

Receivership means a receiver looks after the business instead of the business owner or manager. The receiver will usually liquidate the business but they may choose to run the business so that debts can be paid off.

Am I a secured or an unsecured creditor?

Secured creditors have an agreement that if their money is not paid back then the creditor can sell business assets to get the money back. Unsecured creditors have no protection or security for the money that the business owes them.

Secured creditors get money back before unsecured creditors and often there is not enough money left-over for the unsecured creditors. There are strict laws about which creditors should get paid first.

What if the company has been sold to a new owner?

You may be able to get your money back if the whole company has been sold to a new owner. But even if the trading name stays the same, it doesn't mean that the company that owns it is the same. Often a new owner will buy the old company's name, property and assets but won't be responsible for the debts or liabilities.

For more information

For more information about your consumer rights visit www.consumeraffairs.govt.nz or your local Citizens Advice Bureau.

Contact details of your local Citizen's Advice Bureau are in the White Pages or online at www.cab.org.nz. You can call 0800 FOR CAB (0800 367 222).

You can get free legal advice from a community law centre. Contact details of your local community law centre are in the White Pages or online at www.communitylaw.org.nz.

Published by the

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Wellington 6140

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www.consumeraffairs.govt.nz

This factsheet should not be used as a substitute for specialist legal advice.

June 2009



MINISTRY OF CONSUMER AFFAIRS
MANATŪ KAIHOKOHOKO

WHEN A BUSINESS CLOSSES DOWN

CONSUMER FACTS



MINISTRY OF CONSUMER AFFAIRS
MANATŪ KAIHOKOHOKO

New Zealand Government

If a business has your money or your goods, and then goes bust, what can you do?

Goods you are buying on lay-by

If you have an item on lay-by you have special protection under the Lay-by Sales Act.

As long as you have made a payment in the last 3 months, you can pay the rest of the purchase price and take the goods away as long as there are goods available. If there aren't any, then register your claim with the liquidator or receiver.

You are more likely to get your money back than unsecured creditors and some secured creditors.

Goods that are being repaired

If you have an item in for a repair then it still belongs to you. You will need to be able to identify it and, if you owe money for the repairs, you will still have to pay.

Goods you have bought on credit

Finance on items you have bought on credit will probably be arranged through a finance company separate from the company you bought the goods from. You will still have to make the payments to the finance company, but you won't be at any risk of losing your goods.

Goods you have put a deposit on

If you have a deposit on an item or service that you haven't received yet, when the business closes you become an unsecured creditor. This means that it is unlikely that you will get your goods or your money back.

Gift vouchers you haven't used yet

If the business is liquidated then you become an unsecured creditor. If the business is taken over by a receiver or another owner, they don't have to accept your gift vouchers. The gift voucher is an agreement with the previous owners so it probably won't apply to the receiver or new owner.

Avoid losing money or goods

- › Only pay a small deposit.
- › Record the serial number and a description of goods that are being repaired.
- › Buy gift vouchers that can be used at more than one business.
- › Make sure you make a lay-by payment every three months.

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How to get your money back

If you are owed money by a company that has closed, get in contact with the receiver or liquidator to register your claim. You will need to put your claim in writing and provide evidence of what you are owed, for example, a receipt.

If the business was not a registered company then the trader will be personally responsible for returning your money. You can claim money back at the Disputes Tribunal or Court, but if the trader has declared bankruptcy you probably won't be able to get anything back. You can check at the Insolvency and Trustee Service – www.insolvency.govt.nz.

Is the business a company?

Look at any paperwork quotes, bills receipts. If the name of the business is followed by the word "Limited" or "Ltd", then it is a company. Remember, sometimes the company name can be different to the name of the shop.

Check the companies register www.companies.govt.nz to see if the company is in receivership or liquidation. This might take 7-10 days to be updated.

Liquidation and receivership

Liquidation means that a liquidator is in charge of selling the business, goods and assets for cash so that debts can be paid.