

## Terminating Hire Purchase Agreements

The rights of hirers when terminating consumer Hire Purchase agreements have become clearer following a High Court appeal brought by FLAC on behalf of a consumer. The judgment in this case (by Mr Justice Michael Hanna in the High Court on Wednesday 27 July 2011) makes it clear that where a consumer wishes to end or terminate a Hire Purchase agreement early, a finance company may not insist on payment of arrears or payment of a shortfall *before* it accepts the return of goods.

The relevant legislation is contained in **Section 63 of the Consumer Credit Act 1995**. If you obtain goods on Hire Purchase, they will remain the property of the finance company until you make the final payment under the Hire Purchase agreement. Section 63 provides that a consumer hirer wishing to terminate a Hire Purchase agreement early must notify the owner of the goods (the finance company) in writing of the termination.

If you terminate a Hire Purchase agreement before the end of the contract, you can either

- a) **buy** the goods on hire for an agreed price, or
- b) **return** the goods and **pay the difference between what they have already paid and half of the overall hire purchase price**.

If over half the hire purchase price has already been paid when the agreement is terminated, the hirer will only be liable for any arrears that may have accrued, if any.

Thus it is clear that a hirer may terminate a Hire Purchase agreement at any time after entering into the agreement. This may be for several reasons, for example you may not be able to afford payments any longer and just want to end the arrangement and physically return the goods, rather than have the items remaining in your possession and requiring care and maintenance even though you are not using them.

The finance company will then either have to

- a) make an arrangement with you about how any shortfall or arrears may be paid, or
- b) pursue you through the courts to recover the amount, like any other debt due.

### Important issues to note when terminating a Hire Purchase agreement:

- When terminating the agreement, it is very important to **keep a copy of your termination letter** and to **send it by registered post**. In the letter you should expressly state that you are exercising your statutory rights under Section 63 of the Consumer Credit Act 1995.
- In your letter of termination, you should **ask the company where it wants you to return the goods**. This is because if they arrange to have the item collected it may end up costing you quite a sum. For example, finance companies may charge up to €300 to collect a car.

- You are also **required to have taken reasonable care of the goods under Hire Purchase**. Therefore you should, if at all possible, **have the items assessed** (for example, have your car seen by an assessor or at least mechanically checked) before you hand it back. This is because the HP company will have the goods assessed professionally and your word that they were in good condition on their return may not be strong enough for a court.
- You are also liable for any damage to the goods that occurs between the time of termination of contract and the return of the items, if you have failed to take reasonable care of them.
- Note that you are **under no obligation to sign a voluntary termination notice**, if requested by the HP company. This is not required under the legislation.

## FLAC's case to the High Court

The case FLAC took concerned the interpretation of [Section 63](#). In this particular case, the hirer had obtained finance for a car on hire purchase from GE Money in 2008, but needed to end the agreement in 2009 when she ran into financial difficulty. Working with the support of her local Money Advice and Budgeting Service, she gave GE Money written notification of her intention to terminate the agreement and tried to return the car. However, the company refused to accept the car back until one-half of the total hire purchase price had been paid, arguing that Section 63 meant that the compensation must be paid up front as a pre-condition for ending the agreement. The hirer then made a complaint to the [Financial Services Ombudsman \(FSO\)](#), who agreed with GE Money that the shortfall should be paid before the car could be returned.

In the High Court, following an appeal from the decision of the FSO, Justice Hanna found that there was no legal basis for GE Money to insist upon this pre-condition prior to the return of the vehicle, and held that the FSO had made a "significant error" in insisting that the compensation be paid up front. He noted that although the finance company is entitled to be paid, it was not entitled to insert a pre-condition of a minimum repayment amount after the termination of the hire purchase agreement. The judge said that the court could not make a ruling that would effectively amend legislation, this being the job of the Oireachtas.

***To read more about the case taken, you can read FLAC's press release***

***(<http://www.flac.ie/news/2011/07/27/flac-wins-appeal-against-decision-of-financial-services-ombudsman/>) or download the judgment online (<http://www.flac.ie/publications/high-court-judgement-in-the-gabriel-case/>).***

**Note: FLAC operates a lo-call information line at 1890 350 250 and has a network of advice centres around the country. For more information about our centres and to read other legal information and factsheets, see our website at <http://www.flac.ie/>**