

How to deal with Hire Purchase Debt



What is hire purchase or conditional sale?

There are many ways in which a person can become the owner of goods and one of the most widely used today is hire purchase and conditional sale agreements. The most common use for these agreements are for car purchase, furniture and white goods. Under these agreements you do not own the goods until the agreement is paid in full. This means that you cannot sell the goods without the company's permission. You must get written authority to sell the goods as it can be a criminal offence to go ahead without this.

From April 2008 new agreements will normally be covered by the Consumer Credit Act 1974 even if you have borrowed more than £25,000, (unless the loan is for business purposes)

I can't afford the repayments

If you are in financial difficulties and can no longer pay your instalments you are in breach of the agreement and the hire purchase company may repossess the goods. However there is a certain procedure that they must follow before they can do this. The company must issue a default notice which would state the amount of money required to bring the account up to date, the period of time given to repay this money. It would also include details on what they would do should the payments not be made and if the client complies with their request the agreement would continue as normal. If you cannot repay within the time specified by the company or an arrangement negotiated they will have to get a court order to entitle them to repossess the goods.

Your credit agreement should detail information on repossession and how much you will have had to have paid before the goods become known as 'protected'. This is one third of the total amount payable. The Hire Purchase Company must get a court order before they can repossess the goods once they are 'protected'.

When working out if your goods are protected by having paid one third of the total amount payable remember to include any deposit and part exchange payments as well as your instalments.

If your goods are protected and the goods are taken without your consent or court order you are entitled to a refund of all the money you have paid during the agreement. If your goods aren't protected the company still needs to get a court order to remove the goods from 'any premises they are on'.

My goods aren't protected and I'm in arrears

If you haven't paid one third of the agreement and find yourself in arrears you will need to negotiate with the company to set up a method of repayment to clear the arrears. They are most likely to accept if you can meet your monthly instalment and pay extra towards the arrears. They may ask for a copy of your income and expenditure sheet

Will I still owe any money if the agreement is terminated?

There are two ways in which an agreement can be terminated; terminate the agreement and give the goods back voluntarily; or let the company terminate the agreement and repossess the goods. The amount you end up owing will depend on your agreement.

Ending the agreement yourself

You have the right to put an end to the agreement under **section 99 of the Consumer Credit Act 1974**, at any time up until the last instalment becomes due. If you decide to terminate the agreement voluntarily and hand back the goods, you should only have to pay up to half of the total amount payable under the agreement, minus all payments that you have already made such as instalments, deposits or part exchange payments. You may owe additional charges if you failed to take reasonable care of the goods. It is important that these charges are reasonable. You need to write to the company to advise that you want to end your agreement. Keep a copy of this letter in case you need proof of this at a later date.

Your creditor may have sent you a default notice if you got into arrears. Once the time has run out on the notice you may have lost the right to end the agreement voluntarily. This will depend on your agreement.

IMPORTANT INFORMATION - From October 2008 the Consumer Credit Act states that the lender must send you an annual statement. They also have to send you an arrears notice if you miss two payments or more along with an information sheet on where you can get advice to deal with your arrears. If your lender doesn't comply with these rules they may not be able to take further action against you or charge any more interest and charges until they provide them to you.

Some creditors claim that you cannot terminate the agreement until you have paid 50% of the total amount payable but this is not the case. All you need to do is terminate the agreement in writing.

When ending/terminating your agreement you will continue to be liable for subsidiary insurance.

Under the Consumer Credit Act it appears that creditors are not allowed to charge for collecting goods after the agreement has been terminated. If you are asked to pay a charge for this you can complain to your local trading standards office or **phone us for advice**.

The HP Company ends the agreement

If the company wishes to end the agreement they must issue a default notice under the Consumer Credit Act 1974. The default notice will detail the arrears and when they must be repaid by. If you cannot pay this amount before the date specified the whole balance becomes due and the agreement is terminated. When this happens and the goods repossessed you will still be liable for the whole amount owed on the HP agreement minus what you have paid and what the company makes from selling the goods. The option to purchase fee is deducted.

What happens when the goods have been returned?

If you owe money after the goods are returned you can still be pursued for the remaining debt. You can treat the debt as a non priority debt and work out the repayment by completing an income and expenditure sheet. If the creditor doesn't accept the offer they may start legal action.

If you disagree that you owe any money or the amount outstanding you must write to the creditor and explain. It is up to the creditor to then prove that the debt exists. Should the creditor proceed to court it is important that you attend and defend your case. It will be up to the court to decide if any debt is outstanding and if applicable how much the instalments to repay the debt will be.

Complaints

If you are not happy about the way your creditor has dealt with your case you should follow through their complaints procedure. If you are still not happy with their response you can complain to the Financial Ombudsman Service. You can only complain to the Financial Ombudsman Service about events that happen after April 2007 and when you have had a final response from you creditor regarding your complaint.

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