

NORTHERN TERRITORY

CONSUMER

AFFAIRS

The Consumer

June 2013



**New Residential Building
Consumer Protection
Legislation – are you
protected?**

**Small business check list - how does
your business ensure compliance?**

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From the Commissioner of Consumer Affairs

NT Consumer Affairs has now been in our Casuarina office for almost two years. The move has brought our services closer to our clients with easy access to parking and close proximity to both the Casuarina Square and Casuarina Plaza shopping centres.

With increasing demand on our existing services, including the commencement of Consumer Affairs' role with the Residential Building Dispute Resolution function within the *Building Act*, this location benefits all the parties involved in these processes.

The Northern Territory has moved into a significant growth period with the commencement of the Inpex gas project, which has resulted in a tightening of the rental market within Darwin and Palmerston. The Residential Tenancy section of Consumer Affairs has seen a significant increase in demand for information about tenant and



landlord rights and responsibilities as well as an increasing number of applications for decisions in regard to tenancy issues.

We are also seeing greater demands on our Fair Trading Officers as telephone enquiries, emails and walk-ins continue to increase from consumers and new businesses coming to the Territory to benefit from these new ventures.

Our Alice Springs office also continues to provide advice and assistance to Alice Springs residents ensuring we have a local understanding of issues of importance to local residents. Our remote and regional visitation program also seeks to ensure all Territorians are aware of, and are protected by, the fair trading and other laws administered by Consumer Affairs.

This edition of *The Consumer* again provides a range of information and highlights some recent issues brought before this office. If you have any concerns as a consumer or business operator please don't hesitate to give us a call on 1800 019 319 or email us at consumer@nt.gov.au. Visit Northern Territory Consumer Affairs on Facebook for further interesting articles and information.

*Commissioner for Consumer Affairs,
Gary Clements*

Residential building consumer protection

On 1 January 2013, the *Building Amendment (Residential Building Consumer Protection) Act* commenced. This Act includes consumer protection through the inclusion of a dispute resolution process incorporating consumer guarantees.

Northern Territory Consumer Affairs manages the dispute resolution aspects of the *Building Act* through the Commissioner of Residential Building Disputes. If you, as a consumer, have a dispute with your builder, you can contact NT Consumer Affairs to assist in resolving the dispute.

Negotiated agreement process

To commence a negotiated agreement, an application must be lodged with Consumer Affairs by either the owner or builder, where a dispute exists, about any residential building work as prescribed in section 5 of the *Building (Resolution of Building Work Disputes) Regulations*. There is no cost to lodge this application.



A negotiated agreement can involve either a mediation or conciliation conference, however these can only proceed where both parties to the dispute agree to participate willingly.

Conciliation conferences will be managed by a suitably trained convener and must be attended by both parties to the dispute. Legal representation is not allowed unless agreed upon by both parties and the convener.

The purpose of these conferences is to resolve the dispute amicably. Where an

agreement is reached, a written record of the agreement will be provided by the convener and the agreement will be binding on both parties.

Where an agreement is not reached, further processes to resolve the matter may be undertaken.

For more information contact Northern Territory Consumer Affairs on 1800 019 319 or check out our web page at <http://www.consumeraffairs.nt.gov.au/ForConsumers/residentialbuildingdisputes>

Check out our Consumer Affairs Facebook page

@Northern Territory Consumer Affairs

Small Business Self Assessment Checklist

Easy to use checklist now available for small businesses to ensure compliance with the Australian Consumer Law (ACL)

To coincide with World Consumer Rights Day, Northern Territory Consumer Affairs and other Australian fair trading regulators launched an interactive checklist.

The checklist is now available for small businesses to self assess their business and identify which of their activities are regulated under the Australian Consumer Law (ACL).

The Small Business Self Assessment Checklist has been designed to help businesses become aware of their rights and obligations when it comes to dealing with consumers, how to comply with their obligations under the ACL and lead them to more information so they can ensure compliance.

The checklist is interactive, easy to understand and features sections on contracts, advertising, receipts, consumer guarantees and refunds.

The ACL aims to ensure fair trading in Australia and the protection of consumers, while also reducing compliance costs to businesses. It is a national law, jointly administered by federal, state and territory governments, and came into effect on 1 January 2011.

Under the ACL, consumers have the same protections, and businesses have the same obligations, throughout Australia.

The checklist has been developed in partnership between federal, state and territory consumer protection agencies.

The checklist is available for download from the Northern Territory Consumer Affairs website under the heading 'Small Businesses'.

Airline Customer Advocate

The Airline Customer Advocate (ACA) provides a free and independent service to eligible customers by facilitating the resolution of unresolved consumer complaints about Australian airline services.

The five airlines involved are Qantas, Virgin Australia, Jetstar Airways, Tiger Airways and Regional Express (REX).

The role of the ACA is to represent the interests of airline customers of the participating airlines and play a leading role in customer advocacy within the Australian airline industry.

The ACA will forward your complaint to the relevant airline and ensure you receive a response

within a reasonable time (usually 20 working days). It can also provide recommendations to the participating airlines for improving their customer service.

Are you eligible?

- Is the complaint about a participating airline?
- Is the complaint about the airline's services?
- You must have tried to resolve your complaint directly with the airline concerned by following the complaints process set out in the applicable airline's customer charter, sought a review of the response and allowed for the specified timeframes.
- The complaint must relate to an event or circumstances that occurred within the last 12 months.
- Has the complaint been made to a consumer law regulator? If yes, the ACA will not deal with the issue.

What can you complain about?

- Flight delays or cancellations
- Telephone or internet reservations
- Customer service at the airport or inflight
- Baggage services
- Fees and charges
- Safety and security
- Airport lounge facilities
- Frequent flyer program terms and conditions
- Discrimination and services for customers with special needs
- Request for refunds

If not satisfied with the ACA's determination, a complaint may be lodged with NT Consumer Affairs.

For more information or to lodge a complaint, contact the Airline Customer Advocate –
Phone: 1800 813 129
Fax: 02 9279 2504
www.airlinecustomeradvocate.com.au
Postal: Level 18, 363 George Street Sydney, NSW 2000

Fair trading throughout the Northern Territory

Northern Territory Consumer Affairs takes all complaints seriously and aims to resolve disputes through an impartial conciliation process. Consumer Affairs also takes this opportunity to educate traders of their rights and responsibilities under the ACL. During the first six months of 2013, NT Consumer Affairs Fair Trading Officers have assisted a large number of NT consumers. Here are just a few of the issues that have been resolved through this process.

Charge me, charge me not

A consumer purchased an electric bike from a retail store. Once home, the consumer realised the bike had a fault as it failed to charge.

The consumer requested the trader replace the bike but the trader said they did not have any more in stock and would not order any more.

The ACL provides that in the event that a product has a major fault, the consumer is entitled to choose a refund or replacement.

Once informed of their obligations under the ACL, the trader amended their policy in order to comply with the legislation and ordered the consumer a replacement electric bike.

This was a win for the consumer and the trader learnt more about their obligations under the ACL.



Car maintenance

A consumer took their car to a mechanic's workshop to have scheduled maintenance carried out.

However, the mechanic charged for replacing a battery without first getting permission from the consumer. The consumer initially approached the mechanic in an attempt to resolve the situation; however this was unsuccessful.

The consumer then lodged a complaint with NT Consumer Affairs where a Fair Trading Officer was able to successfully negotiate a satisfactory resolution, with the mechanic agreeing to refund the consumer the cost of the battery and the diagnostic charge.

During the conciliation it was found that the mechanic had no authorisation to change the battery and, in fact, the old battery was still under warranty.

Remember, if you don't authorise work undertaken by a trader, they cannot charge you for it.

Cut to the chase

A consumer engaged the services of a hair salon to cut and colour her hair. The consumer supplied the hair salon with the exact colour details and style requirements.

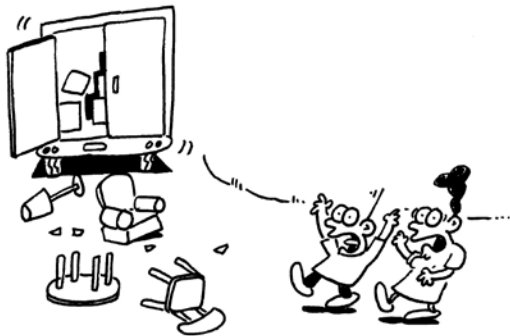
The hairdresser failed to carry out the work with due care by not following the instructions given by the consumer. This resulted in the consumer being dissatisfied with the service they received.

After the salon tried to rectify the situation without success, the consumer approached another salon which corrected the hair colour and style and supplied a report about the faulty service. The consumer then approached the original trader for a refund for the initial service and the cost of having it corrected.

The trader initially offered to refund the consumer for the faulty service but not to cover the cost associated with rectifying the problem. This was not satisfactory to the consumer who then lodged a complaint with NT Consumer Affairs.

A Fair Trading Officer successfully negotiated the outcome sought by the consumer.

FAIR TRADING



Furniture delivery gone bad

A consumer purchased some furniture from a retail store and arranged to have the items delivered to their home address by the trader.

Upon delivery, the lounge was scraped against the consumer's front door creating a deep gash to the door.

The consumer was not able to come to an agreement with the trader but after contacting NT Consumer Affairs, a Fair Trading Officer was able to reach a mutual agreement through the conciliation process.

The outcome achieved between the parties included the trader agreeing to cover the costs of repairing the door.

Under the ACL, people carrying out a paid service, in this case delivering furniture, need to take due care and skill when carrying out their work.

If any service provider fails to take reasonable care and causes damage to your goods or property they may be liable for the cost of repairs.

Not as described

A consumer purchased a media pad from a local retailer. When unpacked, it was found that the media pad did not have the features described in the advertisement, which represented that the media pad had a SIM card slot, could be used as a telephone and had access to a known service provider.

The consumer was not able to resolve the matter with the trader and lodged a complaint with NT Consumer Affairs. A Fair Trading Officer was able to reach a remedy suitable to both parties.

The consumer was supplied with a new product of a different make and the manufacturer consequently withdrew the original product from sale nationally.

It is very important to check your items after you receive them to make sure they meet the description in the advertisement. If not, in the first instance, contact the trader and discuss the matter.



All in the wash?

A consumer bought a washing machine from a trader only to have the machine break down in

the first six months with a major fault. The consumer was unsure of their rights under the ACL, so they contacted Consumer Affairs.

Once informed, they approached the trader and received a replacement washing machine.

If you have a problem with a product that you have purchased you should always approach the trader and discuss the problem with them first.

This consumer not only got a replacement but the trader has maintained a valued customer. It always pays to know your consumer rights and approach the trader amicably when seeking a remedy.

Evidence is gold

All complaints received by NT Consumer Affairs are assessed on their own merits, however not all complaints can be resolved through the conciliation process.

Evidence is required to substantiate any allegations made in the complaint. It is highly recommended that both parties to a complaint supply all relevant material and other evidence to assist in determining the outcome and ensure the matter can be dealt with quickly.

We often find that consumers who have provided a comprehensive record of events that includes evidence such as copies of receipts, other documents, details of phone calls and correspondence, will end up with a better outcome.

Bargain puppies? Beware!



Scammers are tugging at the heartstrings of animal lovers. There has been an increase in the number of scams involving puppies this year. This scam typically involves advertisements in newspapers and online classifieds at suspiciously low prices for non-existent puppies.

The 'seller' provides interested buyers with pictures of an adorable puppy and then tricks them into paying fees for transport, customs or medical costs before the puppy can be delivered.

The consumer is usually asked to deposit the money in a manner that cannot be traced. Once the payment is made, the puppy – and the money – vanish without a trace. Scammers prey upon individuals and families who just want to give a puppy a good home, so here a few tips to protect you:

- Be cautious – if the advertised price of a pedigree puppy looks too good to be true, it probably is.

- Don't trust the legitimacy of an ad just because it appears in a reputable newspaper or online classifieds website – scammers often use these.
- Avoid any arrangement with a stranger who asks for upfront payment via money order or wire transfer such as Western Union – it is very rare to recover money sent this way.
- Search online using the exact wording in the ad – many well-known scams can be found this way.
- If you are in doubt, seek advice from someone in the industry such as a reputable breeders' association, vet or local pet shop.

Is your computer secure?

Spyware is a type of malicious software (also called 'malware') that scammers may try to install on your computer. As the name suggests, spyware programs allow people to spy on what you are doing on your computer, including the websites you visit and any files and personal details stored on it.

Key-loggers are a particular type of spyware that secretly record what keys you press on your keyboard and send this data back to the scammer over the internet. Scammers use these programs to steal passwords, such as online banking passwords.

Scammers use a wide range of tricks to get spyware and key-loggers loaded on to your computer. This usually involves tricking you into clicking on a link in a spam email they have sent, or visiting a website that they have set up solely to infect the user's computer.

Other sources of spyware and key-loggers are free games or music that you can download from the internet. When they are delivered in this way, they are sometimes called 'Trojans' – a file that claims to be for some harmless purpose so it can get under your guard but in fact contains a nasty surprise. Make sure you use strong passwords, change them regularly and have anti-virus software installed on your computer.

For more information on how to protect your computer, go to www.scamwatch.gov.au and follow the links.

Unsolicited trading (door to door & telemarketing)

While it is now less common for salespeople to physically go from door to door selling goods and services, selling by telephone has become a common experience for consumers.

These forms of unsolicited trading are covered by the Australian Consumer Law and provide strong protection for consumers. These include:

- Permitted hours of calling
- Clear obligation on callers to identify themselves and the reason for the visit or call
- Strong cooling-off rights for goods over \$100
- Regulated sales contracts

The NT Consumer Affairs website has fact sheets that provide tips and advice on your rights about dealing with door to door traders or telemarketers. Check these out at www.consumeraffairs.nt.gov.au

REMEMBER!
All sales over \$100 from unsolicited trading have a 10 business day cooling off period.

For good advice contact Consumer Affairs on

www.consumeraffairs.nt.gov.au

Residential tenancy enquiries go through the roof

Residential tenancy enquiries to the NT Consumer Affairs call centre are at an all-time high. This is most likely a result of the tight rental market in the Darwin area. Increasing rents are seeing more tenants seeking advice about their rights when dealing with landlords and agents. These enquiries have resulted in an increase in applications to the Commissioner of Residential Tenancies from landlords and tenants.

If you have any concerns, or just want information regarding your rights and responsibilities as a tenant or landlord, contact NT Consumer Affairs on 1800 019 319 or get your free copy of 'A Guide to Renting in the Northern Territory'.



Lease breaks – know your rights and responsibilities

A tenant who intends to break a lease where a fixed term of occupancy is in place needs to be aware that they are breaking a contract. The consequences may include having to:

- continue to pay rent for a property they are no longer living in for a considerable period of time
- pay for advertising costs until the landlord or agent has found a suitable tenant
- possibly pay a lease break fee.

It is in a tenant's best interest to work with a landlord or agent in finding a suitable replacement tenant and to give as much lead time as possible before leaving the tenancy. If you are a tenant who is facing financial hardship, please contact NT Consumer Affairs for further information.

I am renting a house that is for sale. Can I be kicked out?

Is the property you are renting up for sale? If so, as a tenant you have rights. If a property is sold during the period of a fixed term tenancy, ownership of the property does not affect the tenancy that is in place. Therefore, new owners of a property cannot demand that the tenant vacate the premises (unless there is a breach of the tenancy agreement and the correct notices are issued).

However, the new owner (landlord) and tenant may negotiate their own personal agreement about the

tenant vacating the premises early. The tenant is not obliged to agree to vacate early and the current tenancy agreement remains in force until the stipulated expiry date in the agreement. If you are in a periodic tenancy (no lease in place), the landlord must give you 42 days notice to vacate.

Has your rental property got smoke alarms?

In the Northern Territory it is a legal requirement for all residential properties to have working smoke alarms.

If you are a home owner and already have a working ionization smoke alarm installed, you do not have to change to a photoelectric smoke alarm until one of the following occurs:

- Your smoke alarm ceases to work – you need to replace it with either a hardwired 240 volt photoelectric smoke alarm with 9 volt back-up battery OR a photoelectric smoke alarm with a sealed 10 year lithium battery
- You sell your home
- You rent out your premises or renew a tenancy, or
- You hire out your caravan or mobile dwelling.

In the instance of a tenancy change, renewed lease or sale of property, a landlord or seller must ensure that

a working photoelectric smoke alarm is installed. The responsibility for ensuring the alarm in a tenanted property is maintained in working order is that of the tenant.



Community Events

During the first six months of 2013, NT Consumer Affairs has participated in a number of community information sessions including information stalls at the Defence Day Family Expos held at the Tindal RAAF Base and the Sport and Recreation Centre in Palmerston.

Consumer Affairs also held information stalls at both major shopping centres in Alice Springs, as well as Yuendumu, Papunya, Borroloola, Elliott, Ali Curung, Ti Tree, Willowra, Borroloola and Lajamanu. These events supplied information to the community and business regarding rights and responsibilities under the Australian Consumer Law and other laws administered by Consumer Affairs. These events were well attended by community members.



With the assistance of the Top End Aboriginal Bush Broadcasting Association (TEABBA), Consumer Affairs continues to provide valuable information through a consumer-focused radio segment. These segments reach 29 remote communities throughout the Top End and supply information that assists in raising awareness of consumer rights under the Australian Consumer Law and other legislation administered by NT Consumer Affairs.

Would you like us to visit your work, organisation, school or university?

If you would like NT Consumer Affairs to attend your business, school or organisation to run a presentation or conduct talks regarding consumer rights and business responsibilities under the Australian Consumer Law and other legislation administered by Consumer Affairs, call us on 1800 019 319 or email: consumer@nt.gov.au. Some of the topics include consumer protection, scams, shopping and unsolicited sales.



'THE CONSUMER'

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'The Consumer' is available free online at www.consumeraffairs.nt.gov.au

Scammers still catching Territorians

Are you the victim of a scam? Have you received scam invitations? Can you identify a scam? Do you want to be involved in research about scams?

To understand the trends and impacts of consumer scams, the Australian Institute of Criminology (AIC) runs an online scam survey each year. Just five minutes of your time will help increase this understanding which in turn helps authorities combat these types of crime.

The AIC and NT Consumer Affairs are members of the Australasian Consumer Fraud Taskforce (ACFT) which gathers information on scams to help improve the prevention, detection, investigation and prosecution of scam offenders. Participation in the survey is voluntary and anonymous and you only need to complete the survey once. All responses are treated in confidence.

The survey can be accessed from the AIC website http://www.aic.gov.au/crime_types/economic/fraud/acft.html. The results will be published on this website next year.

For further information log onto our website: consumeraffairs.nt.gov.au; telephone 1800 019 319, SMS 040 111 6801, email consumer@nt.gov.au, visit Facebook @ Northern Territory Consumer Affairs or write to Northern Territory Consumer Affairs, PO Box 40946 Casuarina NT 0811