to be true, it probably is.
- It is important to note that if, after delivery to the consumer, the supplier and consumer agree to substitute any of the goods, an amended agreement or sales record must be given to the consumer. Get all changes noted in writing and signed by both parties. Remember any changes made once the company is on site will add time to the completion date and the company can no longer be held to the originally agreed completion date.

4) PART G – RIGHT TO FAIR, JUST AND REASONABLE TERMS & CONDITIONS

- When consumers enter into any agreement with a supplier for the supply of any goods or services, the agreement must be fair, reasonable and just.

5) PART H – RIGHT TO FAIR VALUE, GOOD QUALITY AND SAFETY

- When a supplier undertakes to perform any service for the consumer, the consumer has a right to expect the property to be in the same

condition as when the property was made available, taking into account the circumstances of the supply and any other conditions agreed between the parties. Ask your contractor if he has resulting damage insurance to cover him, should any damage occur during the job – having this insurance is not mandatory but it does help if anything gets damaged. If you feel the contractor's team is not respecting your home and leaving it in an unkempt or damaged manner, notify him immediately.

- The Act also provides for an implied warranty within six months from date of delivery. The warranty gives the consumer the right to receive goods that are reasonably suitable for the purpose that they are intended to be used for; are of good quality, free of defects and in good working order, and will be durable and usable for a reasonable period of time. All KSA kitchen members are held to a one year guarantee excluding wear and tear or abuse.
- If goods are found not to comply with these requirements then up to 6 months after receiving the goods; the supplier must then either repair

or replace the goods or refund the consumer. The consumer has the choice as to whether they want the goods repaired, replaced or their money refunded. If goods are repaired and then within 3 months the goods present with the same problem the goods must then be replaced or the purchase price refunded. Should there be a problem with a KSA member's workmanship within the guarantee period, the KSA will step in to offer mediation. We will however always seek to fix, repair or replace before we look to hold our member to a refund.

It is also important to note that the Act provides for consumers to refer any disputes to an applicable industry body in order to enforce any right in terms of the Act or to resolve any dispute in respect of a transaction or agreement with a supplier. The KSA is the only registered body that exists to mediate issues within the kitchen industry. However, we are only mandated to operate, if the company in question is a KSA member. As such we would encourage consumers to protect themselves by looking to only appoint KSA registered companies when undertaking a kitchen project.



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