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Understanding the sale and purchase agreement when buying

A sale and purchase agreement is a legally binding contract between you and the seller.

Summary of important things to know

- ✓ You must sign a written sale and purchase agreement when you buy a property.
- ✓ Always check your sale and purchase agreement with a lawyer or conveyancer before signing. You need to read and understand the agreement before you sign it.
- ✓ You should always get legal advice before you sign the agreement and throughout the buying process.
- ✓ You can negotiate the conditions in a sale and purchase agreement.
- ✓ A sale and purchase agreement becomes unconditional when all the conditions are met.
- ✓ The agent helps you and the seller to include the conditions you both want. Even though the agent works for the seller, they also have to deal fairly and honestly with the buyer. They can't withhold any information, and they must tell you about any known defects with the property.

✓

Before you sign a sale and purchase agreement, the agent must give you a copy of the REA New Zealand Residential Property Sale and Purchase Agreement Guide. They must also ask you to confirm in writing that you've received it.

Sale and purchase agreement

A sale and purchase agreement is a legally binding contract between you and the seller.

It sets out all the details, terms and conditions of the sale — this includes things such as the price, any chattels being sold with the property, whether the buyer needs to sell another property first and the settlement date.

A sale and purchase agreement provides certainty to you and the seller about what will happen when.

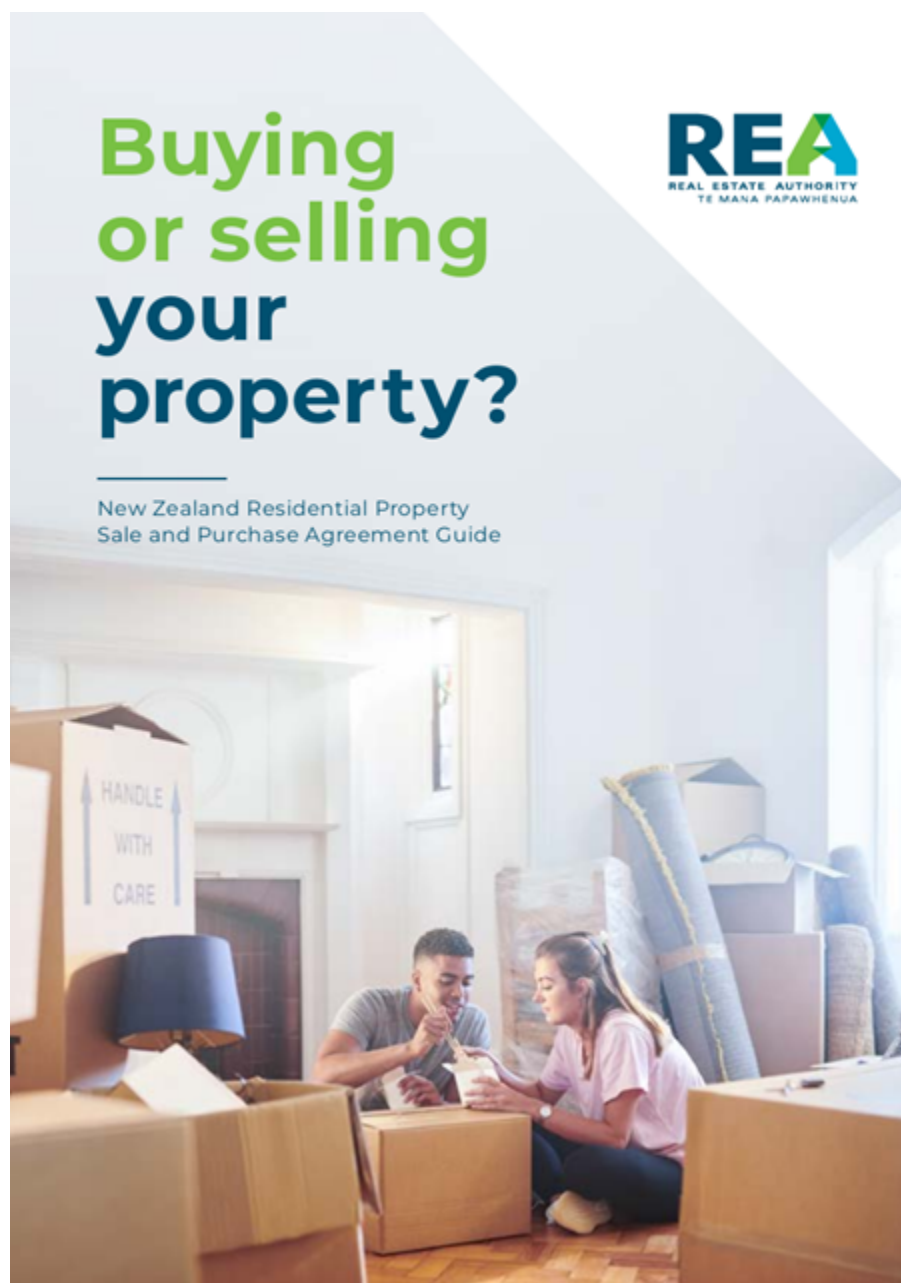
There is no universal sale and purchase agreement — there are multiple agreements available and being used by various agencies, each with different clauses and conditions buyers and sellers should be aware of. The information on this page should give you a general idea of what is in a sale and purchase agreement but you should always get legal advice before you sign

To obtain a sale and purchase agreement you'll need to contact your lawyer or conveyancer or a licenced real estate professional. You can also purchase printed and digital sale and purchase agreement forms online.

The New Zealand Residential Property Sale and Purchase Agreement Guide

This guide tells you:

- what a sale and purchase agreement is
- what's in a sale and purchase agreement
- what happens after you sign the sale and purchase agreement
- what happens if you have a problem
- where to go for more information.



[Download the residential property sale and purchase agreement guide.](#)

[\[PDF, 319 KB\] \(/assets/Refreshed-Guides-2022-/Sale-Purchase-Agreement-/4870_Sales-and-Purchase-Guide_A4-DIGITAL_2022_ENGLISH_F4.pdf\)](#)

What's in a sale and purchase agreement

Your sale and purchase agreement should include the following:

- Your name(s) and the names of the seller(s).
- The address of the property.
- The type of title (for example, freehold or leasehold).

- The price.
- Any deposit you must pay.
- Any chattels being sold with the property (for example, whiteware or curtains).
- Any specific conditions you or the seller want fulfilled.
- How many working days you have to fulfil your conditions (if there are conditions).
- The settlement date (the date you pay the rest of the amount for the property, which is usually also the day you can move in).
- The rate of interest you must pay on any overdue payments.

General obligations and conditions you have to comply with

The sale and purchase agreement includes general obligations and conditions that you will need to comply with. These may include the following:

- Access Rights. What access you can have to inspect the property before settlement.
- Insurance. To make sure the property remains insured until the settlement date and outline what will happen if any damage occurs.
- Default by you. You may have to compensate the seller if you don't settle on time, for example, with interest payments.
- Default by the seller. The seller may have to compensate you if they don't settle on time, for example, by paying accommodation costs.

Your lawyer or conveyancer will explain these clauses to you.

Specific conditions you may include

You can present an unconditional offer, which means there are no specific conditions to be fulfilled, or you can include one or more conditions (that must be fulfilled by a specified date) in your offer. Ask your lawyer or conveyancer to review the sale and purchase agreement and any conditions you include before you sign it. These are some common conditions:

Title search



This is done by your lawyer or conveyancer to check who the legal owner of the property is and to see if there are any other interests over the property such as caveats or easements.

Learn more about titles [here \(/buying-a-home/researching-the-property/doing-your-homework/#title-search\)](/buying-a-home/researching-the-property/doing-your-homework/#title-search).

Obtaining finance



This refers to you being able to arrange payment, for example, a mortgage or a loan. Some agreements may stipulate (for the benefit of the vendor) that if you are unable to secure financing and cannot to satisfy this condition, you will need to supply evidence from your bank confirming your finance was declined. If you cannot supply supporting evidence, you may still be required to proceed with the sale.

Learn more about financing [here \(/buying-a-home/thinking-of-buying/thinking-about-your-finances-when-buying/\)](/buying-a-home/thinking-of-buying/thinking-about-your-finances-when-buying/).

Sunset clause



A sunset clause is the date and time your offer expires.

Adding a sunset clause to the sale and purchase agreement allows you to have certainty that your offer has either been accepted or declined by that date and time so you are free to offer on other properties. If you make an offer on another property while you are waiting to hear back about your first offer, you could end up in a situation where both offers are accepted and you have committed to buy two properties.

Valuation report



A bank may require you to obtain a valuation of the property (an estimate of the property's worth on the current market) before they agree to a loan.

Read more about valuations [here \(/buying-a-home/researching-the-property/doing-your-homework/#valuation\)](/buying-a-home/researching-the-property/doing-your-homework/#valuation).

Land information memorandum (LIM)



Provided by the local council, this report provides information about the property such as rates, building permits and consents, drainage, planning and other important information.

Read more about LIM's [here \(/buying-a-home/researching-the-property/doing-your-homework/#LIM-report\)](/buying-a-home/researching-the-property/doing-your-homework/#LIM-report) .

Satisfactory property inspection report



If this is a condition of the sale you can use who you like to inspect the property, but we recommend using a registered property inspector. If the report isn't satisfactory to you, you may be able to withdraw your offer on those grounds, but the vendor may ask to see a physical copy of the builder's report.

Read more about the property inspection report [here \(/buying-a-home/researching-the-property/learning-about-the-property/\)](/buying-a-home/researching-the-property/learning-about-the-property/) .

A satisfactory toxicology report



You can request a report to detect if a property has been contaminated by the preparation, manufacturing or use of drugs (including methamphetamine).

Unless there is strong suspicion or information from Police or forensic experts that a property has been the site of production or heavy use of methamphetamine it may not be necessary to commission a report. Talk to your lawyer or the real estate agent before making an offer if you are concerned the property may be affected.

Read more about meth contamination [here \(/buying-a-home/researching-the-property/understanding-methamphetamine/\)](/buying-a-home/researching-the-property/understanding-methamphetamine/) .

Engineer's or surveyor's report



Similar to a property inspection report but more focused on the entire section and the structure of the property.

Sale of another home



You may need to sell your existing home in order to buy another. You may add in the condition that the contract is conditional upon securing an unconditional contract for the sale of your own home first by a certain date.

COVID-19 impacts



Talk to your lawyer about what might happen if COVID-19 impacts you or the other party. You may want to include a condition in your agreement about what happens if you are unable to settle on settlement day.

Adding or removing chattels and fixtures

Fixtures are permanently attached to the property (for example, a deck, showers and electrical wiring) and are included with the land title. All other moveable items are chattels and are only included in the sale if they are listed in the sale and purchase agreement.

Chattels are personal property that is not fixed to the property and can be removed without causing damage. A sale and purchase agreement includes a list of standard chattels. The list can be altered by the buyer or seller to include any chattels the parties agree to include in the property sale.

Standard chattels include:

- stove
- fixed floor coverings (carpets, vinyl etc.)
- blinds, curtains and drapes
- light fixtures
- dishwasher
- heat pumps
- heated towel rails.

It's important for buyers to ask what chattels would remain in the house — if it isn't included on the list of chattels, the vendor is within their rights to take the chattel with them. The listed chattels should be in working order and in the same condition as they were when you signed the sale and purchase agreement.

It's a good idea to talk to the real estate agent and to follow up in writing to confirm the specific chattels, for example, the make and model of the stove to ensure it isn't changed or removed by the vendors. If you are in doubt about whether something is a chattel or a fixture, you should include it in the chattels list. This way, it will be clear what items you are buying with the property.

What happens after you sign the sale and purchase agreement

Signing the sale and purchase agreement is not the end of the purchase process.

Both parties work through the conditions until the agreement is unconditional

A conditional agreement means the sale and purchase agreement has one or more conditions that must be met by a specified date.

You pay the deposit

Depending on what the agreement says, you may pay the deposit when you and the seller have both signed the agreement or when the agreement becomes unconditional. Buyers usually pay the deposit by bank transfer. Make sure you talk to your bank beforehand to make sure the money is available. If the sale is by tender, you provide a cheque or bank transfer for the deposit amount when you make the offer.

If you have not paid the deposit by the agreed time, then the seller's lawyer may inform you that you have three working days to pay. If you do not pay the deposit in that time the seller can cancel the contract at any time by serving notice of cancellation on you. However, if you pay the deposit before that notice is served, the agreement will not be cancelled, even if they serve the notice on you.

An agreement for sale and purchase commits you to buy

When you've signed the sale and purchase agreement and any conditions set out in it have been met, you must complete the purchase of the property.

Payment of a commission

When the sale is complete, the seller pays the agent for their services. The agent or agency usually takes the commission from the deposit they're holding in their trust account. The agent cannot ask you to pay for their services if they have been hired by the seller.

You pay the rest

You pay the remainder of the amount for the property on the day of settlement, usually through your lawyer or conveyancer.

Buying a tenanted property

The agreement for sale and purchase may contain a specific date for possession that may differ from the settlement date, for instance, where the property is tenanted. If the property is tenanted, the agreement for sale and purchase should specify this.

If you require the property to be sold with vacant possession, it is the seller's responsibility to give the tenant notice to vacate, in accordance with the tenant's legal rights.

We recommend you seek legal advice if you are buying a property that is currently tenanted.

Watch on youtube (<https://www.youtube.com/watch?v=h1H2No24VTY>)

Test your knowledge of the sale and purchase agreement

What to do if you have a problem

If you have a problem with a real estate agent that you can't resolve directly with them, find out how the Real Estate Authority (REA) can help you on the [REA website](https://www.rea.govt.nz/make-a-complaint/) (<https://www.rea.govt.nz/make-a-complaint/>) .

There are other steps you can take and organisations that can help you when you need it. Find out more about getting help if things go wrong [here](#) ([/buying-a-home/settling-and-moving-in/getting-help-if-things-go-wrong-when-buying/](#)) .

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