

'Incapacity' means incapable of making an informed decision and includes situations where a person has a mental disability or has protection under the Protection of Personal and Property Rights Act, or was drunk when they entered the contract.

Get help from a lawyer or a community law centre if this has happened to you or someone you know.

If you were given false information

If you only enter into a contract because you are misled or deceived about an important part of that contract, you might be able to change the contract or get out of it, under either the Fair Trading Act or the Contractual Remedies Act.

If goods or services aren't acceptable

If you buy or agree to buy goods or services from a trader, this is also a contract. If you bought the goods or services for personal or household use then the Consumer Guarantees Act usually applies.

See our booklets "Your Consumer Rights (Goods)" and "Your Consumer Rights (Services)" for more information.

Agreeing to buy something privately

There is very little protection when you buy something privately. However, if the person selling the goods gave you incorrect information about what you were buying, you can claim compensation through the Contractual Remedies Act.

You can ask for a refund or claim compensation under the Sale of Goods Act if the seller did not have the right to sell the goods, for example, if the goods are listed as securities for a loan.

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

Ministry of Consumer Affairs
PO Box 1473
Wellington 6140

Ph (04) 474 2750 Fax (03) 962 2700
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 CAN I CANCEL A CONTRACT

CONSUMER FACTS



MINISTRY OF CONSUMER AFFAIRS
MANATŪ KAIHOKOHOKO

New Zealand Government

Contracts are binding agreements so usually you can't cancel them. But you can cancel:

- › *in the first few days of a credit contract*
- › *if the other party breaks the contract or has misled you about important facts*
- › *if the other party agrees that you can cancel*
- › *if the contract allows for cancellations*
- › *if the other party took advantage of your weaker situation and the resulting contract is extremely unfair*
- › *if the contract is a lay-by.*

Cancelling a credit contract

When you borrow money, or buy goods on credit, for personal or household use, you are covered by the Credit Contracts and Consumer Finance Act. This gives you a number of days to cancel depending on how you received the disclosure document. If the paperwork was:

- › handed to you directly – you have three working days
- › sent to you electronically (email, fax, etc) – you have five working days
- › mailed to you – you have seven working days from the date it was posted.

For more information see our “Credit” booklet. If you are buying goods on credit or services from a door to door salesperson you have a seven-day right to cancel. For more information see our “Door to Door Sales” factsheet.

Termination clauses

Sometimes contracts include an agreement to cancel a contract in certain situations. For example, you might have a contract with your power company that says you can cancel if you give two weeks notice.

Changing your mind

Unless it is a lay-by or a door to door sale, you don't have the right to cancel just because you change your mind. But you can ask the other party to negotiate with you. They may agree to cancel, which may involve a cancellation fee. Or you might agree with them to get something else in exchange or to get credit with the store (so you can buy something else later).

Harsh or extremely unfair contracts

If the contract is harsh or extremely unfair a Disputes Tribunal Referee can order it changed to be fairer.

What about the deposit I paid?

Usually a deposit is not refundable, but you can get your deposit back if:

- › the trader broke the contract
- › there is an agreement in the contract that the deposit is refundable
- › you were buying goods on lay-by – however, the trader can subtract selling costs and any loss of value.

Can I cancel if the contract is already partly completed?

If a trader breaks the contract after some work has already been completed you can still cancel the contract and claim compensation for any loss. For example, if your house painter disappears and has only painted half the house, you can cancel the contract and get another painter to finish it. If it costs more than what the first painter quoted you can claim compensation for this extra amount.

I am under 18 – what do I do if I entered into a contract and wish I hadn't?

A minor is a person under 18 years old. Under the Minors Contract Act, most contracts are not enforceable against minors. The contract can only be enforced if a Court or Disputes Tribunal says that it is fair and reasonable. When deciding whether a contract is fair and reasonable, the Court will consider:

- › the circumstances around which the contract was made
- › the subject-matter and nature of the contract
- › in the case of a contract relating to property, the nature and the value of the property
- › the age and the means (income or property) of the minor
- › all other relevant circumstances.

If I was taken advantage of

If someone takes advantage of you being in a weakened state and you end up entering into a contract which is extremely unfair, you may be able to get out of it on the legal grounds of “incapacity”.