

Your rights when buying on credit

Anyone who offers you credit must be licensed by the Office of Fair Trading (OFT). Most credit agreements are covered by the **Consumer Credit Act 1974** and the **Consumer Credit Act 2006** - these are called 'regulated agreements'. When you purchase goods or services on a regulated credit agreement, special rules apply.

The **Consumer Credit Act 1974** (as amended) requires that any contract involving credit must be in writing in order for it to be legally binding and must contain certain information. It must show the amount you are borrowing, the length of the agreement, the amount and frequency of payments, details of your cancellation rights (if applicable) and other forms of protection and remedies available. It must also give the total charge for credit and the annual percentage rate (APR). If this information is not given, the agreement could be unenforceable. In order for the contract to be legally binding, it must be signed by both you and the creditor and you are entitled to a copy of the agreement.

A creditor, in a regulated fixed sum credit agreement, is legally obliged to give you a statement of account within a year, beginning with the day after the day on which the agreement is made. You are also entitled, if applicable, to receive further statements at intervals of not more than one year. If a creditor does not comply with this requirement, he cannot enforce the agreement during non-compliance, and you would not be obliged to pay interest during this time.

A creditor in a running account credit agreement, e.g. a credit card, must issue statements to you, setting out specified information, at intervals of not more than 12 months.

Consider carefully:

Entry into a credit agreement should not be done lightly. You could be committing yourself to paying large amounts of money for a long time. Before you sign, consider the following:

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- can you afford it? - look at the APR and length of agreement - consider the total amount you will be paying over the life of the loan, as well as the monthly payment - ask for a written quotation, take it home and consider it carefully
- can you buy the goods or services cheaper elsewhere?
- you don't have to arrange the loan through your chosen retailer. - you could ask your own bank, or other sources of finance - they may have special offers and lower interest rates
- have you been offered payment protection insurance to cover the loan? do you need it? will it pay out straight away in the event of a claim? will it cover your circumstances? many policies, for example, will not cover anyone who is self-employed or will not cover some medical conditions - ask for a copy of the policy and read it carefully check that what the salesperson told you is written in the policy document
- do not take out a loan secured on your property without considering the consequences - if your circumstances change and you cannot keep up the payments, you could lose your home

Beware:

There can be major consequences of failing to meet payments under a credit agreement. You will be in breach of contract and the finance company could terminate the agreement, demand early payment of the sum owing or even, in some cases, repossess goods.

Information will be noted on your credit record and may affect your ability to obtain credit in the future. When goods are repossessed, this is often not the end of the matter as you may still owe the creditor money.

A creditor must give you a notice of sums in arrears, plus an arrears information sheet at intervals of six months until you are no longer in arrears, or until a judgement is made regarding the amount owed. A creditor cannot enforce an agreement during the time he fails to comply with this requirement and you would not be liable to pay interest during this time.

Before any action can be taken against you, the finance company must send you a default notice and default information sheet, giving you the opportunity to meet your payment within a specified time. It must tell you what action it intends to take if you fail to make the payment.

Never ignore a default notice. Seek advice immediately if you cannot make the payments. There may be other options open to you in order to limit your liability.

Who is responsible when goods are faulty?

This depends on the type of credit agreement. The heading on the top of your agreement will tell you what type of agreement you have.

Hire purchase:

This type of credit is commonly used to fund the purchase of vehicles. When you agree to buy a car on hire purchase, the garage sells the car to the finance company which, in turn, hires the car to you with an option to purchase. The finance company owns the car and ownership does not pass to you until the last payment has been made. During this time, you must not sell the vehicle without the finance company's permission.

You are not bound to purchase the vehicle as the agreement gives you a right of termination under certain conditions (see below).

Your contract is with the finance company and not the supplier. It is, therefore, the finance company which is responsible to you if the item is faulty. Your letter of complaint should be sent to the finance company, with a copy to the retailer.

Conditional sale:

This is similar to hire purchase and, again, the finance company (not the supplier) has direct liability if goods are faulty.

You have arranged your own bank loan:

Your bank has no responsibility for the quality of the goods. Your claim if goods are faulty will be against the retailer under the **Sale of Goods Act 1979** (as amended), the retailer and possibly the manufacturer under the **Sale and Supply of Goods to Consumers Regulations 2002** or under a warranty issued with the goods.

Personal loan/credit agreement arranged by the retailer:

In this type of agreement, both the retailer and the finance company could be liable if goods are faulty. Your claim against the retailer would be under the **Sale of Goods Act 1979** (as amended) or the **Sale and Supply of Goods to Consumers Regulations 2002**. You could also have a claim against the finance company under Section 75 of the **Consumer Credit Act 1974** (as amended), if you can prove that the retailer is in breach of contract or has misrepresented the goods to you.

Your letter of complaint should be sent to both parties. This equal liability only applies if the cash price of the goods is more than £100. In the event of a legal claim, you could sue the retailer, the finance company or them both jointly.

If you have paid by credit card:

As credit cards are easy to use and are accepted by the majority of traders in both the UK and abroad, they are the most commonly used type of credit. If goods are faulty, the situation is the same as above. The credit card company and the retailer could be equally liable in the event of a breach of contract or misrepresentation and your letter of complaint should be sent to both parties.

This does not apply to charge cards or debit cards.

Can you cancel your credit agreement?

Signed on trade premises:

Credit agreements signed at the trader's premises are not cancellable once both you and the finance company have signed the documents. At this stage, they become legally binding on both parties.

You may, however, have a very short window of opportunity to withdraw from the deal if the creditor has not yet signed their part of the agreement. In these circumstances, you should telephone the creditor immediately to establish whether the agreement has been signed. If not, inform the lender you wish to withdraw. Make a note of what was said and the name of the person you spoke to. You should then confirm your withdrawal in a letter. Send it by recorded delivery and keep a copy. Once you have withdrawn, you are entitled to a refund of any deposit you have paid. You should be aware that many retailers are entitled to sign credit agreements for, and on behalf of, the creditor and, therefore, you would not be able to withdraw as it would be binding when signed by the retailer.

Signed at home:

You have a statutory right to a cancellation period if you signed your credit agreement away from the trader's premises, e.g. you signed at home and you talked to the seller about the deal face-to-face (rather than only on the telephone). The agreement should contain a notice of your cancellation rights.

When you have signed the agreement, it will be sent to the finance company for an indication of the company's acceptance of the deal by adding an authorised signature to the agreement and sending you a second copy through the post. The cancellation period runs from the date you signed the agreement and ends five days after you received either the second copy signed by the creditor or a separate notice of your cancellation rights. In such circumstances, it is essential that you act quickly and notify the creditor immediately, in writing, that you wish to cancel. If you have not been given notice of your cancellation rights, the agreement is unenforceable. Keep copies of any correspondence you send and obtain proof of postage.

When an agreement and any linked transaction are cancelled, you are entitled to have any deposit you paid returned.

If you have entered and then cancelled an agreement, you do not have to pay interest on money received if it is returned within a month of cancellation or, if the credit is repayable in instalments, before the date of the first payment.

If you have received goods financed through an agreement, which is subsequently cancelled, you are obliged to take reasonable care of them and not dispose of them until they are returned to the supplier.

If the cancellation period has expired:

Once you have signed the credit agreement and any cooling off period has ended, any rights you may have to cancel your agreement will be included in your contract and will depend on the type of credit you took out.

Credit card agreements:

Credit card agreements can be cancelled by writing to the creditor and making arrangements to repay any money you owe.

Hire purchase or conditional sale agreements:

These can be terminated at any time by giving notice that you wish to return the goods and cancel the agreement. This may be an expensive option as you will be liable for half the total amount payable under the agreement, as well as any arrears outstanding and compensation if any damage has been caused to the item. You may also have taken out additional insurances which will be shown separately on the agreement.

Once you have terminated, you may still be liable for the insurance premiums. This should be detailed on your hire purchase agreement.

Credit refusal:

You cannot insist on being given credit. Most creditors use credit reference agencies or credit scoring to decide whether to give credit and do not have to give reasons for refusing to give you credit. If you ask, the company should give you the name and address of any credit reference agency that was used.

Credit reference agencies:

The main credit reference agencies collect and store information about everyone's financial situation. These agencies do not keep 'blacklists' or give opinions about whether or not you should be given credit. They provide information which includes details of county court judgments, bankruptcy, any property repossessed, any other credit accounts you have, and a record of everyone who has requested a credit check on your file. You can check the information held by the credit reference companies by writing to them, asking for a copy of your file and enclosing the required fee. You can ask that incorrect information be corrected, but you cannot ask for correct information to be removed.

Credit repair agencies:

Beware of companies which promise to repair your credit record for a fee. They have no special powers to do anything you could not do yourself.

For more information on credit, please see our leaflet: 'Credit terminology - what does it all mean?'

(http://www.derbyshire.gov.uk/Images/ca27_tcm9-8167.pdf)

Where can I get further help?

This leaflet is not an authoritative interpretation of the law and is intended only for guidance. Any legislation referred to, while still current, may have been amended from the form in which it was originally enacted. For further information, please contact Citizens Advice.

The Citizens Advice consumer service provides free, confidential and impartial advice on consumer issues. Visit www.adviceguide.org.uk or call the Citizens Advice consumer helpline on 08454 04 05 06.

If you are a **business**, contact us by any of the following methods:

Derbyshire Trading Standards Service
Chatsworth Hall
Chesterfield Road
Matlock
Derbyshire
DE4 3FW

Telephone: Call Derbyshire 08 456 058 058

Fax: 01629 536197

Website: www.derbyshire.gov.uk/tradingstandards

We want everyone to be able to understand us. On request, we will arrange:

- Language interpreters, including for sign language
- Translation of written materials into other languages
- Materials in large print, on tape or in Braille.

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or telephone us on 01629 536166.

