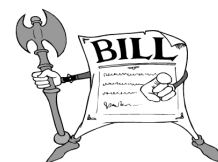




Mental Health Legal Centre

# Liability for Contracts when You are Unwell



In certain circumstances, such as where you've been undergoing a manic or psychotic episode, you may have entered into a contract which you may not have entered into if you'd been well. Later on you may wonder about your rights.

You may be able to get out of the contract because it is **unenforceable** against you, depending on the circumstances.

## Capacity to Contract

If you were so unwell that you had no idea that what you were signing was a contract, it may be that you had **no capacity to contract**. The contract may be unenforceable. Keep in mind, however that incapacity to contract is difficult to prove.

## Unconscionability

A contract may be set aside where it is unconscionable. This might be the case where the person with whom you made a contract **knew or ought to have known** that you were in a position of **special disadvantage** because of your mental illness, and it would be unfair for them to be allowed to take advantage of that.

## Misleading or Deceptive Conduct

A contract may be set aside where a trader has engaged in **misleading or deceptive** conduct. This is where they've been dishonest about the product you're buying.

## Unfair terms

If the contract is a consumer-trader contract, and includes terms which cause a substantial **imbalance** in the rights of the parties **to your detriment**, the parts of it which cause the imbalance might be void.

**Provisions** in the Consumer Credit Code, the Trade Practices Act and the Fair Trading Act might provide you with some protection. So also might the fact that you had an **administrator** (such as the State Trustees) looking after your affairs at the time you signed the contract.

If you have problems with contracts or debts, you should contact the Consumer Action Law Centre on 96296300 or the Mental Health Legal Centre on 96294422 as soon as possible.

## Disclaimer of Liability

The Mental Health Legal Centre disclaims any liability for action taken or not taken as a result of this information. Seek out legal advice and representation wherever possible. Phone: MHLC, VLA or a Private Solicitor for further information. Reg:A0013662S ABN:30996141084 © 19/02/09 Mental Health Legal Centre Inc. F:\FIONA\PUBLICAT\CREDITDEBT\contractsfinance\liabilities for contracts when unwell 2009\Final Liabilities Sep 2009