

CAN I GET OUT OF A CONTRACT TO BUY A CAR FROM A MOTOR CAR TRADER? - COOLING-OFF RIGHTS

KEY MESSAGE:

- you can cancel a contract with a motor car trader in certain circumstances;
- act quickly and get advice about what your rights are.

This factsheet provides you information about the **right to cancel using the cooling-off period** in the *Motor Car Traders Act 1986* (Vic). [The Law Handbook](#) provides information about other rights you might have.

If you want to try to get out of contract with a motor car trader, **seek legal advice immediately**. It can be much more difficult – and often impossible – to get out of the contract or exercise your rights if you let too much time pass.

THE COOLING-OFF PERIOD

You have the right to cancel a contract to purchase a car from a motor car trader at any time before the expiration of **three clear days** after you have signed the contract unless you have signed a waiver of your cooling-off rights immediately before you took possession of the vehicle.

Three 'clear days' does not include the day on which the contract was signed, Saturday, Sunday or a public holiday.

HOW TO CANCEL USING COOLING-OFF RIGHTS

STEP 1: Get advice about all the rights you might have to cancel the contract, including your cooling-off rights.

STEP 2: Deliver and fax a letter to the motor car trader (and return the car if you have it)

Cancellation by using the cooling-off right **must be in writing**. A sample letter can be found below.

If you cancel the contract, it is a good idea to personally deliver the letter or if that is not possible to fax and post a copy to the motor car trader. Make sure you keep **a copy of your letter and proof that it was received by the motor car trader within three clear days of you signing the contract**.

If you have the car already, you must return the car when you cancel the agreement.

WAIVING YOUR COOLING-OFF RIGHTS

If the motor car trader tells you that you have waived your rights, get advice to make sure the trader is correct. The **motor car trader cannot rely on a waiver of your cooling-off rights** unless:

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- the waiver was signed **immediately** before you took delivery of the car, and
- the waiver is in the **proper form** required by the *Motor Car Traders Act 1986* (Vic).

COSTS OF COOLING-OFF

If you exercise your cooling-off rights, the motor car trader must return any trade-in vehicle and most of the money you have paid, but can keep:

- for a used car: 1% of the purchase price or \$100, whichever is greater;
- for a new car: 2% of the purchase price or \$400, whichever is greater.

You might have other grounds to cancel the contract which do not require the payment of a penalty, so get advice about all your rights.

If the motor car trader does not give you the money back that is due to you, or keeps your trade-in vehicle you can apply to the [Victorian Civil and Administrative Tribunal](#) to have the money or trade-in vehicle returned. If the motor car trader disposes of your trade-in vehicle you can apply to the [Motor Car Traders Guarantee Fund](#) for compensation.

CAR LOANS

If finance has already been arranged for the car, you will need to notify the finance company that you have cancelled the contract to buy the car. Seek advice about what is required in your circumstances. You may need to pay finance charges already incurred under the contract.

THE COOLING-OFF RIGHT DOES NOT APPLY IN SOME CIRCUMSTANCES

The 3 day cooling-off period does not apply in all circumstances, such as when:

- the car is characterised as a commercial vehicle;
- the car was bought at public auction;
- the car was not bought from a motor car trader;
- the purchaser is a body corporate.

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SAMPLE LETTER

[Your name and address]

[The Motor Car Trader's
name and address]

Fax number: []

Date: []

Dear Sir/Madam

Notice of cancellation

By giving you this letter, I cancel the contract dated [*insert date of the contract*] to purchase [*insert details of the vehicle in the contract, such as the make and registration*] pursuant to section 43 of the *Motor Car Traders Act 1986* (Vic).

[*If applicable, set-out any other grounds that you rely on to cancel the contract - get advice if you are unsure*]

I require you to immediately pay me all money that I am entitled to and return any trade-in vehicle.

Yours faithfully

[Your name]

CC: Consumer Affairs Victoria

[*insert name of finance company if applicable*]

For more information, please ring the Consumer Action Law Centre advice line on 9629 6300 or 1300 881 020 for country callers.

Warning: This fact sheet is for information only and should not be relied upon as legal advice. This information applies only in Victoria and was updated in August 2011.