



## **TERMINATING A CONTRACT WHICH IS 'SUBJECT TO FINANCE'**

### **Disclaimer:**

**This information has been produced by Consumer Credit Legal Service (WA) Inc. The information included should not be construed as legal advice, but information of a general nature. This fact sheet does not apply to the purchase of real property which is subject to finance.**

The clause 'subject to finance' is a condition which sometimes appears in a contract for the sale of goods or services. This condition means that the contract will not become binding until the buyer receives approval from a lender to borrow money to pay the contract price.

### **How can a sale contract end if it is subject to finance?**

The law allows a buyer to end a sale contract which is subject to finance if all the following conditions are satisfied:

- the buyer made it known (orally or in writing) to the supplier that they needed to get credit to pay for the goods or services;
- the buyer makes reasonable 'endeavours' (efforts) to get credit; and
- the buyer fails to get credit on reasonable terms.

To end the contract, the buyer must give written notice to the supplier. It will be useful for the buyer to keep a copy of that notice.

### **What are 'reasonable endeavours' to get credit?**

Generally, the buyer needs to have made several attempts to get credit on reasonable terms.

However, note that every time a person applies for credit, the application is recorded on their credit file. If there is a long list of such applications, it may harm a person's creditworthiness.

### **What are 'reasonable terms'?**

This will depend on an individual's circumstances. If the buyer cannot afford the repayments, the credit will of course not be 'reasonable terms'.

**If the contract is terminated:**

1. The buyer is entitled to the return of money paid under the sale contract i.e deposit; and
2. The supplier is entitled to payment for any damage or deterioration of the goods; and/or the reasonable value of services supplied up to the date of termination.

For further information contact:

Consumer Credit Legal Service (WA) Inc.

Website: [www.cclswa.org.au](http://www.cclswa.org.au)

Advice line number: (08) 9221 7066

Other useful contacts:

Financial Ombudsman Service

Website: [www.fos.org.au](http://www.fos.org.au)

Telephone number: 1300 780 808

Credit Ombudsman Service Limited

Website: [www.cosl.com.au](http://www.cosl.com.au)

Telephone number: 1800 138 422

Financial Counsellors' Association of Western Australia

Website: [www.financialcounsellors.org](http://www.financialcounsellors.org)

Telephone number: 1800 007 007