

Factsheet No. 23

Unsolicited consumer agreements



This factsheet looks at unsolicited consumer agreements.

- What is an unsolicited consumer agreement?
- How and when can salespersons approach you uninvited?
- Requirements for the agreement
- Your right to cancel (cooling-off)
- When the unsolicited consumer agreement rules do not apply
- Further information

The Australian Consumer Law contains consumer protections relating to unsolicited sales practices, such as door-to-door sales and telemarketing.

Salespersons who contact you uninvited to offer an "unsolicited consumer agreement" have obligations around how and when they can approach you, what information they must give you, and your "cooling-off" rights.

What is an unsolicited consumer agreement?

An unsolicited consumer agreement is an agreement for the supply of goods or services to you as a consumer:

- Resulting from negotiations by telephone, or at a location other than the supplier's business premises;
- Where you did not invite the salesperson; and
- Where the price exceeds \$100 (or cannot be determined at that time).

How and when can salespersons approach you uninvited?

Door-to-door salespeople must:

- Not call on you without consent on a Sunday or public holiday, before 9am or

after 6pm on a weekday, or before 9am or after 5pm on a Saturday;

- Disclose the purpose of their visit, and provide identification, including their name and who they represent;
- Inform you that you can request the salesperson to leave; and
- Leave your premises immediately if requested, and not return for at least 30 days.

Helpful Tip – You can use a 'Do Not Knock' sign to request uninvited salespeople to leave your premises.

Telemarketers must not call you without consent on a Sunday or a public holiday, before 9am or after 8pm on a weekday, or before 9am or after 5pm on a Saturday.

Permitted hours for telemarketing are regulated under the *Do Not Call Register Act 2006* and associated telemarketing standards, which also cover the information which must be provided by telemarketers, when calls must be terminated, and the use of calling line identification.

Helpful Tip – To reduce unsolicited telemarketing calls you can register your number on the Do Not Call Register.

Requirements for the agreement

The salesperson must provide you with a copy of an unsolicited consumer agreement immediately after you have signed it if negotiated face-to-face, or within 5 business days if negotiated by telephone.

Any unsolicited consumer agreement must meet specific requirements, including:

- The front page must be dated and signed by you, and contain specified information including a notice detailing your cancellation rights;

- Be written in plain, clear language and printed clearly (although any changes may be handwritten and signed);
- Set out all terms and conditions, including the total price or how it will be calculated, as well as any postal or delivery charges;
- State the seller's contact details and ABN or ACN; and
- Be accompanied by a form, which you can use to cancel the agreement.

Your right to cancel (cooling-off)

The salesperson must tell you about your cancellation rights and related information before the agreement is made, including:

- Your right to cancel the agreement within a 10 business day "cooling-off" period – without any reason or penalty;
- The salesperson cannot require or accept payment within the 10 business day period, and cannot supply goods over \$500 or services during this period.

Your right to cancel can be extended to:

- 3 months if the salesperson visited outside permitted hours, did not disclose the purpose of their visit, produce identification, or leave upon request; or
- 6 months if the salesperson did not inform you of your cooling-off rights, supplied goods within the cooling-off period, or accepted or requested payment during the cooling-off period.

Goods priced at \$500 or less may be supplied during the 10 business day cooling-off period, and energy suppliers can also provide electricity or gas during this period to premises not connected to such services, or where there is a connection but no supply.

If you decide to terminate the agreement within the applicable cancellation period:

- You can do so by giving verbal or written notice to the supplier at any time within that period;
- The agreement will be cancelled from the day you give notice;
- The supplier must promptly refund any money paid under the agreement;

- You must, within a reasonable time, return any goods that have not been consumed, or tell the supplier where to collect them;
- You do not have to pay compensation to the supplier for normal use of the goods or circumstances beyond your control, but the supplier can seek compensation if you have not taken reasonable care of the goods; and
- If the supplier does not collect the goods within 30 days of termination, you can keep them.

When the unsolicited consumer agreement rules do not apply

The unsolicited consumer agreement rules do not apply in some cases, such as:

- Where you are not a "consumer" under the Australian Consumer Law (ie, where the good or service is more than \$40,000 or is not ordinarily acquired for personal, domestic or household use, or where, for example, the good is bought to on-sell, or to be used to manufacture something else, in trade or commerce);
- Sales that occur at party plan events, where a host invites three or more people to be sold something;
- Discontinued negotiations, where you ask a salesperson to leave but you later contact them; and
- When a salesperson contacts you to renew an existing sales agreement, or a subsequent contract for the same goods or services.

Sales made at a public stall or kiosk are also unlikely to be unsolicited consumer agreements, if the stall or kiosk is the operator's business premises, and the salesperson remains within the stall or kiosk.

Further information

The ACCC has further information for consumers regarding unsolicited consumer agreements on its [website](#).

Produced by Redfern Legal Centre in September 2016. This factsheet is no substitute for legal advice. If you have a problem please seek legal advice from your local community legal centre