

THE CREDIT CONTRACTS AND CONSUMER FINANCE ACT CONSUMER RIGHTS – CANCELLATION

Under the Credit Contracts and Consumer Finance Act (CCCF Act), a debtor may cancel a consumer credit contract within **three working days** of the date initial disclosure is made.

The Act contains presumptions about when disclosure is made depending on how it is made, for example, disclosure is presumed to have been made on the fourth working day after the day the creditor posted the initial disclosure statement, or if disclosure was made electronically, on the second working day after the day it was sent.

- If disclosure documents are handed to you, you must give notice of cancellation within **three working days**.
- If disclosure is made by electronic means (for example, email) you must give notice of cancellation within **five working days** of the electronic communication being sent.
- If disclosure documents are mailed to you, you must give notice of cancellation within **seven working days** of the documents being posted.

A debtor may cancel a contract any time they have not been provided with initial disclosure.

A debtor does **not** have the right to cancel a consumer credit contract:

- if credit is provided for a specified period of less than **two months**, and the credit is not to the creditor's knowledge used to pay money owing to the creditor or a related company under another credit contract; or
- on the grounds that disclosure has not been made to a guarantor.

A debtor or debtor's agent must give written notice of cancellation. Specific wording is not required as long as the person expresses an intention to withdraw from the contract.

The written notice of cancellation may be handed to the creditor or any of their agents or employees, or addressed to the creditor, their business or that of any of their agents. If both parties have agreed to communicate electronically, the debtor can email or fax their notice of cancellation.

After giving notice to cancel, the debtor has **15 working days** to pay the cash price of the property or services if the consumer credit contract is a credit sale and:

- the debtor has taken possession of the goods and disclosure of the right to cancel has been provided; or
- the debtor wants to keep the goods or use the services that are the subject of the credit sale; or
- the goods have been bought at an auction; or
- the credit sale is for services that have been performed.

Depending on the actual terms of the contract, the debtor is not entitled to return the goods and the creditor is not obliged to refund the cash price. The cash price is the lowest price at which the goods or property could have been purchased if paid for in full. In this situation the creditor is still obliged to provide the debtor with goods or services to which the cash price relates.

The debtor must return any property or advance within **three working days** of the date initial disclosure was provided if the contract is:

- a credit sale but the debtor has not taken possession of the goods; or
- any other form of consumer credit contract.

If initial disclosure has not been provided, the debtor can return the property or advance at any time.

If the debtor cancels a consumer credit contract, the creditor may claim:

- interest charges on the unpaid balance for the period credit was provided; and
- unless the contract provides otherwise, any reasonable expenses necessarily incurred in connection with the contract and its cancellation, plus the cost of repairing any returned goods that were damaged while they were in the debtor's possession.

In return, the creditor must:

- give back any property received from the debtor or anyone else under the consumer credit contract;
- release any security interest taken in connection with the consumer credit contract, unless the interest secures other obligations on the part of the debtor or guarantor; and
- refund any fees charges or interest the debtor has already paid.

Any contravention of the cancellation provisions is an offence under the CCCF Act.

A debtor may cancel a contract any time they have not been provided with initial disclosure.

LENDERS AND BORROWERS

The CCCF Act uses a number of different terms to describe lenders and borrowers, depending on the nature of the transaction.

- Consumer credit contracts – creditors and debtors.
- Consumer leases – lessors and lessees.
- Buy back transactions – transferees and occupiers.

For the purposes of these fact sheets the terms creditor and debtor are used when referring generally to credit transactions, but the specific terms are used where relevant.

To check for updates to this fact sheet visit:
www.comcom.govt.nz/consumer-credit

This fact sheet is part of a series looking at the Credit Contracts and Consumer Finance Act. Other fact sheets can be downloaded from
www.comcom.govt.nz/consumer-credit

CONTACT

Contact the Commerce Commission with information about possible breaches of the Credit Contracts and Consumer Finance Act.

TELEPHONE

Our Contact Centre during office hours on 0800 943 600

WRITE

To us at Contact Centre,
PO Box 2351, Wellington 6140

EMAIL

Us at contact@comcom.govt.nz

This fact sheet is a guideline only, and reflects the Commission's view. The publication is not intended to be definitive, and should not be used instead of legal advice. It is traders' responsibility to remain up to date with legislation.

Only the courts can make an authoritative ruling on breaches of the Credit Contracts and Consumer Finance Act.