

# Contracts

## Information you need to know

March 2003

A contract is a legally-binding promise or agreement that is made between two or more people.

*This fact sheet outlines elementary information about contracts. Contract law is a complex area and there may be occasions when you wish to seek legal advice about your particular contract situation.*

Most contracts relate to the provision of goods and services and are in writing, but they can also be verbal. An everyday example of this is when you buy bread in a shop and pay cash. Although there is no signed document, in the eyes of the law there is still a contract between you and the shopkeeper.

The Department of Consumer and Employment Protection recommends that contracts relating to the provision of significant goods or services be in writing to ensure that you have a record of the agreement. All contracts relating to the purchase of land must be in writing.

It's important to remember this fact sheet about contracts contains elementary information. Contract law is a complex area and there may be occasions when you wish to seek legal advice about your particular contract situation.

If there is a dispute about a written or verbal contract, the courts will not compel the contract to be performed unless it can be shown that:

- There was an intention to create legal relations (ie you intended to buy the goods and/or services);
- Something (such as goods or services) were offered to you, which you then accepted;
- There was some sort of "consideration", which shows that one person received a benefit or suffered a loss (for example, one party offered money to purchase the good or service); or
- The parties had a legal capacity to form a contract (eg: they were of sound mind and over 18 years old. NOTE: Children under 18 can be held to some contracts – see over).

Depending on your contract, there may be other things that are required. This is why it is important to consider getting legal advice before you sign or agree to a contract.



One of the basic principles is that the written contract usually constitutes the entire agreement between the parties. This means that matters that might have been negotiated or resolved prior to signing the agreement should be written into the document to ensure they are part of the written contract and therefore enforceable.

All conditions set out in a contract must be complied with. Remember that you don't have to agree to a "standard" written contract - you can include your own clauses in a contract. Any new additions which you include must be agreed to by the other parties signing the contract. All of the parties must initial and date all changes to the contract.

Before signing a contract you should:

- Read the whole contract very carefully, including the fine print;
- Take it away with you, so that you are not rushed into signing on the spot;
- Seek legal or other advice if you don't understand any part of it;
- Check that all figures and any other information inserted into the contract are correct;
- Check that all verbal promises or claims made by the salesperson are written into the contract.

There are no cooling-off periods on contracts, except for:

- door to door sales contracts for goods or services valued at \$50 or more;
- personal insurance contracts; and
- contracts where all parties to the contract have specifically agreed to a cooling-off period.

If you sign a contract you are bound by its terms, even if you haven't read or understood the contract. Minors (people under 18) can't be held to a contract unless it relates to the necessities of life (eg: food, shelter or other basic essentials).

Although businesses are not always obliged to provide consumers with copies of contracts, consumers should always ask to be given a copy of any contract they sign. The Consumer Credit Code stipulates that all parties to a credit contract must be given a copy of the proposed contract, as well as all other pre-contractual information.

If another party to a contract breaches the agreement, you may have a right to seek legal redress. This redress might be in the form of damages, repair, refund or replacement.

#### More information:

- Consumer Protection Call Centre 1300 30 40 54;
- Citizens' Advice Bureau various locations check the phone book for the bureau closest to you; and the
- Law Society of WA 9221 4402.

#### Tips to remember:

- Contracts are agreements that are legally-binding on all parties to the agreement.
- Contracts are not always in writing and can be verbal. However Consumer Protection recommends that contracts be in writing and you keep a copy in a safe place.
- Don't be rushed into signing a contract. Take it away and read it carefully first. Never sign a blank contract or allow details to be filled in later by a salesperson. Put a line through blank spaces.
- If you don't understand any part of a contract, seek legal or other advice before signing.
- Contracts are not binding against minors (people under 18), unless they are for "necessities of life".
- A business does not have to give you a copy of the contract, but you should always ask for one.
- Parties that breach a contract could be forced by a court to pay damages or provide other forms of redress.

#### Regional offices:

Great Southern (08) 9842 8366  
South-West (08) 9722 2888  
Mid-West (08) 9964 5644  
North-West Pilbara (08) 185 0900  
Goldfields/Esperance (08) 9021 5966



Department of Consumer  
and Employment Protection  
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