

SMA Queries CASE about New Lemon Law

According to the Consumers Association of Singapore's (CASE) website, Lemon Laws are consumer protection laws that provide remedies against defective goods (colloquially known as "lemons"), which fail to conform to the contract at the time of delivery, eg, do not meet standards of quality and performance, especially after repeated repair. Such laws obligate sellers to repair, replace, or refund or reduce the price of those defective goods.

Singapore's very own Lemon Law was passed in Parliament on 9 March 2012, and came into effect on 1 September 2012. The Ministry of Trade and Industry (MTI) stated in a press statement that the new law will provide more options in terms of recourse for both consumers and retailers through additional remedies, such as repair and replacement, and provide greater clarity on the burden of proof for defective goods.

SMA wrote to CASE to clarify some queries about the new law, with regard to medical services, medicines and medical devices. CASE replied and explained that medical services, like all other kinds of services, are not subjected to the Lemon Law, while the other two are covered under the Lemon Law. We reproduce the two letters below.

Members are welcome to send their feedback to feedback@sma.org.sg. **SMA**



21 September 2012

Mr Lim Biow Chuan

President

Consumers Association of Singapore
170 Ghim Moh Road
#05-01 Ulu Pandan Community Building
Singapore 279621

Dear Mr Lim,

**Query on coverage of amended
Consumer Protection (Fair Trading) Act
aka Lemon Law**

We wish to highlight some queries highlighted by our members, regarding the recently amended Consumer Protection (Fair Trading) Act (CPFTA), also known as the "Lemon Law".

Our members would like to know if the following are covered under the amended CPFTA:

1. Medical services provided by medical professionals such as consultation, advice, surgery
2. Medicines dispensed at hospitals/clinics and their efficacy on individual patients
3. Medical devices sold/used by hospitals/clinics/medical professionals for the purpose of treatment for the patient (eg, implants, stents, dressing, etc)

We would appreciate if you can clarify on the coverage, so that we can advise our members accordingly.

Yours Sincerely,

A/Prof Chin Jing Jih

President

Singapore Medical Association

2 October 2012

A/Prof Chin Jing Jih

President

Singapore Medical Association
2 College Road
Level 2 Alumni Medical Centre
Singapore 169850

Dear A/Prof Chin,

**Query on coverage of amended
CPFTA aka Lemon Law**

We refer to your letter to CASE President Lim Biow Chuan dated 21 September 2012.

With regard to question 1 medical services like all other kind of services like lawyers' services, bankers' services etc are not covered under Lemon Law. As such consultation, advice and surgery are not subject to Lemon Law. It however may be covered under the other aspect of CPFTA namely the making of false claims or misleading claims, which are regarded as unfair practices, which apply since 1 March 2004. Also such services may also be subject to tort of negligent act or advice etc which are already covered under other laws.

With regard to question 2 medicines are regarded as goods and therefore are subject to Lemon Law. It is lemon if the medicine supplied is defective and/or does not conform to the contract. This happens when a doctor is supposed to supply Panadol but instead offers another medication which technically does not conform to the agreed medication namely Panadol. Also it may be difficult to say that a cough mixture is defective when that particular cough medicine has an effect on 999 patients but for some reason does not work on that 1 patient. However if a medical product someone got was tainted with arsenic and is consumed by the consumer that is clearly a defect under Lemon Law.

Medical devices supplied by hospitals/clinics/medical professionals similarly are subject to Lemon Law as the contract is between the hospitals/clinics/medical professionals to consumers. As such if the agreement between the retailer and the consumer is a stent of a particular metal or make and when inserted is not the same that technically is a lemon. Similarly if it can be shown that the particular stent is defective that is also a lemon.

Information about lemon law can be found in CASE's website and MTI's website.

Yours Sincerely,

Thevanathan Pillay

Asst Director, Legal

Consumers Association of Singapore

