

THE HIRE-PURCHASE ACT

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THE HIRE-PURCHASE ACT

[1st October, 1974.]

Acts
19 of 1974,
15 of 1979
2nd Sch.,
38 of 2013
Sch.PART I. *Preliminary*

1.—(1) This Act may be cited as the Hire-Purchase Act.

Short title.

(2) This Act shall not have effect in relation to any hire-purchase agreement, credit sale agreement, consumer's bill of sale or conditional sale agreement made before the 1st October, 1974.

2.—(1) In this Act—

Inter-
pretation.

“action”, “buyer” (except in relation to a conditional sale agreement), “delivery”, “goods”, “property”, “sale”, “seller” (except in relation to a conditional sale agreement) and “warranty” have the meanings assigned to them respectively by the Sale of Goods Act;

“buyer”, in relation to a conditional sale agreement, means the person who agrees to purchase goods under the agreement and includes a person to whom the rights or liabilities of that person under the agreement have passed by assignment or by operation of law;

“cash price”, in relation to any goods, means the price in which the goods may be purchased by the purchaser for cash;

“conditional sale agreement” means an agreement for the sale of goods under which the purchase price or part of it is payable by instalments, and the property in the goods is to remain in the seller

(notwithstanding that the buyer is to be in possession of the goods) until such conditions as to the payment of instalments or otherwise as may be specified in the agreement are fulfilled;

“consumer’s bill of sale” has the meaning assigned to it by section 35;

“contract of guarantee”, in relation to a vending agreement, means a contract, made at the request (express or implied) of the purchaser, either to guarantee the performance of the purchaser’s obligations under the vending agreement, or to indemnify the vendor against any loss which he may incur in respect of that agreement, and “guarantor” shall be construed accordingly;

“credit sale agreement” means an agreement for the sale of goods under which the purchase price is payable by five or more instalments, not being a conditional sale agreement;

“disposal”, in relation to goods, includes—

- (a) the disposal of the ownership of the goods, or of any proprietary interest in them, or of the right to possession of the goods; and
- (b) the disposal of the possession of the goods, whether or not accompanied by any disposal of the ownership of the goods, or of any proprietary interest in them, or of the right to possession of them;

“hire-purchase agreement” (subject to subsection (6)) means an agreement for the bailment of goods under which the bailee may buy the goods, or under which the property in the goods will or may pass to the bailee;

“hire-purchase price” (subject to subsection (2)) means the total sum payable by the hirer under a hire-

purchase agreement in order to complete the purchase of goods to which the agreement relates, exclusive of any sum payable as a penalty or as compensation or damages for a breach of the agreement;

“hirer” means the person who takes or has taken goods from an owner under a hire-purchase agreement and includes a person to whom the hirer’s rights or liabilities under the agreement have passed by assignment or by operation of law;

“owner” means the person who lets or has let goods to a hirer under a hire-purchase agreement and includes a person to whom the owner’s property in the goods or any of the owner’s rights or liabilities under the agreement has passed by assignment or by operation of law;

“purchaser” means—

- (a) in relation to a hire-purchase agreement, the hirer; and
- (b) in relation to a conditional sale agreement or a credit sale agreement, the buyer;

“seller”, in relation to a conditional sale agreement, means the person who agrees to sell goods under the agreement and includes a person (other than the buyer) to whom that person’s property in the goods or any of that person’s rights or liabilities under the agreement has passed by assignment or by operation of law;

“spouse” includes—

- (a) a single man or widower living with a single woman or widow as man and wife; or
- (b) a single woman or widow living with a single man or widower as man and wife;

HIRE-PURCHASE

“total purchase price” (subject to subsection (2)) means the total sum payable by the buyer under a credit sale agreement or a conditional sale agreement, exclusive of any sum payable as a penalty or as compensation or damages for a breach of the agreement;

“vending agreement” means—

- (a) a conditional sale agreement;
- (b) a credit sale agreement; or
- (c) a hire-purchase agreement;

“vendor” means—

- (a) in relation to a hire-purchase agreement, the owner; and
- (b) in relation to a conditional sale agreement or a credit sale agreement, the seller.

(2) For the purposes of this Act, any sum payable by the purchaser under a vending agreement by way of a deposit or other initial payment, or credited or to be credited to him under the agreement on account of any such deposit or payment, whether that sum is to be or has been paid to the vendor or to any other person or is to be or has been discharged by a payment of money or by the transfer or delivery of goods or by any other means, shall form part of the hire-purchase price or total purchase price, as the case may be.

(3) In this Act “antecedent negotiations”, in relation to a vending agreement, means any negotiations or arrangements with the purchaser whereby he was induced to make the agreement or which otherwise promoted the transaction to which the agreement relates; and any reference in this Act to the person by whom any antecedent negotiations were conducted is a reference to the person by whom the negotiations or arrangements in question were conducted or made in the course of a business carried on by him.

(4) For the purposes of this Act any negotiations conducted, or arrangements or representations made, by a servant or agent, if conducted or made by him in the course of his employment or agency, shall be treated as conducted or made by his employer or principal; and anything received by a servant or agent, if received by him in the course of his employment or agency, shall be treated as received by his employer or principal.

In this subsection "representations" has the same meaning as in section 8, and references to making representations shall be construed accordingly.

(5) Without prejudice to the operation of subsection (6), any reference in this Act to a document which constitutes a vending agreement shall be construed as including a reference to a document which together with one or more other documents constitutes such an agreement, and any reference to a document which, if executed by or on behalf of another person, would constitute such an agreement and shall be construed accordingly.

(6) Where by virtue of two or more agreements, none of which by itself constitutes a hire-purchase agreement as defined by subsection (1), there is a bailment of goods and either the bailee may buy the goods, or the property therein will or may pass to the bailee, the agreements shall be treated, for the purposes of this Act, as a single agreement made at the time when the last of the agreements was made.

PART II. *General*

Consumer protection anterior to the making of an agreement

3.—(1) The advertisement of any goods as being available for disposal by way of hire-purchase or credit sale or conditional sale shall be subject to the regulations set out in the First Schedule.

Regulation of advertisements re hire-purchase or credit sale or conditional sale. First Schedule.

[The inclusion of this page is authorized by L.N. 248/1975]

(2) Subject to the provisions of this section, any person who displays or issues an advertisement in contravention of the provisions of the First Schedule or causes an advertisement to be displayed or issued in contravention of those provisions, shall be guilty of an offence and liable on summary conviction in a Resident Magistrate's Court—

- (a) if it is his first conviction under this section, to a fine not exceeding one hundred dollars or, in default of payment thereof, to imprisonment for a term not exceeding three months;
- (b) in any other case, to a fine not exceeding two hundred dollars or, in default of payment thereof, to imprisonment for a term not exceeding six months.

(3) Where a person is charged with an offence under this section it shall be a defence to prove—

- (a) that the matters contained in the advertisement did not relate to anything to be done in the course of a business carried on by him; and
- (b) that the matters so contained were not (wholly or in part) devised or selected by him or by any other person under his direction or control.

Duties of
vendors
prior to
agreement.

4.—(1) Subject to subsection (3), a vendor shall not be entitled to enforce a vending agreement unless the requirements prescribed by or pursuant to sections 5, 6 and 7 are complied with.

(2) Where pursuant to subsection (1) a vendor is not entitled to enforce a vending agreement—

- (a) he shall not be entitled to enforce any contract of guarantee relating to that agreement;
- (b) no security given by the purchaser in respect of money payable under the agreement or given by a guarantor in respect of money payable under

a contract of guarantee relating to the agreement shall be enforceable against the purchaser or the guarantor, as the case may be, by the holder of that security; and

- (c) if it is a hire-purchase agreement or a conditional sale agreement, he shall not be entitled to enforce any right to recover the goods from the hirer or buyer.

(3) If in any action the Court is satisfied that a failure to comply with any of the requirements of sections 5, 6 and 7 has not prejudiced the purchaser and that it would be just and equitable to dispense with the requirement, the Court may, subject to any conditions that it thinks fit to impose, dispense with the requirement for the purposes of the action.

5. The requirements of this section, in relation to a vending agreement, are that, before the agreement is made—

**Require-
ment that
information
be furnished
regarding
cash price.**

- (a) the cash price of the goods has been stated in writing to the purchaser by the vendor, (or by any person acting on his behalf or conducting antecedent negotiations) otherwise than in the agreement; or
- (b) if the purchaser has inspected the goods or like goods, then, at the time of his inspection, tickets or labels were attached to or displayed with the goods clearly stating the cash price, either of the goods as a whole or of all the different articles or sets of articles comprised therein; or
- (c) the purchaser has selected the goods by reference to a catalogue, price list or advertisement which clearly stated the cash price, either of the goods as a whole or of all the different articles or sets of articles comprised therein.

Requirement that agreements contain prescribed information.

6. The requirements of this section, in relation to a vending agreement, are that—

- (a) the agreement contains a statement of the hire-purchase price or total purchase price, as the case may be, and of the cash price of the goods to which the agreement relates, and of the amount of each instalment by which the hire-purchase price or total purchase price is to be paid, and of the number of such instalments to be paid, and of the date, or the mode of determining the date, on which each instalment is payable;
- (b) the agreement contains a list of the goods to which the agreement relates sufficient to identify them;
- (c) the agreement specifies the address of each party thereto to which all communications and notices to that party may be addressed;
- (d) the agreement complies with any relevant requirements of any regulations under this Act; and
- (e) if it is a hire-purchase agreement or a conditional sale agreement, it contains a notice, which is at least as prominent as the rest of the contents of the agreement in the terms set out in Part A or (as the case may be) Part B of the Second Schedule.

Second Schedule.

Requirement that copies of agreement be furnished to purchaser.

7.—(1) The requirements of this section, in relation to a vending agreement, are that copies are delivered or sent to the purchaser in accordance with the following provisions of this section.

(2) If either—

- (a) the agreement is signed by or on behalf of all other parties immediately after it is signed by the purchaser, and a copy of the agreement is there and then delivered to him; or

- (b) the agreement having been signed by or on behalf of all other parties before it is signed by the purchaser, a copy of the agreement is delivered to him immediately after he signs the agreement,

and (in either case) the copy so delivered complies with the requirements of any regulations made under this Act, the delivery of that copy shall be taken to have fulfilled the requirements of this section in relation to that agreement.

(3) If, in a case not falling within paragraph (a) or paragraph (b) of subsection (2)—

(a) either—

- (i) the relevant document was presented to the purchaser for his signature, and immediately after he signed it there was delivered to him a copy of that document in the form in which it then was; or

- (ii) the relevant document was sent to the purchaser for his signature, and at the time when it was sent there was also sent to him a copy of that document in the form in which it then was; and

(b) in either case, within fourteen days of the making of the agreement, a copy of the agreement is delivered to the purchaser and signed for by him, or is sent to the purchaser by registered post; then, if each copy delivered or sent to the purchaser as mentioned in paragraph (a) or paragraph (b) of this subsection complies with the requirements of any regulations made under this Act, the delivery or sending of those copies shall be taken to have fulfilled the requirements of this section in relation to that agreement.

(4) In this section “the relevant document” means the document which, on being signed by the purchaser and by

or on behalf of all other parties to the agreement, became the hire-purchase agreement, credit sale agreement or conditional sale agreement, as the case may be.

Regulation of agreements—

Representations, conditions and warranties

Certain representations deemed to be made by an agent of owner or seller.

8.—(1) Where a person (in this section referred to as “the owner or seller”) lets goods under a hire-purchase agreement, or sells or agrees to sell goods under a credit sale agreement or a conditional sale agreement, any representations with respect to the goods to which the agreement relates which were made, either orally or in writing, to the hirer or buyer by a person other than the owner or seller in the course of any antecedent negotiations conducted by that other person on behalf of the owner or seller shall be deemed to have been made by him as agent of the owner or seller.

(2) Nothing in this section shall exonerate any person from any liability (whether criminal or civil) to which he would be subject apart from this section.

(3) In this section “representations” includes any statement or undertaking, whether constituting a condition or a warranty or not, and references to making representations shall be construed accordingly.

Implied conditions and warranties.

9.—(1) In every hire-purchase agreement and in every conditional sale agreement there shall be implied—

- (a) a condition on the part of the owner or seller that he will have a right to sell the goods at the time when the property is to pass;
- (b) a warranty that the hirer or buyer shall have and enjoy quiet possession of the goods;

- (c) a warranty that the goods shall be free from any charge or encumbrance in favour of any third-party at the time when the property is to pass.

(2) Subject to subsection (3) and to section 10, in every hire-purchase agreement and in every conditional sale agreement there shall be implied a condition that the goods will be of merchantable quality.

(3) Where the hirer or buyer has examined the goods or a sample of them, the condition referred to in subsection (2) shall not be implied by virtue of that subsection in respect of defects which the examination ought to have revealed.

(4) Where the hirer under a hire-purchase agreement, or the buyer under a conditional sale agreement, whether expressly or by implication—

(a) has made known to the owner or seller, or to a servant or agent of the owner or seller, the particular purpose for which the goods are required; or

(b) in the course of any antecedent negotiations has made that purpose known to any other person by whom those negotiations were conducted, or to a servant or agent of such a person,

there shall, subject to the provisions of section 10, be implied a condition that the goods will be reasonably fit for that purpose.

(5) Nothing in this section or in section 10 shall prejudice the operation of any other enactment or rule of law whereby any condition or warranty is to be implied in any hire-purchase agreement or conditional sale agreement.

(6) The condition and warranties specified in subsection (1) and (except as provided by subsection (3) of this

section and by subsections (1) and (2) of section 10) the condition specified in subsection (2) of this section, shall be implied notwithstanding any agreement to the contrary.

(7) The owner or seller shall not be entitled to rely on any provision in a hire-purchase agreement or conditional sale agreement excluding or modifying the condition referred to in subsection (4) unless he proves that before the agreement was made that provision was brought to the notice of the hirer or buyer and its effect was made clear to him.

Provision
as to
exclusion
of implied
conditions
and war-
ranties.

10.—(1) Where under a hire-purchase agreement or a conditional sale agreement goods are let or agreed to be sold as second-hand goods or “as is” or “as it stands” and—

- (a) the agreement contains a statement to that effect, and a provision that the condition referred to in subsection (2) of section 9 is excluded in relation to those goods; and
- (b) it is proved that before the agreement was made the provision in the agreement so excluding that condition was brought to the notice of the hirer or buyer and its effect made clear to him,

that condition shall not be implied in the agreement in relation to those goods.

(2) Where under a hire-purchase agreement or a conditional sale agreement goods are let or agreed to be sold as being subject to defects specified in the agreement (whether referred to in the agreement as defects or by any other description to the like effect) and—

- (a) the agreement contains a provision that the condition referred to in subsection (2) of section 9 is excluded in relation to those goods in respect of those defects; and

- (b) it is proved that before the agreement was made those defects, and the provision in the agreement so excluding that condition, were brought to the notice of the hirer or buyer and the effect of that provision was made clear to him,

that condition shall not be implied in the agreement in respect of those defects.

11.—(1) Where goods are let under a hire-purchase agreement, or are agreed to be sold under a conditional sale agreement, and the goods are so let or agreed to be sold by reference to a sample, there shall be implied in the agreement—

Further implied conditions in special cases.

- (a) a condition that the bulk will correspond with the sample in quality; and
- (b) a condition that the hirer or buyer will have a reasonable opportunity of comparing the bulk with the sample.

(2) Where goods are let under a hire-purchase agreement, or are agreed to be sold under a conditional sale agreement, and are so let or agreed to be sold by description, there shall be implied in the agreement a condition that the goods will correspond with the description; and if the goods are let or agreed to be sold under the agreement by reference to a sample, as well as by description, it shall not be sufficient that the bulk of the goods corresponds with the sample if the goods do not also correspond with the description.

12.—(1) Paragraph (c) of subsection (1) of section 12 of the Sale of Goods Act (whereby in certain circumstances a breach of a condition in a contract of sale is to be treated only as a breach of warranty) shall not apply to conditional sale agreements.

Special provision as to conditional sale agreements.

(2) A breach of a condition (whether express or implied) to be fulfilled by the seller under a conditional sale agreement shall be treated as a breach of warranty, and not as grounds for rejecting the goods and treating the agreement as repudiated, if (but only if) it would have fallen to be so treated had the condition been contained or implied in a corresponding hire-purchase agreement as a condition to be fulfilled by the owner.

(3) A conditional sale agreement shall be treated as not being a contract of sale for the purposes of sections 13 to 16 (inclusive) of the Sale of Goods Act (which imply certain conditions and warranties in contracts of sale).

(4) In this section “corresponding hire-purchase agreement” means a hire-purchase agreement relating to the same goods as the conditional sale agreement and made between the same parties and at the same time and in the same circumstances and, as nearly as may be, in the same terms as the conditional sale agreement.

Regulation of rights and duties subsequent to agreement

13.—(1) At any time before the final payment has been made under a vending agreement, any person entitled to enforce the agreement against the purchaser shall, within fourteen days after he has received a request by registered mail from the purchaser, and the purchaser has tendered to him the sum of twenty-five cents for expenses, supply to the purchaser a copy of the agreement, together with a statement signed by that person or his agent showing—

- (a) the amount paid by or on behalf of the purchaser;
- (b) the amount which has become due under the agreement but remains unpaid, and the date on which each unpaid instalment became due, and the amount of each such instalment; and

- (c) the amount which is to become payable under the agreement, and the date, or the mode of determining the date on which each future instalment is to become payable, and the amount of each such instalment.

(2) In the event of a failure to comply with subsection (1), then, while the default continues—

- (a) no person shall be entitled to enforce the agreement against the purchaser or to enforce any contract of guarantee relating to the agreement, and, in the case of a hire-purchase agreement or a conditional sale agreement, the owner or seller shall not be entitled to enforce any right to recover the goods from the hirer or buyer; and
- (b) no security given by the purchaser in respect of money payable under the agreement, or given by a guarantor in respect of money payable under a contract of guarantee relating to the agreement, shall be enforceable against the purchaser or the guarantor by any holder thereof,

and, if the default continues for a period of one month without reasonable cause, the person in default shall be liable on summary conviction in a Resident Magistrate's Court to a fine not exceeding fifty dollars.

(3) If a copy supplied to a purchaser in pursuance of a request made by him under this section does not comply with such requirements of any regulations made under this Act as relate thereto, subsection (2) shall apply as if that copy had not been supplied to him.

14.—(1) A contract of guarantee relating to a vending agreement, and any security given by a guarantor in respect of money payable under such a contract, shall (subject to the following provisions of this section) not be enforceable

Require-
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unless, within fourteen days of the making of the contract of guarantee or the making of the vending agreement, whichever is the later, there is delivered to the guarantor and signed for by him or sent to the guarantor by registered post—

- (a) a copy of the vending agreement; and
- (b) a copy of a note or memorandum of the contract of guarantee, being a note or memorandum signed by the guarantor or by a person authorized by him to sign it on his behalf.

(2) Subject to subsection (3), such a contract of guarantee, and any such security, shall also not be enforceable unless—

- (a) each copy delivered or sent as mentioned in subsection (1); and
- (b) the note or memorandum of the contract of guarantee,

complies with the requirements of any regulations made under this Act, in so far as any such requirements relate thereto.

(3) If in any action the Court is satisfied that a failure to comply with any requirement imposed by subsection (1), or with any such requirement as is mentioned in subsection (2), has not prejudiced the guarantor, and that it would be just and equitable to dispense with that requirement, the Court may, subject to any conditions that it thinks fit to impose, dispense with that requirement for the purposes of the action.

15.—(1) Where a contract of guarantee relating to a vending agreement is for the time being in force, and the final payment under that agreement has not been made, any person entitled to enforce the contract of guarantee against the guarantor shall, within thirty days after he has received a request by registered mail from the guarantor, and

the guarantor has tendered to him the sum of twenty-five cents for expenses, supply to the guarantor the documents specified in subsection (2).

(2) The documents referred to in subsection (1) are—

- (a) a copy of the vending agreement; and
- (b) a copy of a note or memorandum of the contract of guarantee; and
- (c) a statement signed by, or by the agent of, the person to whom the request in writing referred to in subsection (1) is made, showing the matters specified in paragraphs (a) to (c) of subsection (1) of section 13.

(3) In the event of a failure to comply with subsection (1), then, while the default continues—

- (a) no person shall be entitled to enforce the contract of guarantee against the guarantor; and
- (b) no security given by the guarantor in respect of money payable under that contract shall be enforceable against the guarantor by any holder of that security,

and, if the default continues for a period of one month without reasonable cause, the person in default shall be liable on summary conviction in a Resident Magistrate's Court to a fine not exceeding fifty dollars.

(4) If a copy supplied to a guarantor in pursuance of a request made by him under this section does not comply with such requirements of any regulations made under this Act as relate thereto, subsection (3) shall apply as if that copy had not been supplied to him.

16.—(1) Where by virtue of a hire-purchase agreement or a conditional sale agreement a purchaser is under a duty to keep the goods comprised in the agreement in his posses-

Duty of purchaser to give vendor information re location of goods.

HIRE-PURCHASE

sion or control, the purchaser shall, on receipt of a request in writing (by personal delivery or by registered post) from the vendor, inform the vendor where the goods are at the time when the information is given, or, if it is sent by post, at the time of posting (as the case may be).

(2) If a purchaser fails without reasonable cause to give that information within fourteen days of the receipt of the notice, he shall be liable on summary conviction in a Resident Magistrate's Court to a fine not exceeding fifty dollars or, in default of payment thereof, to imprisonment for a term not exceeding three months.

Rebate in purchase price and interest on late payment

Rebate on
early pay-
ment, etc.

17. Notwithstanding anything to the contrary contained in a hire-purchase agreement or a conditional sale agreement—

- (a) where the balance of the hire-purchase price or total purchase price payable under the agreement is paid not less than one month prior to the date on which it is due, a rebate in the price of the goods shall be allowed to the purchaser at the rate of 5% per annum or such rate in lieu thereof as may be prescribed, calculated on the amount of such balance for the period in respect of which it was prepaid; and
- (b) where the balance of the hire-purchase price or total purchase price payable under the agreement remains unpaid for more than one month after the date on which it is due, interest on such balance may be charged by the vendor at the rate of 5% per annum or such rate in lieu thereof as may be prescribed, calculated on the amount of such balance for the period in respect of which it is due.

18.—(1) At any time before the final payment under a hire-purchase agreement or conditional sale agreement falls due, the purchaser shall (subject to subsection (2)) be entitled to terminate the agreement by giving notice of termination in writing to any person entitled or authorized to receive the sums payable under the agreement. Right to terminate agreement.

(2) In the case of a conditional sale agreement, where the property in the goods, having become vested in the buyer, is transferred to a person who does not become the buyer under the agreement, the buyer shall not thereafter be entitled to terminate the agreement under this section.

(3) Subject to subsection (2), where a buyer under a conditional sale agreement terminates the agreement under this section after the property in the goods has become vested in him, the property in the goods shall thereupon vest in the person (in this subsection referred to as “the previous owner”) in whom it was vested immediately before it became vested in the buyer:

Provided that if the previous owner has died, or any other event has occurred whereby that property, if vested in him immediately before that event, would thereupon have vested in some other person, the property shall be treated as having devolved as if it had been vested in the previous owner immediately before his death or immediately before that event, as the case may be.

(4) Nothing in this section shall prejudice any right of a purchaser to terminate a hire-purchase agreement or conditional sale agreement otherwise than by virtue of this section.

19.—(1) Where a purchaser terminates an agreement by virtue of section 18, then, subject to the following provisions of this section and to section 20, and without prejudice to any liability which has accrued before the termination, he shall be liable— Liability of purchaser giving notice of termination.

HIRE-PURCHASE

- (a) in the case of a hire-purchase agreement, to pay the amount (if any) by which one-half of the hire-purchase price exceeds the total of the sums paid and the sums due in respect of the hire-purchase price immediately before the termination; or
 - (b) in the case of a conditional sale agreement, to pay the amount (if any) by which one-half of the total purchase price exceeds the total of the sums paid and the sums due in respect of the total purchase price immediately before the termination,
- or, if (in either case) the agreement specifies a lesser amount, he shall be liable to pay the amount so specified.

(2) If in any action the Court is satisfied that a sum less than the amount specified in paragraph (a) or paragraph (b) of subsection (1) (as the case may be) would be equal to the loss sustained by the vendor in consequence of the termination of the agreement by the purchaser, the Court may make an order for the payment of that sum in lieu of that amount.

(3) Where a hire-purchase agreement or conditional sale agreement has been terminated under section 18, the purchaser, if he has failed to take reasonable care of the goods, shall be liable to pay damages for the failure.

(4) Where a purchaser, having terminated a hire-purchase agreement or conditional sale agreement under section 18, wrongfully retains possession of the goods, then, in any action brought by the vendor to recover possession of the goods from the purchaser, the Court, unless it is satisfied that having regard to the circumstances it would not be just and equitable to do so, shall order the goods to be delivered to the vendor without giving the purchaser an option to pay the value of the goods.

(5) In this section and in section 22 "loss" means the actual loss sustained by the vendor in consequence of the

termination of the agreement or bailment, as the case may be, but does not include his loss of profit.

20.—(1) Where under a hire-purchase agreement or a conditional sale agreement the vendor is required to carry out any installation, and the agreement specifies, as part of the hire-purchase price or total purchase price, the amount to be paid in respect of the installation (in this section referred to as “the installation charge”) any reference in section 19(1) to one-half of the hire-purchase price or one-half of the total purchase price shall be construed as a reference to the aggregate of the installation charge and one-half of the remainder of the hire-purchase price or total purchase price, as the case may be.

Installation charges.

(2) In this section “installation” means—

- (a) the installing of any electric line (as defined in the Electric Lighting Act) or any gas or water pipe;
- (b) the fixing of goods to which the agreement relates to the premises where they are to be used, and the alteration of premises to enable any such goods to be used on them; and
- (c) where it is reasonably necessary that any such goods should be constructed or erected on the premises where they are to be used, any work carried out for the purpose of constructing or erecting them on those premises.

21.—(1) Where there is a requirement under a vending agreement that any goods the subject matter of the agreement are to be insured or to be kept insured, it shall be the responsibility of the vendor to ensure that such insurance is effected.

Power of vendor to insure goods if purchaser fails to do so.

(2) The cost of any insurance effected by a vendor pursuant to subsection (1), together with interest thereon

(or on any unpaid balance thereof) at the prescribed rate, shall be added to the hire-purchase price or total purchase price of the goods, as the case may be, and shall be payable by the purchaser to the vendor.

(3) Any amount added to the hire-purchase price or total purchase price of goods pursuant to subsection (2) shall be paid by the purchaser in such instalments as the vendor and purchaser may agree, or, in default of agreement, in such instalments, as near as possible equal, as will ensure that the total amount so added is repaid to the vendor not later than the date on which the last instalment payable under the vending agreement becomes due.

Avoidance of certain provisions and contracts

22.—(1) Any provision to which this subsection applies shall be void.

(2) Subsection (1) applies to any provision in any agreement (whether a hire-purchase agreement, credit sale agreement or conditional sale agreement or not)—

- (a) whereby, otherwise than as permitted by Part III, a vendor, or any person acting on his behalf, is authorized to enter upon any premises for the purpose of taking possession of goods which have been let under a hire-purchase agreement or agreed to be sold under a conditional sale agreement, or is relieved from liability for any such entry; or
- (b) whereby the right conferred by section 18 to terminate a hire-purchase agreement or a conditional sale agreement is excluded or restricted, or whereby any liability, in addition to the liability imposed by section 19, is imposed on a purchaser by reason of the termination of a hire-purchase agreement or conditional sale agreement under the said section 18; or

- (c) whereby a purchaser, after the termination in any manner whatsoever of a hire-purchase agreement or conditional sale agreement or (in the case of a hire-purchase agreement) of the bailment, is (apart from any liability which has accrued before the termination) subject to a liability to pay an amount which exceeds whichever is the lesser of the two following amounts, that is to say—
- (i) the amount mentioned in paragraph (a) or (as the case may be) in paragraph (b) of subsection (1) of section 19; and
 - (ii) an amount equal to the loss sustained by the owner or seller in consequence of the termination of the agreement or bailment;
- or
- (d) whereby any person acting on behalf of a vendor in connection with the formation or conclusion of a vending agreement is treated as, or deemed to be, the agent of the purchaser; or
- (e) whereby a vendor is relieved from liability for the acts or defaults of any person acting on his behalf in connection with the formation or conclusion of a vending agreement; or
- (f) whereby a purchaser is precluded from assigning his rights under the agreement to another person approved by the vendor or whereby such approval may be unreasonably withheld.

(3) There shall also be void any provision in an agreement (whether a hire-purchase agreement, credit sale agreement or conditional sale agreement or not)—

- (a) excluding or restricting the operation of any enactment contained in section 8; or
- (b) excluding or modifying any condition implied by virtue of section 11.

(4) Any contract, whether oral or in writing, which apart from this subsection would have effect as a contract to enter into a hire-purchase agreement, a credit sale agreement or a conditional sale agreement (as distinct from a contract constituting such an agreement) shall be void.

Provisions relating to death of hirer or buyer.

23.—(1) The provisions of subsection (2) or (as the case may be) subsection (3) shall have effect where goods are let under a hire-purchase agreement, or are agreed to be sold under a conditional sale agreement, and that agreement, or any other agreement, provides that, on the occurrence of, or at a time to be ascertained by reference to, one or more events referred to in the provisions in question—

- (a) the hire-purchase agreement or conditional sale agreement, or (in the case of a hire-purchase agreement) the bailment of the goods, shall terminate, or shall be terminable, or the owner or seller shall have a right to recover possession of the goods to which the hire-purchase agreement or conditional sale agreement relates; or
- (b) any sum shall become payable by the hirer or buyer or any guarantor, or any liability of the hirer or buyer or any guarantor shall be increased or accelerated; or
- (c) any right of the hirer under the hire-purchase agreement or of the buyer under the conditional sale agreement shall cease to be exercisable, or shall be, or shall become liable to be, restricted or postponed.

(2) If the only event specified as mentioned in subsection (1) is the death of the hirer or buyer, so much of the agreement as makes any such provision as is mentioned in that subsection shall be void.

(3) If two or more events are so specified, and one of them is the death of the hirer or buyer, so much of the agreement as makes any such provision shall have effect as if any reference to the death of the hirer or buyer were omitted.

(4) Without prejudice to the provisions of subsections (1), (2) and (3) where—

- (a) goods are let under a hire-purchase agreement, or are agreed to be sold under a conditional sale agreement; and
- (b) that agreement, or any other agreement, contains any provision (whether expressed as a provision that the hire-purchase agreement or conditional sale agreement shall be personal to the hirer or buyer or otherwise) which, if the hire-purchase agreement or conditional sale agreement is in force immediately before the death of the hirer or buyer, would apart from this subsection have the effect of terminating the last-mentioned agreement on the death of the hirer or buyer or otherwise preventing the benefit of that agreement from being transmitted on his death,

that provision shall be void in so far as it would have that effect.

PART III. [*Repealed by Act 38 of 2013, Sch.*].

38/2013
Sch.

24. [*Repealed by Act 38 of 2013, Sch.*].

38/2013
Sch.

25. [*Repealed by Act 38 of 2013, Sch.*].

38/2013
Sch.

- 38/2013 Sch. 26. [*Repealed by Act 38 of 2013, Sch.*].
- 38/2013 Sch. 27. [*Repealed by Act 38 of 2013, Sch.*]
- 38/2013 Sch. 28. [*Repealed by Act 38 of 2013, Sch.*].
- 38/2013 Sch. 29. [*Repealed by Act 38 of 2013, Sch.*].
- 38/2013 Sch. 30. [*Repealed by Act 38 of 2013, Sch.*].
- 38/2013 Sch. 31. [*Repealed by Act 38 of 2013, Sch.*].
- 38/2013 Sch. 32. [*Repealed by Act 38 of 2013, Sch.*].
- 38/2013 Sch. 33. [*Repealed by Act 38 of 2013, Sch.*].
- 38/2013 Sch. 34. [*Repealed by Act 38 of 2013, Sch.*].

PART IV. *Application of this Act to prescribed bills
of sale*

Interpreta-
tion of this
Part.
38/2013
Sch.

35. In this Part “consumer’s bill of sale” means any document which is a bill of sale, not being—

(a) a document the subject matter of which includes—

(i) any part of the stock in trade; or

(ii) any plant or equipment,

of a trade, business or calling; or

- (b) a document made or given to a bank for a debt incurred for a purpose other than the purchase of the subject matter of such document.

36. [*Deleted by Act 38 of 2013, Sch.*].

38/2013
Sch.

37. The provisions of sections 7, 13, 16, 17, 22, 24, 25 and 26 of this Act shall apply to consumers' bills of sale in like manner as if—

Application
of provi-
sions of
this Act to
consumers'
bills of sale.

- (a) the person to whom such bill of sale is granted were a vendor of the goods, the subject matter of the bill of sale;
- (b) the person granting such bill of sale were a purchaser of such goods; and
- (c) the document constituting the bill of sale were a conditional sale agreement.

PART V. *Supplementary*

38.—(1) The Minister may make regulations required by this Act to be made or as the Minister may consider necessary or desirable generally for the better carrying into effect of the provisions of this Act.

Regulations.

(2) Without prejudice to the generality of subsection (1) the Minister may by such regulations—

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- (a) prescribe any matter which may be or is required to be prescribed under the provisions of this Act;
 - (b) amend, repeal or replace any Schedule to this Act;
 - (c) regulate the times at which and the manner in which goods may be repossessed by a vendor and the amount of charges which may be made in relation thereto;
 - (d) prescribe for the licensing of persons to be employed in effecting the repossession of goods.
- (3) Any regulations made under this section shall be subject to negative resolution.

FIRST SCHEDULE

(Section 3)

The Hire-Purchase (Advertisement) Regulations, 1974

1. These Regulations may be cited as the Hire-Purchase (Advertisement) Regulations, 1974. Citation.

2.—(1) In these Regulations—

Interpre-
tation.

“advertisement” includes any visual form of advertising (whether or not accompanied by spoken words or other sounds), whether in a publication, or by the display of notices, or by means of catalogues, price lists, cards or other documents, or by the exhibition of cinematograph films or photographs, or by way of television, or in any other way, but does not include any form of advertising consisting only of spoken words, with or without other sounds;

“deposit” includes any initial payment to be made before or at the time of entering into an agreement;

“directly expressed” means expressed (whether in words or figures or both) otherwise than as a fraction of, or by reference to, some other amount;

“disposal”, in relation to goods, includes—

- (a) the disposal of the ownership of the goods or of any proprietary interest in them, or of the right to possession of the goods; and
- (b) the disposal of the possession of the goods, whether or not accompanied by any disposal of the ownership of the goods, or of any proprietary interest in them, or of the right to possession of them;

“fraction” includes a proportion expressed as a percentage or in any other way;

“goods” includes vehicles, vessels, aircraft and animals, and generally includes articles of any description.

(2) In the case of any advertisement contained in a cinematograph film or in a television programme—

- (a) for the purposes of regulation 3, and for the purpose of

determining under regulation 4 whether the advertisement contains details of payments in respect of any goods, anything included in any spoken words or other sounds by which the advertisement is accompanied shall be taken to form part of the advertisement;

- (b) for the purposes of regulation 4, other than the purpose mentioned in sub-paragraph (a) of this paragraph, information shall be taken not to be included in the advertisement unless it is contained in it in a visual form;
- (c) in determining, for the purposes of paragraph (1) of regulation 4 whether each part of the information required by that regulation is displayed clearly in the advertisement, in such a way as not to give undue prominence to any part of it in comparison with any other part, regard shall be had to the length of time for which the advertisement is displayed (or, if different parts of the advertisement are displayed successively, to the length of time taken by each of them and to the aggregate length of time taken by them all) as well as to the contents of the advertisement.

(3) For the purposes of these Regulations it is immaterial whether any information included in an advertisement does or does not correspond with the terms on which goods to which the advertisement relates are in fact disposed of; and accordingly—

- (a) for the purposes of paragraph (2) of regulation 3, and of paragraph (4) of regulation 4, an advertisement shall be taken to specify the amount of a deposit or instalment if it specifies an amount as being the amount of the deposit or instalment in question; and
- (b) in so far as any provision of these Regulations requires information as to an amount or number, or the length of a period, to be included in an advertisement, that provision (subject to compliance with any requirement of these Regulations as to the manner in which any such information is to be expressed or displayed) shall be taken to be complied with if the advertisement specifies an amount or number, or length of period, as being the amount or number in question, or the length of the period in question, as the case may be.

Advertisements to which these Regulations apply.

3.—(1) These Regulations apply to any advertisement of any goods as being goods available for disposal by way of hire-purchase or credit sale or conditional sale, if the advertisement includes any one or more of the elements mentioned in paragraph (2) and is not an advertisement falling within paragraph (3).

(2) The said elements are—

- (a) an indication that a deposit is payable, consisting of or including either an indication of the amount of the deposit or an indication that it is a fraction specified in the advertisement, whether the amount of which it is a fraction is specified in the advertisement or not;
- (b) words indicating that no deposit is payable;
- (c) an indication of the amount of any one or more of the instalments payable.

(3) An advertisement of goods as being goods available for disposal by way of credit sale is not an advertisement to which these Regulations apply, notwithstanding that it includes one or more of the elements mentioned in paragraph (2), if—

- (a) it does not advertise any goods as being available for disposal by way of hire-purchase or conditional sale; and
- (b) the terms of credit sale set out in the advertisement are such that no single article could be disposed of in accordance with those terms at a total price exceeding \$20.00.

4.—(1) An advertisement to which these Regulations apply shall not be displayed or issued unless it includes all the information required by these Regulations, and each part of that information is displayed clearly in the advertisement, in such a way as not to give undue prominence to any part of it in comparison with any other part.

Information to be included in advertisements to which these Regulations apply.

(2) Where an advertisement contains details of payments in respect of any goods, then, in so far as it relates to those goods, the information required by this regulation is the following, that is to say—

- (a) either—
 - (i) the amount of the deposit directly expressed; or
 - (ii) a statement that the amount of the deposit is a fraction specified in the advertisement of a sum the amount of which is directly expressed therein; or
 - (iii) a statement that no deposit is payable;
- (b) the amount of each instalment directly expressed;
- (c) the total number of instalments payable;
- (d) the length of the period in respect of which each instalment is payable;

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- (e) if any instalments are payable before delivery of the goods, the number of instalments so payable; and
- (f) a sum stated as the cash price of the goods.

(3) In so far as an advertisement to which these Regulations apply relates to goods in respect of which the advertisement does not contain details of payments, the information required by this regulation is that specified in paragraph (2), subject to the following modifications, that is to say—

- (a) with regard to the deposit, the information required by this regulation (instead of that specified in sub-paragraph (a) of paragraph (2)) is either—
 - (i) a statement that the amount of the deposit is a fraction specified in the advertisement of a price or sum the nature of which is clearly indicated in the advertisement; or
 - (ii) a statement that no deposit is payable; and
- (b) sub-paragraphs (b) and (f) of paragraph (2) shall not apply.

(4) For the purposes of this regulation an advertisement shall be taken to contain details of payments in respect of any goods, if it specifies the amount of the deposit payable in respect of those goods, or of any one or more of the instalments so payable, and that amount is directly expressed in the advertisement.

(5) Without prejudice to the generality of paragraph (1), in the case of an advertisement of goods—

- (a) as being goods available for disposal by way of hire-purchase or conditional sale or credit sale; or
- (b) as being goods available for disposal in accordance with two or more alternative schemes of hire-purchase or conditional sale or credit sale,

the information required by these Regulations shall not be taken to be displayed clearly in the advertisement if it is not displayed so as to distinguish clearly between the information applicable to hire-purchase, the information applicable to conditional sale and the information applicable to credit sale, or as the case may be, so as to distinguish clearly between the information applicable to each of the schemes of hire-purchase or conditional sale or credit sale respectively.

SECOND SCHEDULE

(Section 6)

PART A

*Notice to be included in Hire-Purchase Agreement
Notice*

1. The hirer may put an end to this agreement by giving notice of termination in writing to any person who is entitled to collect or receive the hire-rent.

2. He must then pay any instalments which are in arrear at the time when he gives notice. If, when he has paid those instalments, the total amount which he has paid under the agreement is less than (*here insert the minimum amount applicable under section 19 of this Act*) he must also pay enough to make up that sum, unless the Court determines that a smaller sum would be equal to the owner's loss.

3. If the goods have been damaged owing to the hirer having failed to take reasonable care of them, the owner may sue him for the amount of the damage unless that amount can be agreed between the hirer and the owner.

4. The hirer should see whether this agreement contains provisions allowing him to put an end to the agreement on terms more favourable to him than those just mentioned. If it does, he may put an end to the agreement on those terms.

5. Unless the hirer has himself put an end to the agreement, the owner of the goods cannot take them back from the hirer without the hirer's consent unless the owner complies with the requirements of Part III of the Act.

PART B

*Notice to be included in Conditional Sale Agreement
Notice*

1. The buyer may put an end to this agreement by giving notice of termination in writing to any person who is entitled to collect or receive the instalments of the purchase price.

2. He must then pay any instalments which are in arrear at the time when he gives notice. If, when he has paid those instalments, the total amount which he has paid under the agreement is less than (*here insert the minimum*

amount applicable under section 19 of this Act) he must also pay enough to make up that sum, unless the Court determines that a smaller sum would be equal to the seller's loss.

3. If the goods have been damaged owing to the buyer having failed to take reasonable care of them, the seller may sue him for the amount of the damage unless that amount can be agreed between the buyer and the seller.

4. The buyer should see whether this agreement contains provisions allowing him to put an end to the agreement on terms more favourable to him than those just mentioned. If it does, he may put an end to the agreement on those terms.

5. Unless the buyer has himself put an end to the agreement, the seller of the goods cannot take them back from the buyer without the buyer's consent unless the seller complies with the requirement of Part III of the Act.