



## FACT SHEET NO. 16

# HOW TO DEAL WITH HIRE PURCHASE DEBT

## WHAT IS HIRE PURCHASE/CONDITIONAL SALE?

Nowadays hire purchase and conditional sale agreements usually relate to cars although they are sometimes seen for furniture and white goods. They are different from ordinary credit agreements because under hire purchase and conditional sale agreements you do not own the goods until you have paid off the agreement.

### **WARNING**

This means you cannot sell the goods yourself without the creditor's written permission. If you sell the goods without permission it can be a criminal offence.

With hire purchase and conditional sale agreements, if you do not keep up with the payments it is possible for a creditor to repossess the goods. With ordinary credit agreements, the goods you buy belong to you from the time you take out the credit. The lender cannot take the goods back. They can only ask you to pay the money you owe under the agreement.

### **ADVICE**

If you are not sure what type of agreement you have, check your contract. If it is a hire purchase/conditional sale type agreement it will look like the example in **Appendix II**. **Phone us for advice.**

## WHAT IF I CANNOT AFFORD TO PAY?

If you fall behind with your payments on a hire purchase or conditional sale agreement, the creditor may be able to repossess the goods. Look at your agreement. There will be a box '**repossession: your rights**' telling you how much you need to have paid to stop the creditor taking the goods back **without** a court order (or your consent). This should be a third of the total amount payable under the agreement.

If you have paid a third or more of the total amount payable, the goods become 'protected goods' and the creditor must go to court for an order for the goods to be returned unless you consent to the repossession. They cannot just come round and remove them ('snatch them back').

### **INFORMATION**

If you want to work out if you have paid a third or more remember to include any deposit or part exchange as well as the instalments that you have paid.

If a creditor 'snatches back' goods without a court order and without your consent where a third or more has been paid, you are entitled to a refund of all the money you have paid under the agreement.

Also, even if you have not paid more than a third of the total amount payable under the agreement, the creditor will need an order from the court, or your consent, to remove the goods from 'any premises' they are on.

'Any premises' is not defined but includes your garage or drive. If your car is parked on the road (and you have not paid a third) then it is at risk of being 'snatched back'. The position of car parks is not clear.

## WHAT IS THE PROCEDURE IF THE CREDITOR HAS TO GO TO COURT BEFORE THEY CAN GET THE GOODS BACK?

There is still a chance that you can keep hold of the goods as the court has the power to agree to this as long as you can pay the debt back in reasonable instalments.

If you have paid a third or more off the amount payable under the agreement or the goods are kept on your premises and you do not consent to their repossession, the creditor will ask the court to send you a claim form asking for the goods to be returned. This is called an application for a 'return order'. Notice of a hearing date with a district judge is included. This hearing should be in your local county court.

There will be a court form (**N9C**) with the claim that you should fill in and send back to the court within **14 days**. You **must** fill this in if you want the court to suspend the return of goods order and allow you to keep the goods. You need to offer to pay the debt back in monthly instalments you can afford.

### **ADVICE**

Where you need to keep the goods, it is important to treat this debt as a priority over ordinary credit debts and offer as much as you can afford.

Send the form back to the court, **not** the creditor. The court will send a copy of your form to the creditor. If the creditor accepts the

offer the hearing will be cancelled. If the creditor does not accept the offer the hearing will go ahead.

### **WARNING**

You must attend the hearing. The court will decide at the hearing whether they will suspend the return order and what monthly instalments you should pay from then on. If you do not fill in the admission form there will be a hearing anyway. If you don't go to the hearing the court will probably grant the creditor an order telling you to return the goods. If the court has already made a return order and you still wish to keep the goods, it is possible to apply for the order to be suspended. **Phone us for advice.**

## WHAT IF I HAVE PAID LESS THAN A THIRD AND THE CREDITOR WANTS THE GOODS BACK?


Where you have not paid a third of the total amount payable under the agreement and if you want to keep the goods, you should ask the creditor to agree to a payment arrangement with you. The creditor is most likely to accept if you can afford the full monthly instalments plus something towards the arrears.

If you can't make the full payments, the creditor may agree to reduce the payments, but usually by a small amount and only for a short time. In certain circumstances you may be able to go to court and ask to pay less than the full monthly instalment and extend the length of the agreement. This is called a 'time order'.


The court may be willing to make a time order for a specific period if you have temporary financial difficulties. They may make a time order even if your financial problems are long term. However, if you have a drop in your income that

is permanent you may no longer be able to afford to make more than token payments to the lender. If this is the case then you may have to decide whether you can realistically afford to keep the goods any more. If you decide that you cannot afford the goods you need to decide the best way of ending the agreement.

### FACT SHEET

 We have a fact sheet on 'Time orders' which may be of assistance to you. **Phone us for a copy.**

### ADVICE

 If you want further information about the options you have, **phone us for advice.**

## HOW MUCH WILL I OWE IF THE AGREEMENT ENDS?

If you have to decide whether to end a hire purchase or conditional sale agreement, there are two options:

- terminate and end the agreement and return the goods voluntarily; **or**
- let the creditor terminate and end your agreement and repossess the goods.

There can be a difference in the amount you end up owing depending upon how the agreement is ended.


## YOU END THE AGREEMENT

You have the right to terminate and end your agreement under **Section 99 of the Consumer Credit Act 1974** at any time before your last instalment is due, although you will have lost the right to terminate your agreement if the creditor has already terminated

it or if the full balance of the agreement has become payable.

If you decide to terminate your agreement voluntarily and hand back the goods to the creditor, you should only have to pay up to **half** of the total amount payable under the agreement, **minus** sums that you have paid **and** sums that are due. Sums that you have paid include any deposit plus the instalments that you have paid; sums due are any arrears/missed payments due at the time of termination.

### INFORMATION

 The one half or 50% figure is stated on the agreement in the box headed '**Termination: Your Rights**'.

You will then also owe any arrears/missed payments plus damages if you have failed to take reasonable care of the goods (over and above normal wear and tear). The creditor might argue that there will be an extra charge for damage or unusual wear and tear. It is important to look at any charges to see if they are reasonable. See the example in **Appendix I**.

It is very important that you tell your creditor **in writing** that you are terminating and ending your agreement. If you do not terminate in writing the creditor will not treat it as a voluntary termination and you will not be able to benefit from the 50% limit on your liability. Keep a copy of the letter of your termination in case you need proof of this later. We have included a sample letter in **Appendix III**, which you may want to adapt and send to your creditor when terminating your agreement.

### **WARNING**

You may have a default notice sent to you by the creditor because you are behind with the payments on your agreement. Once the time has run out on the default notice this may mean you have lost the right to end the agreement voluntarily and return the goods yourself. It depends upon your agreement. Your creditor may have called in or 'terminated' the agreement when the default notice runs out. Some agreements say another notice to terminate the agreement has to be sent to you after the default notice has run out. **Phone us for advice.**

### **WARNING**

You do not need to have actually paid the 50% to be able to terminate your agreement, although some creditors say you do. All that is necessary is for you to give notice to the creditor in writing that you are terminating the agreement.

Also, where a hire purchase agreement contains a separate subsidiary agreement for insurance products (e.g. for payment protection insurance and/or a guarantee or warranty), it is not necessary to pay off this agreement before terminating the hire purchase agreement.

### **WARNING**

Terminating/ending your hire purchase agreement does not terminate a subsidiary insurance agreement. You will remain liable to pay it.

Some creditors try to charge you for collecting the goods after the agreement has been terminated. It appears that this is not allowed under the Consumer Credit Act. If asked to pay an additional charge, you can complain to your trading standards department or **phone us for advice.**

Your agreement may say that you have to return the goods to your original supplier or somewhere similar. You should not be asked to return the goods further away than is reasonable on the grounds of cost and distance.

## **THE CREDITOR ENDS THE AGREEMENT**

If you fall behind on the agreement, the creditor can terminate the agreement in writing. They must send you a 'default notice' under the Consumer Credit Act 1974. They will then order you to return the goods. The default notice tells you what payments are outstanding and gives you a date by which to make up the arrears. If you cannot pay the arrears within the time specified, the whole balance may then automatically become payable and the agreement terminated. However, some agreements require notice to be sent to you by the creditor **before** the agreement is terminated.

Where a creditor terminates an agreement and repossesses the hire purchase goods you will usually have to pay the **full** amount owed on the original hire purchase agreement, **minus** what you have paid and **minus** the amount the creditor gets back from selling the goods. The 'option to purchase fee' is also deducted. The example in **Appendix I** might be helpful.

## **WHAT HAPPENS ONCE THE GOODS HAVE BEEN RETURNED?**

Once the goods have gone back to the creditor they can try to recover any balance still owed by you. You can treat the debt as an ordinary credit debt and make an offer of payment using the information pack and your personal budget. If you have not received a self-help information pack 'Dealing with your debts' **phone us for a copy.** If the creditor does not accept your offer,

they can sue you in the county court for the balance.



### FACT SHEET

We have a fact sheet on 'What if a creditor refuses my offer of payment', which has a set of sample letters and may be of assistance to you. **Phone us for a copy.**

If you dispute the balance the creditor says you owe, then it is important to write to the creditor and tell them. You may have to put a defence in when they send you the county court claim form.

If you put in a defence there will be a hearing at the county court where the district judge will make the decision about how much you owe. They may decide that you owe less than the creditor has claimed. You will then have a county court judgment which you offer to pay in instalments that you can afford.



### WARNING

The creditor may work out the amount you owe using a different calculation to those shown in **Appendix I**.

The Office of Fair Trading agrees with this way of working out the debt owed but creditors sometimes dispute it. **Phone us for advice** if you want to dispute the balance.



### REMEMBER

If you have a hire purchase or conditional sale agreement and you are not sure what to do **phone us for advice**. It would be helpful if you have your credit agreement and any default notice with you when you call.

**Remember: You can always contact us for advice about any difficulty you have in dealing with your debts.**

**Freephone 0808 808 4000 Website [www.nationaldebtline.co.uk](http://www.nationaldebtline.co.uk)**

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A company limited by guarantee. Registered in England and Wales Number 4741583.  
Registered office 21-26 Garlick Hill, London, EC4V 2AU

## APPENDIX I

### EXAMPLE AGREEMENT HOW THE AMOUNT YOU OWE CAN DIFFER

Total amount payable under the HP agreement	£4,000
Amount already paid (deposit + instalments)	£1,600
Arrears ('sums due')	£200
Damages for failure to take reasonable care of goods	£250
Value/sale proceeds of goods	£900
'Option to Purchase' fee	£5

#### Where you terminate/end the agreement

50% of amount repayable		£2,000
<b>LESS</b>		
	Sums paid	£1,600
	Sums due	<u>£200</u>
	=	<b>£200</b>
<b>PLUS</b>	Arrears	£200
	Damages	£250
<b>YOU WILL OWE</b>		<b><u>£650</u></b>

#### Creditor ends the agreement

Total amount payable under the HP agreement	£4,000	
<b>LESS</b>		
	Amount already paid	£1,600
	Sale proceeds	£900
	'Option to purchase' fee	£5
<b>YOU WILL OWE</b>		<b><u>£1,495</u></b>

# APPENDIX II

WOODCHESTER FINANCE  
LTD

## HIRE PURCHASE AGREEMENT

AGREEMENT NO. 69523864

### HIRE PURCHASE AGREEMENT REGULATED BY THE CONSUMER CREDIT ACT 1974

WOODCHESTER FINANCE LIMITED, WOODCHESTER HOUSE, SHELDON WAY, DOCKLANDS, LONDON E14 8HA

### HIRER (S)

Hirer's Name Lakshmi Patel ..... Address 10 High Street, Anytown, Wessex ..... .....	Hirer's Name ..... Address ..... ..... Postcode .....
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### THE GOODS

Make Vauxhall	Model Astra	Reg No. X237 RBS	Date first registered 04.08.2001
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### FINANCIAL DETAILS

1 Cash Price (excl VAT)	£ 6202.82	No. of instalments	48
2 VAT	£ 1085.18	First monthly instalment (including acceptance fee)	£ 232.49
3 Total Cash price	£ 7288.00	Followed by 46 monthly Instalments of	£ 182.49
4 Less deposit (if any)	£ 1600.00	Final instalment (including Option to Purchase Fee)	£ 207.49
5 Amount of credit	£ 5688.00	Total Charge for Credit (6 ÷ 7 ÷ option fee)	£3146.52
6 Interest	£ 3071.52	Total Amount Payable	£10434.52
7 Acceptance fee	£ 50.00	First payment date	9.4.05 APR 26.4%
8 Total Amount Payable by Instalments (5 + 6 + £25 option fee)	£ 8834.52	Subsequent payments are due on the same day in each successive month	

### HIRER'S RIGHTS

#### IMPORTANT – YOU SHOULD

#### READ THIS CAREFULLY: YOUR RIGHTS

The Consumer Credit Act 1974 covers this agreement and lays down certain requirements for your protection which must be satisfied when this agreement is made. If they are not, we cannot enforce the agreement against you without a court order. The Act also gives you a number of rights. You have the right to settle this agreement at any time by giving notice in writing and paying off all the amounts payable under the agreement which may be reduced by a rebate. If you have obtained unsatisfactory goods or services under a transaction financed by this agreement you may have a right to sue the supplier, or us, or both. Similarly, if the contract is not fulfilled, perhaps because the supplier has gone out of business, you may still be able to sue us. If you would like to know about the protection and remedies provided under the Act, you should contact your local Trading Standards Department or your nearest Citizens Advice Bureau.

#### TERMINATION: YOUR RIGHTS

You have a right to end this agreement. If you wish to do so you should write to the person authorised to receive your payments. We will then be entitled to the return of the goods and to half the total amount payable under this agreement, that is **£5217.76**. If you have paid at least this amount plus any overdue instalments you will not have to pay any more providing you have taken reasonable care of the goods.

#### REPOSSESSION: YOUR RIGHTS

If you have failed to keep to your side of this agreement but you have paid at least one third of the total amount payable under this agreement, that is **£3478.17**, we may not take back the goods against your wishes unless we get a court order. (In Scotland we may need to get a court order at any time). If we do take them without your consent or a court order, you have a right to get back all the money you have paid under the agreement.

**Signatures: Before you sign, you should read carefully, and ensure you understand: the terms of the agreement, the Customer's Declaration, the Data Protection Statements and the Statutory Notices, above.**

This is a Hire Purchase Agreement regulated by the Consumer Credit Act 1974. Sign it only if you wish to be legally bound by its terms

Signature of Customer *Lakshmi Patel*

The goods will not become yours until you have made all the payments. You must not sell them before then.

This is a Hire Purchase Agreement regulated by the Consumer Credit Act 1974. Sign it only if you wish to be legally bound by its terms

Signature of Customer .....

For and on behalf of Woodchester Finance Limited  
*John Smith*  
Date of signature and agreement 9 March 2005

## APPENDIX III

### SAMPLE LETTER

#### TO BE USED WHEN YOU WANT TO TERMINATE A HIRE PURCHASE AGREEMENT WITH YOUR CREDITOR

(Your home address)

\_\_\_\_\_

Date: \_\_\_\_\_

To: \_\_\_\_\_  
\_\_\_\_\_

Dear Sir/Madam

#### **Voluntary Termination of Agreement**

**Account No:**

**Car Make/Model/Registration No**

I am/we are writing to notify you that I am/we are exercising my/our right to terminate the above agreement under **Section 99 of the Consumer Credit Act 1974.**

I/we understand that I shall/we will be liable to you for the amount calculated under the formula in **Section 100 of the Consumer Credit Act 1974.**

Please send me/us details of how the vehicle can be returned to you.

Please confirm receipt of this request by telephone/fax to me/us on (insert your telephone number or fax number).

Yours faithfully

Your signature



#### **REMEMBER**

To keep a copy of all letters you send to your creditors.