

CIVIL CODE

Title four Special provisions concerning the sale of goods in a shop

§ 612

If an individual or a legal entity sells goods as an entrepreneur (hereinafter the 'vendor') in the framework of his business activity, apart from general provisions on purchase agreements, the following provisions § 613 to 627 shall also apply.

§ 613

Things may also be sold to order. The vendor must procure the ordered goods within the agreed period and, if no period is agreed, within a period appropriate with regard to all circumstances. If the vendor fails to procure the goods, the customer may withdraw from the agreement. The customer's withdrawal from the agreement shall not affect his right to compensation for damage.

§ 614

(1) If the vendor must deliver the thing to a place specified by the buyer according to the agreement or to the nature of the thing, the buyer must take over the thing at the moment when the thing is delivered. In other cases, the buyer must take over the thing at the moment of the sale unless he reaches a different agreement with the vendor.

(2) Should the buyer fail to take over the thing within the period mentioned in paragraph 1, the vendor is entitled to demand a storage charge; the amount of the charge shall be laid down by a separate regulation or determined by agreement of the parties.

(3) Ownership of the purchased thing shall pass to the buyer at the moment when the thing is taken over. In the case of a delivery sale, ownership shall pass to the buyer at the moment when the buyer takes over the thing at the place of delivery specified by the buyer. In the case of a self-service sale, the ownership of the bought thing is transferred at the moment when the price for the chosen goods is paid. Until this moment, the buyer may return chosen goods to their original place. If the buyer causes damage or destruction of the chosen thing before the transfer of the ownership right, he shall be liable for damage according to general provisions of liability for damage.

§ 615

Performances that are usually not provided together with the sale of a thing must be agreed on separately.

Conformity with Purchase Agreement

§ 616

(1) The vendor is liable to the buyer for the fact that the sold thing is in conformity with the purchase agreement on receipt by the buyer, in particular that it is free of defects.⁴⁾

(2) Unless this Act specifies to the contrary, 'conformity with the purchase agreement' as set forth in paragraph 1 also means that the sold thing has the quality and utility properties required under the contract signed by the vendor, manufacturer, or the manufacturer's representative, or expected on the basis of advertising by the said parties, or that the sold thing has the quality and utility properties usual for the type of thing sold, that the sold thing complies with the requirements of legal requirements, that it is of the corresponding quantity, measure, or weight, and conforms with the purpose which is stated by the vendor for the use of the thing or for which the thing is usually used. In the case of food, the best before date must be specified; in the case of perishable food, the use by date must be specified. If the nature of the thing allows, the buyer has the right to demand that the thing be checked in his presence or that its operation is shown to him.

(3) If the thing does not conform with the purchase agreement (hereinafter referred to as 'contravention of the purchase agreement') on takeover by the buyer, the buyer has the right to demand that the vendor put the thing into a condition corresponding to the purchase agreement free of charge and without undue delay, either by exchange of the thing or repair thereof, as the buyer so requires. If this procedure is not possible, the buyer may demand an adequate discount from the price of the thing or may withdraw from the agreement. This does not apply if, prior to taking over the thing, the buyer knew of the contravention with the purchase agreement or himself caused the contravention with the purchase agreement.

(4) Contravention with the purchase agreement which becomes manifest in the first six months as of the date of takeover of the thing is considered to be contravention existing on takeover of the thing unless the nature of the thing is inconsistent with this interpretation or if proved to the contrary.

4) Directive 1999/44/EC of the European Parliament and of the Council of 25 May 1999 on certain aspects of the sale of consumer goods and associated guarantees

§ 617

If special rules are to be kept in using the thing, in particular if the thing is to be used according to directions for use or to a technical standard, the vendor must inform the buyer of such rules unless they are generally known. If the vendor fails to fulfil this duty, he must provide the buyer with compensation for damage thereby arising.

§ 618

Things having defects that do not impede use of the thing for the specified purpose must only be sold for lower prices than is the usual price of a faultless thing; the buyer

must be informed of the fact that the thing has a defect and of the nature of the defect unless it is obvious from the nature of the sale.

Liability for defects to the sold thing

§ 619

(1) Except for quickly perishable things or for used things, the vendor shall be liable for defects that occur in the form of contravention of the purchase agreement during the warranty period after the buyer took over the thing (warranty).

(2) The warranty does not relate to wear and tear of a thing caused by usual use. In the case of things sold for a lower price the warranty does not relate to the defects because of which the lower price was agreed.

(3) In the case of used things, the vendor is not responsible for defects corresponding to the extent of use or wear and tear the thing had on takeover by the buyer.

§ 620

(1) The warranty period is twenty-four months long; in the case of a sale of food, the warranty period is eight days long, in the case of a sale of feedstuffs three weeks long, and in the case of a sale of animals six weeks long. If there is a time limit for the use of the thing marked out on the sold thing, on its cover or in directions attached thereto in accordance with separate legal regulations 4a), the warranty period shall end when this time limit expires.

(2) In the case of things destined to use for a longer time, the warranty period may be extended beyond the period specified in paragraph 1 by a separate legal regulation; the extension of the warranty period may concern only a component of the thing.

(3) At the buyer's request, the vendor is obliged to provide a written warranty (a warranty certificate). The warranty certificate must contain the first name(s) and surname, name or commercial firm of the vendor, his registration number, his registered office if he is a legal entity or his address if he is an individual. If the nature of the thing allows, instead of a warranty certificate, the vendor may issue the buyer with proof of purchase of the thing, containing the above-mentioned particulars.

(4) If required with respect to the warranty provided, in the warranty certificate the vendor shall explain comprehensibly the content of the warranty provided, and shall specify the warranty's scope, conditions, period, and method in which claims stemming from the warranty may be placed. In the warranty certificate, the vendor shall also specify that the provision of the warranty does not affect the buyer's rights connected with the purchase of the thing under separate legal regulations. Breach of duties relating to the issue of a warranty certificate does not affect the force of the warranty.

(5) On the basis of a declaration stipulated in the warranty certificate issued to the buyer, the vendor may provide a warranty exceeding the extent of the warranty stipulated in this Act. In the warranty certificate, the vendor shall specify the conditions and extent of the extension of this warranty.

4a) E.g. Act No. 110/1997 Sb., on Foods and Tobacco Products and an Amendment to Related Legislation, in the wording of later regulations.

§ 621

Warranty periods shall commence as of the moment when the thing is taken over by the buyer. If the bought thing is to be set in operation by an entrepreneur other than the vendor, the warranty period shall commence as of the day when the thing is set in operation, providing that the buyer orders that the thing be put into operation within three weeks of takeover of the thing and providing that the buyer provides due and timely cooperation necessary for the rendering of this service.

§ 622

(1) If a defect can be removed, the buyer shall have the right to the free, timely, and due removal of the defect. The vendor must remove the defect without undue delay. If, given the nature of the defect, it is not unreasonable, the buyer may demand the exchange of the thing; if the defect concerns only a component of the thing, the buyer may demand the exchange of that component. If this procedure is not possible, the buyer may demand an adequate discount from the price of the thing or may withdraw from the agreement.

(2) If the defect cannot be removed and prevents the proper use of the thing as a thing free of defects, the buyer has the right to the exchange of the thing or to withdraw from the agreement. The same rights shall belong to the buyer if the defects can be removed but the buyer can not use the thing properly due to the repeated occurrence of the defect after the repair or due to a larger number of defects.

(3) In the case of other irremovable defects, and if the buyer does not demand the exchange of the thing, the buyer shall be entitled to an adequate discount from the price of the thing or may withdraw from the agreement.

§ 623

A defect which occurs due to unprofessional assembly or other unprofessional putting of the thing into operation shall be deemed a defect to the thing providing that this assembly or putting into operation of the thing is agreed in the purchase agreement and is carried out by the vendor or another person at the vendor's liability. The same applies in cases where the assembly or other putting into operation of the thing is carried out by the buyer and the defect occurs due to incorrect instructions specified in the directions for assembly or directions for putting the thing into operation.

§ 624

If a thing sold for a lower price or a used thing has a defect for which the vendor is liable, the buyer has the right to an adequate discount of the thing instead of the right to an exchange of the thing.

§ 625

Rights ensuing from liability for defects shall be exercised at the vendor from whom the thing was bought. However, if the warranty certificate specifies another entrepreneur who is to repair the thing and who is located on the vendor's premises or in a place closer to the buyer, the buyer shall exercise the right to repair at the entrepreneur specified to make warranty repairs. The entrepreneur specified to make the repair must repair the thing in a period agreed between the vendor and the buyer at the moment of sale.

§ 626

(1) Rights from liability for defects to a thing to which a warranty period applies shall become extinct unless they were exercised during the warranty period.

(2) Rights from liability for defects to quickly perishable things must be exercised no later than on the day following the purchase; otherwise these rights shall become extinct.

(3) In the case of used things, rights from liability for defects to the thing must be exercised within 24 hours of the date the thing is taken over by the buyer, otherwise these rights shall become extinct. By agreement with the buyer, the vendor may shorten this period, but such shortened period must not be less than 12 months; the vendor specifies this period in the proof of sale of the thing.

§ 627

(1) The period from the exercise of the right from liability for damage until the moment the buyer must take over the thing after its repair shall not be included in the warranty period. The vendor must give the buyer confirmation about the moment when the right was exercised and about the repair and its duration.

(2) If the thing is exchanged, the warranty period shall recommence as of the moment when the new thing was taken over. The same rule shall apply to the exchange of a component which a warranty has been provided.

(3) Any agreements between the vendor and the buyer concluded prior to the exercise of a right from liability for defects to a sold thing are null and void if they result in the extinction of this right.