

WESTERN CAPE OFFICE OF THE CONSUMER PROTECTOR



An information guide for

LAY-BY AGREEMENTS



A UCT LAW STUDENT PROJECT



DEPARTMENT OF ECONOMIC DEVELOPMENT AND TOURISM
SUPPORT • ENERGISE • CREATE • STIMULATE • GROW



What is a lay-by agreement?

If you cannot afford to buy goods for cash, you may be able to buy them on 'lay-by'. If you buy goods 'on lay-by', the seller will keep those goods for you for up to six months while you pay off the price in instalments. Once you have paid the price in full, the seller will give you the goods.



How old must I be before I can enter into a lay-by agreement?

You must be 18 years old to enter into and sign a lay-by agreement. If you are under 18 years old, a parent or legal guardian can help you by signing the agreement on your behalf or by being present when you sign the agreement but you will still be responsible for making payments under the agreement.

What are the advantages of entering into a lay-by agreement?

The advantage of buying goods on lay-by is that the seller may not charge interest on the price of the goods. The seller also cannot charge you for storing the goods while you pay off the price and it cannot increase the price of the goods. The price at which you buy the goods is the price you pay and no more.

Will I have to pay a deposit?

You do not by law have to pay a deposit but if you agree with the seller that you will pay a deposit then you will have to do so. The seller may not be prepared to sell you the goods on lay-by unless you agree to pay a deposit and your choice will then be to pay the deposit or not buy the goods.

Must the lay-by agreement be in writing or can I just tell the seller that I will be buying on lay-by?



A lay-by agreement must be in writing and it must be signed by you as buyer and by the seller.

sign here

What details must be in the agreement?

The details in the agreement should tell you about two things: **the goods and the price**. The agreement must also draw your attention to the fact that you have rights as a consumer.

What must the agreement say about the price?

The agreement must say what the price of the goods is and if you and the seller have agreed that you will pay a deposit, then the deposit amount must be included.



Must the agreement say **how much I will have to pay** for each instalment or how often I need to make payments?



The agreement does not have to say how much you have to pay for each instalment or how often you have to pay the instalments or the dates when the instalments must be paid.

However, it is to your benefit if the agreement does say these things. Ask that the agreements show for example that you will pay the price of R600 in 3 instalments of R200 each. The first instalment is to be paid on or before [date], the second to be paid on or before [date], and the third and last instalment to be paid monthly on or before [date].

The benefit of this is that there will be less chance of a disagreement between you and the seller after the agreement has been signed about any of these things. You will know exactly when payments are due and therefore be less likely to pay late. You will be able to budget your expenses to make sure that you have the money to pay each instalment when it must be paid.

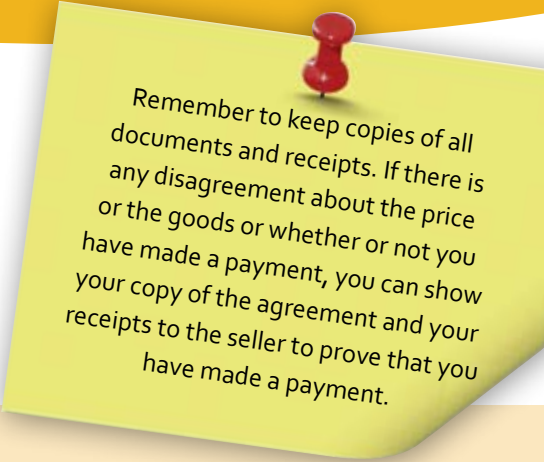


What must the agreement say **about the goods?**

The agreement must describe the goods fully. This is so that you can identify the goods once you have finished paying off the goods. It is also in case there is any dispute over the goods that you bought.

Will I receive a copy of the agreement?

The seller must give you a copy of the agreement and must give you receipts after each instalment that you pay or else at your request.



Remember to keep copies of all documents and receipts. If there is any disagreement about the price or the goods or whether or not you have made a payment, you can show your copy of the agreement and your receipts to the seller to prove that you have made a payment.

What can the seller do with the money that I pay before I make the last payment?

Any money that you give over to the seller is still yours until you have paid all the money and the seller hands over the goods. Think of it as though the seller is holding your money for you until they have the full amount. When you have paid all your instalments and the seller has the full amount, they will give you the goods and they will keep the money as their own.

Because it is your money, the seller cannot spend the money as if it belongs to it. They must keep your money safe as they are responsible if it gets lost or stolen.

What happens if you make a late payment?

If you make a payment late, the seller may try to cancel the agreement. However, the seller must give you 30 days notice that they want to cancel the agreement. If you make your payment within this 30-day period, it will prevent the seller from cancelling the agreement.





What happens **if I lose my job** and am unable to keep up with my instalment payments?

If for any reason you no longer wish to continue with the agreement, you have the right to cancel it. If you decide to cancel the agreement, the seller must give back all the money that paid to them however the seller may charge you a cancellation penalty. Before paying a cancellation penalty, check the agreement, the seller can only charge you a cancellation fee if they told you you that they would charge a cancellation fee and said how much it would be.

The seller cannot charge a cancellation fee if you are unable to keep up with payments because of ill health or death.

What if the seller **increases the cost of the goods** during the agreement?

The seller is not allowed to increase the price of the goods during the agreement. The only amount you must pay is the price quoted in the agreement and no more.

What if the seller **sells my goods** to someone else?

The seller may not sell the goods to anyone else, even if another person offers the seller a better price. The seller is under a duty to look after your goods properly and handle them with care.

What happens if the goods are lost or damaged before I have finished paying for them?



The seller is responsible for any loss or damage caused to the goods. Because of this, it is in the seller's interests to look after the goods and care for them as best he can.

What happens if the goods have been lost or damaged and the seller is unable to give them to me after I have paid all my instalments?

What happens when the seller is unable to give you your goods will depend on whether the seller took proper care of your goods during the time of the agreement.



If the seller **did** take good care of the goods during the time of the agreement but for reasons beyond their control they are unable to give you the goods you bought, (for example if the goods were damaged in a fire) you will have an option. Either you can ask for a refund of all the money you have paid to the seller plus interest or you can ask the seller gives you goods similar to the ones you bought.

If the seller **did not** look after the goods properly during the time of the agreement and is unable to give you the goods that you bought you can ask the seller for double the amount of money that you have paid them. Otherwise you can ask the seller to give you goods that are similar to the ones that you bought.

WESTERN CAPE OFFICE OF THE CONSUMER PROTECTOR

Toll free number: 0800 007 081

What can you do if you have a consumer complaint about a product or service you have paid for?

Even careful buyers sometimes encounter problems with goods they have purchased or a service they have utilised. If you do have a consumer related query and your attempts to settle the complaint yourself have failed, contact the Office of the Consumer Protector.

How the Western Cape Office of the Consumer Protector can assist you

- The Office of the Consumer Protector is a Western Cape Provincial Government department that has been established to assist consumers in resolving disputes they have with businesses or institutions.
- The Office of the Consumer Protector investigates complaints received from consumers and intends to resolve these complaints amicably between the two parties.
- The Office of the Consumer Protector (OCP) also supports 27 Advice Offices across the province. These Advice Offices are independent Non Profit Organisations that provide a consumer advisory service to members of their communities.

Where to find the OCP



- Call the toll free number: 0800 007 081
- Fax: 021 483 5872
- e-mail: consumer@pgwc.gov.za
- Visit the OCP on the ground floor, Waldorf Arcade, St George's Mall, Cape Town.
- Visit any of the 27 Advice Offices in the Western Cape.

ISSUED BY:

The Western Cape Office of the Consumer Protector, Department of Economic Development and Tourism,
Waldorf Arcade, 80 St George's Mall, Cape Town.

Content: A UCT Law Student Project, August 2009