

# SURRENDER OF GOODS FREQUENTLY ASKED QUESTIONS

1. I can no longer afford the goods / items I bought on credit, can I return them to the credit provider and get the debt cancelled?

**Answer:** Section 127 of the National Credit Act provides that a consumer has the right to surrender or return the good under an instalment sale agreement, secured loan or lease agreement to the credit provider, and the credit provider must sell these goods to settle the debt of the consumer. The consumer must give a written notice of their intention to surrender the goods.

2. If my account is in arrears, can I surrender the goods, or is this only applicable if my account is in good standing?

**Answer:** A consumer can submit a notice to surrender goods to the credit provider, irrespective of whether the account is in default (arrears) or not.

3. Who initiates a section 127 surrender of goods: the consumer or the credit provider?

**Answer:** The consumer.

4. After giving the credit provider a notice of my intention to surrender goods, can I change my mind?

**Answer:** You can only reconsider your intention to surrender the goods if your account is not in default (arrears). The NCA provides that the consumer has the right to reconsider their decision and withdraw the notice to surrender goods, provided the account is not in default.

5. If, upon selling the goods, the amount recouped is not enough to settle the debt of the consumer, what happens?

**Answer:** If the proceeds of the sale are insufficient to cover the outstanding debt, the consumer is liable for the shortfall. The credit provider must, within 10 days of the sale of goods, demand that the consumer pay the shortfall, before instituting any legal proceedings to recover the balance outstanding.

**Answer:** If, on the other hand, there is an excess amount after all the debt has been paid, the excess amount must be paid over to the consumer.

6. What is the process to surrender goods?

**Answer:** The consumer gives the credit provider a written notice to surrender the goods.

**Answer:** Once the consumer has surrendered the goods, the credit provider must assess the goods and give a valuation notice to the consumer within ten (10) business days. The valuation notice gives the consumer the estimated

value of the surrendered goods. If the account is in good standing, the consumer may withdraw the notice to surrender if they are not happy with the estimated value of the goods.

**Answer:** If the consumer does NOT withdraw the notice to surrender, the credit provider proceeds and sells the goods usually at a public auction, for the best possible price.

**Answer:** After the goods have been sold, the credit provider must provide the consumer with a letter setting out:

- (a) The amount owing by the consumer immediately before the sale;
- (b) The total amount received from the sale;
- (c) The amount left from the sale amount after deducting permitted charges and costs;
- (d) The remaining amount that will reflect on the consumer's account.

**Answer:** If the remaining amount from the sale is insufficient to settle the outstanding debt, the consumer will be liable to pay the shortfall after the sale.

**Answer:** If the remaining amount from the sale is sufficient to settle the outstanding debt and a credit amount remains, the consumer will be entitled to receive the amounts remaining.

7. If the consumer has a dispute, for an example, not happy with the price at which the goods were sold, is there any recourse?

**Answer:** The consumer, after attempting to settle the dispute directly with the credit provider may lodge a dispute with the National Consumer Tribunal in terms of section 128 of the National Credit Act, for the sale to be reviewed.

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