



About your rights and responsibilities as a consumer when you borrow money

This fact sheet is designed to inform you about your rights when you take loan or credit from financial institutions. Borrowing money can include anything from taking out a loan to buy a car or home, or, buying goods on credit through hire purchase. Any agreement you sign in such an event must take into consideration your legal rights (statutory rights) as covered by the Consumer Credit Act 1999, Consumer Credit (Amendment) Act 2006 and Regulations 2009.

You must remember that this legislation will not protect you in the event that you borrow from a money lender or relatives or friends.

What must you do before you take out a loan?

You must know how much money you want to borrow. Then, obtain a Pre-Contractual Disclosure statement from all banks. This statement will give important information such as:

- The true cost of credit, called the Annual Percentage Rate (APR), how it is calculated and the total interest to be paid;
- The amount for each repayment, when it is due, and what it is made up of (loan, interest, administration charge);
- The process that comes into effect if you default;
- All types of Fees and Charges related to the loan you are applying, NOT just the general fees and charges

You can use this information to then decide which bank or hire purchase company you wish to borrow from, based on the information you have obtained about interest rates and other fees and charges.

Read Before You Sign

You must read and understand the information provided by your lender before you sign the contract. Ask questions if you are in doubt or seek financial/legal advice to understand the contract.

In practice, lenders often only give you this information just before they give you the agreement to sign. It is important to understand that you should not feel under pressure to sign an agreement if you have not had time to read the information and take it in. You can always ask to take away the information to look at and come back to sign the agreement later.



Remember: The lender is the owner of the goods (whether car, house, fridge etc) until such time you have paid off the account in full. So, if you are unable to meet your repayments, the lender will take actions against you by putting your house on mortgagee sale or taking the fridge away.

DO YOU KNOW?

- The lender (banks/hire purchase company) will give you a notice (a 30-day default notice) if you fall behind on your repayments (Section 80). You should not ignore notices that are sent to you.
- That if you don't clear arrears within the 30 days (Section 94 (1)) the lender can repossess the products. A Repossession Notice must be provided to you within 14 days, once the products are taken. Your items cannot be sold until the expiry of 21 days from the date of the Repossession Notice. You can do the following upon receipt of the Repossession Notice :
 - a) Clear the arrears and enforcement expenses;
 - b) Pay out the entire contract amount; or
 - c) Select a buyer if you are unable to continue with your credit. (Sections 94 (4) and 95)
- The market value of the repossessed items is calculated by the lender by considering 2 factors: The depreciation value of the item, and, any damage that may have occurred.
- If you are unable to pay the arrears or nominate a buyer (Section 95) the lender can sell the item(s) for the best price reasonably obtainable. Extra fees and charges would be added to your account during the recovery process.
- You can surrender the product to avoid repossession costs and storage charges if you are unable to continue with the repayments. You may still owe money depending on how much the item will fetch when the item is sold.

Remember: Your lender cannot sell the items if your account balance is less than 25% of the total amount under the contract or \$2,000 (whichever is lesser). A court order is needed to sell the items. However, if the lender believes that you have intentions to remove the item(s) then they can repossess the items at any time.

- After the repossessed items have been sold, first the lender will recover the debt and if the amount is more than what you owe, then the surplus will be refunded to you. But if it is less than the current account balance, then you must pay the shortfall. (Section 96)
- You should not stop your repayments if your products are under repair with the lender.
- If you are facing difficulty in making repayments because of unemployment, illness or any other reasonable cause, you can talk to the lender about any of the following options (Section 66):
 - a) reduce the amount of each repayment and increase the term of your contract;
 - b) ask for repayment holiday; or
 - c) postpone the dates on which repayments are due.

The option provided by your lender eventually, does not mean that repayments will not cost you more. You will still be charged interest on which ever option you take.

You need to be careful before you agree to become a guarantor. If the borrower is unable to pay the loan amount, you will be responsible for their debt. (Section 82)

Taking out a Home Loan (Mortgage)

The dream of owning a home has driven thousands of borrowers to take on home loans. If you're having problems paying your mortgage, you must take action quickly to avoid falling into debt.

1. The mortgage document (Section 39)

Within 14 days, the lender must provide you with a copy of the mortgage document.

2. The mortgagee sale process

If your property has been advertised for mortgagee sale, the highest bidder may not necessarily be awarded the tender. To ensure that your property is sold at the best price possible, you should request your lender to invite you during the opening of the tenders.

3. Removal of fixtures/fittings

You should not remove the fixtures/fittings of the premises during the mortgagee sale. If you do, the cost of fixtures/fittings removed will be added to your home loan account.

4. The acceleration clause (Section 84)

If you fail to make a payment when it is due, the lender will give you 30 days to pay off. Banks can also demand repayment of the full loan amount immediately with certain conditions.

5. Unjust/Unfair Transactions (Section 70)

If your contract is unfair, you may apply to the Court for the following:

- Cancel the entire contract;
- Cancel part of the contract; or
- Change the contract.

6. File your home loan documents

You must create a folder for your home loan account to safely file any correspondence from the bank including your home loan contract, statements, default notices, changes in the interest rate or new offers for additional loans.

BE SMART Read Before You Sign

WITH THE TERMS & CONDITIONS OF YOUR HOME LOAN CONTRACT WHICH YOU HAVE ALREADY SIGNED?
Before Signing Your Contract Ask For A Pre-Contractual Disclosure

Pre-Contractual Disclosure MUST tell you:

- Exactly what your monthly repayment will be
- What is the Annual Interest Rate
- How much interest you will be charged
- How interest is calculated
- What is the default interest/rate
- Other fees and charges (loan establishment etc)
- What will happen if you can't make your payments on time
- Fee for early payments if applicable
- The total amount you are borrowing
- Monthly repayment amount



Ensure Your Contract Has:

- Total number of payments to pay off loan
- Interest to be paid monthly
- Total amount of interest to be paid
- The finance rate. This takes into account interest charged plus all other bank fees and charges
- Defaulting payment fees and penalties or conditions which otherwise break the agreement
- Details on terms and conditions of Mortgagee Sale
- Your right to retain the property in case of Mortgagee sale

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