

# CONSUMER AFFAIRS

## Contracts

*For jobs large or small, consumers are encouraged to have a written contract or agreement.*

*This fact sheet has been produced to provide consumers with some tips when entering into contracts.*

### WHAT IS A CONTRACT?

A contract is a legally binding agreement, verbal or written.

It is helpful to think of a contract as a bargain or deal; one person agrees to do certain things in exchange for a promise from another person. Often it involves one person paying money in exchange for a good or service. *For example;*

- A person entering into a tenancy agreement with a landlord;
- A person wants to insure their car and signs a written insurance contract promising to pay a premium to the insurance company and to notify the company if they have an accident or their address changes;
- A person enters into a contract for provision of mobile phone services for a fixed term of one year;
- A consumer agrees on a set price with a builder or service provider for building/renovating work to be undertaken.

Contracts do not have to be in writing, and unwritten contracts are generally enforceable in law, however if entered into between two people without a witness it can be difficult to confirm the exact terms and conditions. It is always wise to write down the details of an agreement, especially if there are large sums of money involved or the content of the agreement or contract is important.

### Tips for signing a contract

In most cases, the law assumes that if you've signed something, you've also read and understood it.

Remember these tips before you sign:

- Don't allow anyone to rush you.
- Read all the small print.
- If there's anything you don't understand, take the unsigned contract away and get some independent advice **before** you sign.
- Never sign a contract with blank spaces. If the matter is not applicable you should draw a line through the space and each party should initial the change.
- Understand exactly what you're getting for your money, how the charges will be calculated and check that the figures are correct.
- To avoid disputes, make sure that any verbal agreements are included in writing in the contract.

- Any later changes to the contract or increased costs for extra work should also be in writing.
- Be sure to get a copy of the contract and keep it in a safe place.
- All contracts, even those called 'standard', can be altered by you and the trader subject to mutual agreement.

### **PROTECT YOUR RIGHTS**

To protect your rights a note and/or invoice with the names of the parties, a description of the subject matter, the price and the signature of the person responsible for implementing the contract would be sufficient for this purpose.

However written contracts are required for consumer credit contracts and the sale of land or any interest in or concerning land. Other contracts must be 'evidenced' by some document eg the sale of second-hand motor vehicles by dealers. These contracts are defined under a variety of different legislation.

When you enter into a contract you must satisfy your obligations. If either party fails to fulfill their obligations, they may be in breach of contract and a court may insist that the breach be rectified or the innocent party should be paid compensation for losses sustained.

In some cases there may be circumstances that cause doubts to be raised as to whether a contract can be enforced by one or other of the parties to the contract. For example, a trader or business may make false claims (misrepresentation or misleading conduct) or a claim that is illegal under some law.

This may allow a consumer to rescind the contract; that is, set it aside, even after they have accepted delivery of goods, provided they act within a reasonable time after taking delivery. In such cases legal advice may be sought, and Consumer Affairs staff may also be able to assist.

Not sure how to word a contract for building work?

Contract pro formas are available from: Territory Construction Association on 8922 9666 or from the Housing Industry Association at the Home Ideas Centre 8948 2655.

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#### **For further information contact Consumer Affairs**

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