

Queensland



# HIRE-PURCHASE ACT 1959

**Reprinted as in force on 10 March 2000  
(includes amendments up to Act No. 63 of 1999)**

**Reprint No. 2B**

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This Act is reprinted as at 10 March 2000. The reprint—

- shows the law as amended by all amendments that commenced on or before that day (Reprints Act 1992 s 5(c))
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The reprint includes a reference to the law by which each amendment was made—see list of legislation and list of annotations in endnotes.

This page is specific to this reprint. See previous reprints for information about earlier changes made under the Reprints Act 1992. A table of earlier reprints is included in the endnotes.

**Also see endnotes for information about—**

- **when provisions commenced**
- **editorial changes made in earlier reprints.**

# Queensland



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# **HIRE—PURCHASE ACT 1959**

[as amended by all amendments that commenced on or before 10 March 2000]

**An Act relating to the form and content of hire-purchase agreements,  
to regulate the rights and duties of parties to such agreements,  
and for other purposes**

## **PART 1—PRELIMINARY**

### **Short title**

**1.(1)** This Act may be cited as the *Hire-purchase Act 1959*.

### **Application of Act**

**(4)** This Act shall apply to all hire-purchase agreements and agreements made in connection with hire-purchase agreements entered into after the commencement of this Act.

### **Equitable right in hirer**

**(5)** Subject to this Act, the provisions of this Act shall notwithstanding any law to the contrary, be read as granting to the hirer a right in equity in or in respect of the goods comprised in the hire-purchase agreement based upon the amounts (including the deposit) paid or provided, whether by cash or other consideration, by or on behalf of the hirer under the agreement.

### **Interpretation**

**2.(1)** In this Act—

**“court”** means a Magistrates Court constituted by a stipendiary magistrate or acting stipendiary magistrate sitting alone or, when a stipendiary magistrate or acting stipendiary magistrate is not present to constitute the court, any 2 justices of the peace.

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**“dealer”** means a person, not being the hirer or the owner or a servant of the owner, by whom or on whose behalf negotiations leading to the making of a hire-purchase agreement with the owner were carried out or by whom or on whose behalf the transaction leading to a hire-purchase agreement with the owner was arranged.

**“goods”** includes all chattels personal other than money or things in action.

**“guarantor”** means a person who has guaranteed the performance by a hirer of all or any of the hirer’s obligations under a hire-purchase agreement, but does not include the dealer or a person engaged, at the time of the giving of the guarantee, in the trade or business of selling goods of the same nature or description as the goods comprised in the agreement.

**“hire-purchase agreement”** includes a letting of goods with an option to purchase and an agreement for the purchase of goods by instalments (whether such agreement describes such instalments as rent or hire or otherwise), but does not include any agreement—

- (a) whereby the property in the goods comprised therein passes at the time of the agreement or upon or at any time before delivery of the goods; or
- (b) under which the person by whom the goods are being hired or purchased is a person who is engaged in the trade or business of selling goods of the same nature or description as the goods comprised in the agreement; or
- (c) that is a credit sale contract within the meaning of the *Credit Act 1987* or is deemed by that Act to be a credit sale contract; or
- (d) that is a contract for the hiring of goods that is excluded from the effect of the *Credit Act 1987*, section 15 under section 21 of that Act; or
- (e) that is a credit contract within the meaning of the Consumer Credit (Queensland) Code; or
- (f) that is a contract for the hire of goods that, under the Consumer Credit (Queensland) Code, section 10(1), is to be regarded as a sale of goods by instalments under the Code; or
- (g) that is or is part of a transaction for 1 or both of the following—



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- (i) the letting, with an option to purchase, of goods of a total market value of more than \$40 000 000 at the time the transaction is entered into;
- (ii) the purchase by instalments of goods of a total market value of more than \$40 000 000 at the time the transaction is entered into.

**“hirer”** means the person to whom goods are let, hired, or agreed to be sold 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 letting, hiring, or agreeing to sell goods 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 have passed by assignment or operation of law.

**“period of the agreement”** means the period between the commencement of the hiring and the time provided by the agreement for the payment of the last instalment.

**“statutory rebate”**—

(a) in relation to terms charges—

- (i) means the amount derived by multiplying the terms charges by the sum of all the whole numbers from 1 to the number which is the number of complete months in the period of the agreement still to go (both inclusive) and by dividing the product so obtained by the sum of all the whole numbers from 1 to the number which is the total number of complete months in the period of the agreement (both inclusive); or
- (ii) where it is agreed in a hire-purchase agreement that the terms charges have been calculated on a simple interest basis at a rate specified in the agreement on the amount (not including the terms charges) outstanding from month to month—means the amount of interest attributable to the period of complete months still to go under the agreement; and

(b) in relation to insurance—means the sum of—

- (i) the total amount of premium paid in respect of any annual

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period not yet commenced; and

- (ii) 90% of the proportion of the amount of the premium for insurance in respect of the current annual period attributable to the unexpired portion of that period consisting of whole months; and

- (c) in relation to maintenance—means the amount derived by multiplying the amount charged for maintenance by the number of complete months in the period of the agreement still to go and dividing the product so obtained by the number of complete months in the period of the agreement.

**“third-party insurance”** means any insurance in relation to liability in respect of death or bodily injury caused by or arising out of the use of a motor vehicle being insurance required by the law of the place where the vehicle is registered or is being registered, as the case requires.

**“total amount payable”** means the total amount to be paid or provided whether by way of cash or other consideration by or on behalf of the hirer under a hire-purchase agreement.

**“vehicle registration fees”** means any amount to be provided under a hire-purchase agreement by the owner for payment by or on behalf of the hirer under the law of a State or Territory in connection with the registration and use of a motor vehicle, including any amount payable for third-party insurance.

(2) Any reference in this Act to taking possession by the owner of goods comprised in a hire-purchase agreement does not include a reference to taking possession by the owner as a result of the voluntary return of such goods by the hirer, but does include a taking of possession by the owner of such goods pursuant to an order of any court and a return of goods after a notice has been served on the hirer pursuant to the provisions of section 13(1).

(3) Where, by virtue of 2 or more agreements, none of which by itself constitutes a hire-purchase agreement, there is a bailment of goods and either the bailee may buy the goods or the property in the goods will or may pass to the bailee, then the agreements shall, for the purposes of this Act, be treated as a single hire-purchase agreement made at the time when the last agreement was made.

(4) However, subsection (3) does not apply if the agreements—

- (a) are, or are taken to be, credit sale contracts within the meaning of the *Credit Act 1987*; or
- (b) are credit contracts within the meaning of the Consumer Credit (Queensland) Code; or
- (c) are to be regarded as sales of goods by instalments under the Consumer Credit (Queensland) Code.

## **PART 2—FORMATION AND CONTENTS OF HIRE-PURCHASE AGREEMENTS**

### **Summary of proposed hire-purchase transaction to be given to prospective hirer**

**3.(1)** Before any hire-purchase agreement is entered into in respect of any goods the owner or, if there is a dealer, the dealer shall give or cause to be given to the prospective hirer a written statement duly completed in accordance with the form in schedule 1.

**(1A)** However, where the agreement is entered into by way of acceptance by the owner of a written offer signed by or on behalf of the hirer, the provisions of subsection (1) shall be deemed not to have been complied with unless the written statement was given to the prospective hirer before the written offer was so signed.

### **Form and contents of hire-purchase agreements**

(2) Every hire-purchase agreement—

- (a) shall be in writing; and
- (b) shall be signed by or on behalf of the hirer and all other parties to the agreement; and
- (c) shall—
  - (i) specify a date on which the hiring shall be deemed to have commenced; and

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- (ii) specify the number of instalments to be paid under the agreement by the hirer; and
  - (iii) specify the amount of each of those instalments and the person to whom and the place at which the payments of those instalments are to be made; and
  - (iv) specify the time for the payment of each of those instalments; and
  - (v) contain a description of the goods sufficient to identify them; and
- (d) where any part of the consideration is or is to be otherwise than in cash—shall contain a description of that part of the consideration; and
- (e) shall set out in a tabular form—
- (i) the price at which at the time of signing the agreement the hirer might have purchased the goods for cash (in this Act called and in the agreement to be described as **“cash price”**); and
  - (ii) the amount paid or provided by way of deposit (in this Act called and in the agreement to be described as **“deposit”**) showing separately the amount paid in money and the amount provided by a consideration other than money; and
  - (iii) any amount included in the total amount payable for maintenance of the goods (in this Act called and in the agreement to be described as **“maintenance”**); and
  - (iv) any amount included in the total amount payable to cover the expenses of delivering the goods or any of them to or to the order of the hirer (in the agreement to be described as **“freight”**); and
  - (v) any amount included in the total amount payable to cover vehicle registration fees (in the agreement to be called **“vehicle registration fees”**); and
  - (vi) any amount included in the total amount payable for insurance other than third-party insurance (in this Act called and in the agreement to be described as **“insurance”**); and

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- (vii) the total of the amounts referred to in subparagraphs (i), (iii), (iv), (v), and (vi) less the deposit; and
- (viii) the amount of any other charges included in the total amount payable (in this Act called and in the agreement to be described as “**terms charges**”); and
- (ix) the total of the amounts referred to in subparagraphs (vii) and (viii) (in this Act called the “**balance originally payable under the agreement**”); and
- (x) the total amount payable.

(4) An owner who enters into a hire-purchase agreement that does not comply with subsection (2) shall be guilty of an offence against this Act.

(5) Without affecting the liability of any person to be convicted of an offence against this section, where a provision of this section has not been complied with in relation to a hire-purchase agreement (not being a failure to comply with subsection (2)(a)), the liability of the hirer shall be reduced by the amount included in the hire-purchase agreement for terms charges.

(5A) Such amount may be set off by the hirer against any amount that would otherwise be due or which becomes due to the owner under the agreement and, to the extent to which the reduction in the liability of the hirer is not satisfied by such set off, recovered by the hirer from the owner by action as for a debt.

(6) A hire-purchase agreement that is not in writing shall not be enforceable by the owner and all right, title and interest of the owner to or in the goods comprised in the hire-purchase agreement and any right of action in the owner under the hire-purchase agreement shall absolutely cease and determine.

### **Certain copy documents to be served on hirer**

4. The owner shall serve or cause to be served on the hirer within 21 days after the making of a hire-purchase agreement—

- (a) a copy in writing of the agreement; and
- (b) a notice in writing in or to the effect of schedule 2, which notice may be endorsed on the copy of the agreement; and

- (c) where any part of the total amount payable consists of an amount paid or to be paid under a policy of insurance (not being a policy of third-party insurance)—a copy of the policy or a statement in writing of the terms, conditions, and exclusions of the policy which affect or concern the rights of the hirer;

but failure to comply with the provisions of this section shall not avoid the agreement.

## **PART 3—PROTECTION OF HIRERS**

### ***Division 1—Warranties and conditions***

#### **Conditions and warranties to be implied in every hire-purchase agreement**

**5.(1)** In every hire-purchase agreement there shall be—

- (a) an implied warranty that the hirer shall have and enjoy quiet possession of the goods;
- (b) an implied condition on the part of the owner that the owner will have a right to sell the goods at the time when the property is to pass;
- (c) an implied warranty that the goods will be free from any charge or encumbrance in favour of any third party (other than a charge or encumbrance created by or with the consent of the hirer) at the time when the property is to pass.

**(2)** In every hire-purchase agreement there shall be an implied condition that the goods shall be of merchantable quality but no such condition shall be implied—

- (a) where the hirer has examined the goods or a sample thereof—as regards defects which the examination ought to have revealed; or
- (b) if the goods are second-hand goods and the agreement contains a statement to the effect that—

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- (i) the goods are second-hand; and
- (ii) all conditions and warranties as to quality are expressly negatived;

and the owner proves that the hirer has acknowledged in writing that that statement was brought to the hirer's notice.

(3) Where the hirer expressly or by implication makes known to the owner or to the dealer or to any servant or agent of the owner or the dealer the particular purpose for which the goods are required, there shall be implied in the hire-purchase agreement a condition that the goods shall be reasonably fit for that purpose but no such condition shall be implied if the goods are second-hand goods and the agreement contains a statement to the effect—

- (a) that the goods are second-hand; and
- (b) that all conditions and warranties of fitness and suitability are expressly negatived;

and the owner proves that the hirer has acknowledged in writing that that statement was brought to the hirer's notice.

(4) Without prejudice to any other rights or remedies to which an owner may be entitled where the hirer has made known expressly or by implication to the dealer or to any servant or agent of the dealer the particular purpose for which the goods are required, an owner shall be entitled to be indemnified by the dealer against any damage suffered by the owner through the operation of the provisions of subsection (3).

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

**As to the liability of the owner and the dealer for misrepresentation**

6.(1) Every representation, warranty, or statement made to the hirer or prospective hirer, whether orally or in writing, by the owner or dealer or any person acting on behalf of the owner or dealer in connection with or in the course of negotiations leading to the entering into of a hire-purchase agreement shall confer on the hirer—

- (a) as against the owner—the same rights (including the right to

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rescind the agreement) as the hirer would have had if the representation, warranty, or statement had been made by an agent of the owner; and

- (b) as against the person who made the representation, warranty, or statement, and any person on whose behalf such person was acting in making it—the same right of action as the hirer would have had against them or either of them if the hirer had entered into the hire-purchase agreement with such firstmentioned person or the person on whose behalf the hirer was acting (as the case requires) as a result of the negotiations.

(2) Every covenant, condition, or term in any hire-purchase agreement or other document purporting to exclude, limit, or modify the operation of this section or to preclude any right of action or any defence based on or arising out of any such representation, warranty, or statement shall be void.

(3) Without prejudice to any other rights or remedies to which an owner may be entitled, an owner shall be entitled to be indemnified by the person who made the representation, warranty, or statement, and by any person on whose behalf the representation, warranty, or statement was made against any damage suffered by the owner through the operation of subsections (1) and (2).

*Division 2—Statutory rights of hirers***Hirer to be entitled to copy of agreement and statement of the hirer's present position**

7.(1) At any time before the final payment has been made under a hire-purchase agreement the owner shall, within 14 days after the owner has received a request in writing from the hirer, send to the hirer a copy of the agreement, together with a statement in writing signed by the owner or the owner's agent showing—

- (a) the amount paid to the owner by or on behalf of the hirer; and
- (b) the amount which has become due under the agreement but remains unpaid; and
- (c) the amount which is to become payable under the agreement;



but an owner shall not be obliged to comply with such a request if the owner has sent the hirer a copy of the agreement and a statement within the period of 3 months immediately preceding the receipt of the request.

(2) If an owner fails to comply with subsection (1) by failing to comply with a request made pursuant to that subsection the owner shall be guilty of an offence against this Act and liable to a penalty not exceeding \$100 and, until the default is remedied—

- (a) the owner shall not be entitled to enforce—
  - (i) the agreement against the hirer; or
  - (ii) any right to recover the goods from the hirer; or
  - (iii) any contract of guarantee relating to the agreement; and
- (b) any security given by the hirer in respect of money payable under the agreement or given by a guarantor shall not be enforceable against the hirer or the guarantor by any holder thereof.

### **As to appropriation of payments when more than 1 agreement**

8. A hirer who is liable to make payments in respect of 2 or more hire-purchase agreements to the same owner shall, notwithstanding any agreement to the contrary, be entitled, on making any payment in respect of the agreements which is not sufficient to discharge the total amount then due under all the agreements, to require the owner to appropriate the sum so paid by the hirer in or towards the satisfaction of the sum due under any one of the agreements, or in or towards the satisfaction of the sums due under any 2 or more of the agreements in such proportions as the hirer thinks fit, and, if the owner fails to make any such appropriation as aforesaid, the payment shall by virtue of this section be appropriated in or towards the satisfaction of the sums due under the respective agreements in the order in which the agreements were entered into.

### **As to assignments of rights under hire-purchase agreements**

9.(1) The right, title, and interest of a hirer under a hire-purchase agreement may be assigned with the consent of the owner or, if this consent is unreasonably withheld, without the owner's consent.

(2) Except as otherwise provided in this section, no payment or other

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consideration shall be required by an owner for the owner's consent to such an assignment as is mentioned in subsection (1), and where an owner requires any such payment or other consideration for the owner's consent, that consent shall be deemed to be unreasonably withheld.

(3) Where, on a request for the owner's consent thereto being made by a hirer, the owner fails or refuses to give consent to such an assignment as is mentioned in subsection (1), the hirer may apply to the court for an order declaring that the consent of the owner to that assignment has unreasonably been withheld, and where such an order is made that consent shall be deemed to be unreasonably withheld.

(4) As a condition of granting such consent the owner may stipulate that all defaults under the hire-purchase agreement shall be made good and, in any case, may require the hirer and assignee—

- (a) to execute and deliver to the owner an assignment agreement in a form approved by the owner whereby without prejudicing or affecting the continuing personal liability of the hirer in such respects the assignee agrees with the owner to be personally liable to pay the instalments of hire remaining unpaid and to perform and observe all other stipulations and conditions of the hire-purchase agreement during the residue of the term thereof and whereby the assignee indemnifies the hirer in respect of such liabilities; and
- (b) to pay the reasonable costs (if any) incurred by the owner in stamping or registering the assignment agreement or counterparts.

(5) The right, title, and interest of a hirer under a hire-purchase agreement shall be capable of passing by operation of law to the personal representative of the hirer and if the hirer is a company the liquidator may exercise the same rights under the agreement as the company, but nothing in this subsection shall relieve any such personal representative or liquidator from compliance with the provisions of the agreement.

**Power to court to allow goods to be removed**

**10.** Where, by virtue of a hire-purchase agreement, it is the duty of a hirer to keep the goods comprised in the agreement in the hirer's possession or control at a particular place or not to remove the goods from a particular place, the court may, on the application of the hirer, make an order

approving the removal of the goods to some other place, which place shall thereafter, for the purposes of the agreement, be substituted for the firstmentioned place.

### ***Division 3—Early completion of agreement***

#### **Hirer to be entitled to finalise agreement at any time**

**11.(1)** The hirer under a hire-purchase agreement may, if the hirer has given notice in writing to the owner of the intention so to do, on or before the day specified for that purpose in the notice, complete the purchase of the goods by paying or tendering to the owner the net balance due to the owner under the agreement.

**(2)** For the purposes of this section the net balance due shall be the balance originally payable under the agreement less any amounts (other than the deposit) paid or provided, whether by cash or other consideration, by or on behalf of the hirer under the agreement, and less—

- (a) the statutory rebate for terms charges; and
- (b) if the hirer requires any contract for insurance to be cancelled—the statutory rebate for insurance; and
- (c) if the hirer requires any contract for maintenance to be cancelled—the statutory rebate for maintenance.

**(3)** The rights conferred on the hirer by this section may be exercised by the hirer—

- (a) at any time during the continuance of the agreement; or
- (b) where the owner has taken possession of the goods—on paying or tendering to the owner (before or within 21 days after the owner has served a notice in the form of schedule 4 on the hirer) in addition to the net balance due—
  - (i) the reasonable costs incurred by the owner of and incidental to the owner taking possession of the goods; and
  - (ii) any amount properly expended by the owner on the storage, repair, or maintenance of the goods.

***Division 4—Voluntary return of goods*****Power to hirer to determine hiring**

**12.(1)** The hirer of any goods comprised in a hire-purchase agreement may terminate the hiring by returning the goods to the owner during ordinary business hours at a place at which the owner ordinarily carries on business or to the place specified for that purpose in the agreement and such a return of the goods shall terminate the hiring.

**(2)** Where the nature of the goods comprised in a hire-purchase agreement is, or the facilities available at the place or places of business of the owner or at the place specified in the agreement are, such that it would be impracticable to return the goods to any such place, the hirer may terminate the hiring by returning the goods—

- (a) to any place agreed to by the parties to the agreement; or
- (b) if the parties fail to agree—to a place that is reasonable, having regard to all the circumstances surrounding the transaction.

**(3)** A hirer who proposes to return goods to the owner under this section may apply to the court for an order fixing the place to which the goods may be returned under subsection (2)(b).

**(4)** The court may in any order made pursuant to this section order that, subject to the goods being returned to the owner, the hiring shall be determined on such date as is specified in the order not being a date before the hirer required the owner to nominate a reasonable place for the return of the goods.

**(5)** Notice of any application under this section shall be given to the owner by the hirer.

**(6)** Where a hire-purchase agreement is determined pursuant to this section the owner shall be entitled to recover from the hirer—

- (a) the amount (if any) required to be paid in such circumstances under the agreement; or

- (b) the amount (if any) which the owner would have been entitled to recover if the owner had taken possession of the goods at the date of termination of the hiring;

whichever is the less.

### ***Division 5—Repossessions***

#### **Notices to be given to hirer when goods are repossessed**

**13.(1)** An owner shall not exercise any power of taking possession of goods comprised in a hire-purchase agreement arising out of any breach of the agreement relating to the payment of instalments until the owner has served on the hirer a notice, in writing, in the form of schedule 3 and the period fixed by the notice (being not less than 7 days after the service of the notice) has expired.

**(2)** An owner shall not be required to comply with subsection (1) if there are reasonable grounds for believing that the goods comprised in the hire-purchase agreement will be removed or concealed by the hirer contrary to the provisions of the agreement, but the onus of proving the existence of such grounds shall lie upon the owner.

**(3)** Within 30 days of the owner having taken possession of goods which were comprised in a hire-purchase agreement the owner shall serve on the hirer and every guarantor of the hirer a notice, in writing, in the form of schedule 4.

**(4)** If the notice required by subsection (3) is not served, the rights of the owner under the hire-purchase agreement shall thereupon cease and determine, but, if the hirer exercises the hirer's rights under this Act to recover the goods so taken possession of, the agreement shall have the same force and effect in relation to the rights and liabilities of the owner and the hirer as it would have had if the notices had been duly given.

#### **Owner to retain possession of goods repossessed for 21 days**

**14.** Where an owner has taken possession of any goods the owner shall not, without the consent in writing of the hirer, sell or dispose of the goods or part with possession thereof until after the expiration of 21 days from the

date of the service on the hirer of a notice in the form of schedule 4 or, if notice under section 15(1)(a)(i) has been given, until the time for payment or tender pursuant to that notice has expired (which ever is the later).

### **As to hirer's rights and immunities when goods repossessed**

**15.(1)** If the owner takes possession of any goods comprised in a hire-purchase agreement—

- (a) the hirer may, before or within 21 days of the service on the hirer of a notice in the form of schedule 4, by giving to the owner a notice in writing signed by the hirer or the hirer's agent—
  - (i) require the owner to redeliver to or to the order of the hirer (subject to compliance by the hirer with the provisions of section 16) the goods which have been repossessed; or
  - (ii) require the owner to sell the goods to any person introduced by the hirer who is prepared to purchase the goods for cash at a price not less than the estimated value of the goods set out in the notice in the form of schedule 4 served upon the hirer;
- (b) the hirer may recover from the owner—
  - (i) if the value of the goods at the time of the owner so taking possession thereof is less than the net amount payable but the total of that value and the amount paid or provided, whether by cash or other consideration, by or on behalf of the hirer under the agreement exceeds the net amount payable—the difference between that total and the net amount payable; or
  - (ii) if the value of the goods at the time of the owner so taking possession thereof is equal to or greater than the net amount payable—the total of that value and the amount paid or provided, whether by cash or other consideration, by or on behalf of the hirer under the agreement, less the net amount payable;
- (c) the owner shall not be entitled to recover any sum (whether under a judgment or order or otherwise) which would together with—

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- (i) the value of the goods at the time of the owner so taking possession thereof; and
- (ii) the amount paid or provided, whether by cash or other consideration, by or on behalf of the hirer under the agreement;

amount to more than the net amount payable in respect of the goods.

(2) For the purposes of this section—

- (a) the net amount payable shall be the total amount payable less the statutory rebates for terms charges, insurance, and maintenance; and
- (b) the value of any goods at the time of the owner taking possession thereof shall be—
  - (i) the best price which could be reasonably obtained by the owner at that time; or
  - (ii) if the hirer has introduced a person who has purchased the goods for cash—the amount paid by such person;less—
  - (iii) the reasonable costs incurred by the owner of and incidental to taking possession of the goods; and
  - (iv) any amount properly expended by the owner on the storage, repair, or maintenance of the goods; and
  - (v) whether or not the goods have subsequently been sold or disposed of by the owner—the reasonable expenses of selling or otherwise disposing of the goods.

(3) Where the owner has sold goods of which the owner has taken possession, the onus of proving that the price obtained by the owner for the goods was the best price which could be reasonably obtained by the owner at the time when he or she took possession of the goods shall be on the owner.

(4) Except in a case where the owner has failed to give to the hirer a notice as required by section 13(3), no amount shall be recoverable by the hirer under this section unless—

- (a) the hirer, within 21 days after the owner has given such a notice, gives to the owner notice in writing—
  - (i) setting out the amount claimed under the provisions of this section and the amount which is claimed by the hirer to be the value of such goods at the time of the owner taking possession thereof; and
  - (ii) signed by the hirer or the hirer's solicitor or agent; and
- (b) proceedings for the recovery of the amount so claimed under the provisions of this section are commenced not earlier than 7 days and, except where the goods have been sold at the request of the hirer to a person introduced by the hirer, not later than 3 months after the giving by the hirer to the owner of the notice referred to in paragraph (a).

(5) If, before any such proceedings are commenced by the hirer, the owner serves an offer in writing on the hirer to pay any amount in satisfaction of the claim by the hirer under this section, the owner in any such proceedings shall be entitled to pay into court the amount so offered and, upon so doing, shall be entitled to the same rights as if that amount had been tendered to the hirer before the proceedings were commenced.

(6) However, no such right shall be available to the owner in any proceedings by the hirer to recover the amount so offered or any lesser amount if the hirer, before commencing the proceedings, notifies the owner in writing of the acceptance by the hirer of the amount so offered.

### **Power to hirer to regain possession of goods in certain circumstances**

**16.(1)** If, within 14 days after giving notice as aforesaid pursuant to the provisions of section 15(1)(a)(i), the hirer—

- (a) pays or tenders to the owner any amount due by the hirer under the hire-purchase agreement in respect of the period of hiring up to the date of such payment or tender (and for the purposes of this paragraph the hiring shall be deemed to have continued up to such date); and
- (b) remedies any breach of the agreement or (where the hirer is unable to remedy the breach by reason of the fact that the owner has taken possession of the goods) pays or tenders to the owner



the costs and expenses reasonably and actually incurred by the owner in doing any act, matter, or thing necessary to remedy that breach; and

- (c) pays or tenders to the owner the reasonable costs and expenses of the owner of and incidental to the owner taking possession of the goods and returning them to or to the order of the hirer;

the owner shall forthwith return the goods to the hirer and the goods shall be received and held by the hirer pursuant to the terms of the hire-purchase agreement as if the breach had not occurred and the owner had not taken possession thereof.

(2) However, where the goods are returned to the hirer as aforesaid and any breach has not been remedied, the owner shall not have any right arising out of that breach to take possession of such goods unless—

- (a) by notice in writing given to the hirer at the time of return as aforesaid the owner specifies the breach and requires it to be remedied; and
- (b) the hirer fails within 14 days or within the time specified in the notice (whichever is the longer) after receiving such notice to remedy the breach.

### **Power to court to vary existing judgments or orders when goods are repossessed**

**17.** In any legal proceedings in relation to a hire-purchase agreement, after the owner has taken possession of the goods, the court before which such proceedings are brought may vary or discharge any judgment or order of any court (whether a Magistrates Court or not) against the hirer for the recovery of money so far as is necessary to give effect to the provisions of section 15.

## **PART 4—GUARANTEES**

### **Provisions as to guarantors**

**18.(1)** Save as provided in this Act a guarantor shall not by reason of the operation of this Act be discharged from liability under the guarantor's guarantee.

**(2)** The liability of a guarantor shall continue notwithstanding that the owner has, pursuant to the provisions of a hire-purchase agreement, taken possession of the goods comprised therein (and whether or not the goods have been redelivered to or to the order of the hirer pursuant to this Act); but nothing in this subsection shall operate to preserve the liability of a guarantor where the owner and the hirer have entered into a new agreement in respect of the goods comprised in any hire-purchase agreement.

**(3)** No guarantor shall be liable to any further or other extent than the hirer, the performance of whose obligations the guarantor has guaranteed; but, subject to section 19, nothing in this Act shall affect any agreement by the guarantor binding the guarantor to the performance of any obligation which is not one of the obligations imposed on the hirer under the hire-purchase agreement in respect of which the guarantee is given.

**(4)** Where goods have been delivered to or to the order of the hirer pursuant to a hire-purchase agreement and the owner subsequently takes possession thereof, any guarantor who has paid any moneys to the owner in accordance with the guarantor's guarantee shall have the like right in like manner to recover such moneys as the guarantor would have had if the guarantor had been the hirer of the goods, but for the purpose of calculating the amount received by the owner all moneys paid and the value of any other consideration provided by or on behalf of the hirer under the agreement shall be deemed to have been paid or provided by the guarantor.

**(5)** However, no moneys shall be recovered by the guarantor in excess of the moneys actually paid by the guarantor.

### **Guarantor not to be bound in certain cases unless independently advised**

**19.(1)** Where a guarantor enters into an agreement binding the guarantor—

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- (a) to pay to the owner under a hire-purchase agreement an aggregate sum which is larger than the balance originally payable under the agreement; or
- (b) to perform an obligation in respect of goods other than the goods comprised in a hire-purchase agreement; or
- (c) to permit the owner under a hire-purchase agreement or any person acting on behalf of the owner to enter upon any premises for the purpose of taking possession of or inspecting goods subject to the agreement; or
- (d) to relieve the owner under a hire-purchase agreement or any person acting on behalf of the owner from liability for any such entry;

the agreement so entered into by the guarantor shall be void (and the owner under the hire-purchase agreement shall be guilty of an offence against this Act) unless the agreement is executed by the guarantor in the presence of the clerk of a court or a solicitor instructed and employed independently of the owner and the clerk or the solicitor, as the case may be, certifies in writing upon the agreement—

- (e) that he or she is satisfied that the guarantor understands the true purport and effect of the agreement; and
- (f) that the guarantor has executed the agreement in his or her presence.

(2) A clerk or a solicitor shall not give a certificate in respect of an agreement under subsection (1) unless—

- (a) he or she has read over and explained the agreement to the guarantor or has caused the agreement to be read over and explained to the guarantor in his or her presence; and
- (b) he or she has examined the guarantor touching the guarantor's knowledge of the agreement; and
- (c) he or she is satisfied that the guarantor understands the true purport and effect of the agreement; and
- (d) the guarantor has freely and voluntarily executed the agreement in his or her presence.

(3) Failure by a clerk or by a solicitor to comply with subsection (2) in respect of a certificate shall not invalidate the certificate.

## **PART 5—INSURANCE**

### **As to insurance of goods comprised in hire-purchase agreements**

**20.(1)** An owner may require any goods comprised in a hire-purchase agreement to be insured in the names of the owner and the hirer against any risk that the owner thinks fit for the period of the agreement at the expense of the hirer.

(2) An owner shall not require a hirer to insure any such risk with any particular insurer.

(3) An owner shall not refuse to enter into a hire-purchase agreement with a person who effects insurance of the goods for the period of the agreement against such risks and subject to such terms, conditions, and exceptions as are required by the owner in the names of the owner and the hirer with a reputable insurer if the owner has no grounds other than the effecting of such insurance upon which the owner could reasonably refuse to enter into the agreement.

(4) An owner shall not require a hirer to obtain insurance against risks or subject to terms, conditions, and exceptions which the owner does not require if he or she arranges the insurance.

### **Hirer to be entitled to insurance rebates**

(5) Where, in respect of the insurance of goods comprised in a hire-purchase agreement, the insurer allows a no-claim rebate or a rebate of a similar nature, the hirer under the agreement shall be entitled to the benefit of the rebate and any person who knowingly pays or allows any such rebate to an owner shall be guilty of an offence against this Act.

## **PART 7—MISCELLANEOUS**

### **Power to court to reopen certain hire-purchase transactions**

**28.(1)** In any proceedings under this Act or arising out of a hire-purchase agreement or instituted pursuant to subsection (4) where it appears to the court that the transaction is harsh and unconscionable or is otherwise such that the Supreme Court would give relief on an equitable ground the court may reopen the transaction and take an account between the parties thereto.

**(2)** The court reopening any transaction under this section may, notwithstanding any statement or settlement of accounts or any agreement purporting to close previous dealings and create a new obligation—

- (a) reopen any account already taken between the parties; and
- (b) relieve the hirer and any guarantor from payment of any sum in excess of such sum in respect of the cash price, terms charges, and other charges as the court adjudges to be fairly and reasonably payable; and
- (c) set aside either wholly or in part or revise or alter any agreement made or security given in connection with the transaction; and
- (d) give judgment for any party for such amount as, having regard to the relief (if any) which the court thinks fit to grant, is justly due to that party under the agreement; and
- (e) if it thinks fit give judgment against any party for delivery of the goods if they are in the party's possession.

**(3)** Where it appears to the court that any person other than the owner has shared in the profits of or has any beneficial interest prospectively or otherwise in the transaction which the court holds to be harsh and unconscionable the court may add that person as a party to the case and may give judgment against that person for such amount as it thinks fit or for the delivery of the goods if they are in the party's possession and the court may make such other order in respect of that person as it thinks fit.

**(4)** Proceedings may be instituted in any court (including a Magistrates Court constituted in accordance with the provisions of this Act) by the hirer or any guarantor under a hire-purchase agreement for the purpose of obtaining relief under this section.

(5) However, nothing in subsection (4) shall authorise the bringing of proceedings in a court where the total amount payable under the hire-purchase agreement concerned exceeds the monetary limit to which the jurisdiction of such is subject or, in the case of a Magistrates Court, the monetary limit to which the jurisdiction of a Magistrates Court, constituted under the *Magistrates Courts Act 1921*, is subject.

(5) In any proceedings under this section the court shall have and may exercise all or any of the powers conferred by subsections (1), (2), and (3) notwithstanding that the time for the payment of any of the amounts payable under the agreement may not have arrived.

(6) A hirer or guarantor under a hire-purchase agreement is not entitled to institute proceedings under this section—

- (a) in a case where the owner has taken possession of the goods comprised in the agreement—after the expiration of a period of 4 months from the time when the owner serves the notice in the form of schedule 4; or
- (b) in any other case—after the expiration of a period of 4 months from the time when the transaction is closed.

### **Power to court to restrain repossession of certain goods from farmer**

**30.(1)** Where—

- (a) goods consisting of a harvester, binder, tractor, plough or other agricultural implement or a motor truck are comprised in a hire-purchase agreement; and
- (b) the hirer is a farmer;

the period fixed by any notice of intention to take possession of the goods served under section 13(1) shall, notwithstanding the period specified in that subsection, be a period of not less than 30 days after the service of the notice.

(2) The farmer may, within the period fixed by the notice, apply to the court for an order restraining the owner from taking possession of the goods.

(3) If the court is satisfied that, within 12 months from the date of the application, the farmer will have a reasonable prospect of being able to pay

all instalments due and owing on that date, the court may make an order restraining the owner from taking possession of the goods for such period not exceeding 12 months as the court fixes.

(4) An order under subsection (3) may include such terms and conditions, including conditions as to payment of instalments, as the court thinks fit.

(5) In this section—

**“farmer”** means any person engaged in agriculture, pasturage, horticulture, viticulture, apiculture, poultry farming, dairy farming, or any other business consisting of the cultivation of soil, the gathering in of crops or the rearing of livestock.

## **Liens**

**31.(1)** Subject to subsection (2), where a worker does work upon goods comprised in a hire-purchase agreement in such circumstances that, if the goods were the property of the hirer, the worker would be entitled to a lien on the goods for the value of the work, the worker is entitled to a lien notwithstanding that the goods are not the property of the hirer.

(2) The lien is not enforceable against the owner if the hire-purchase agreement contains a provision prohibiting the creation of a lien by the hirer and the worker had notice of that provision before doing the work upon the goods.

## **Fixtures**

**32.(1)** Goods comprised in a hire-purchase agreement which, at the time of the making of the agreement, were not fixtures to land shall not in respect of the period during which the agreement remains in force be treated as fixtures to land.

(2) Notwithstanding anything contained in subsection (1), the owner shall not be entitled to repossess goods which have been affixed to a dwelling house or residence if, after the goods have become so affixed, any person other than the hirer has bona fide acquired for valuable consideration an interest in the land without notice of the rights of the owner of the goods.

**Avoidance of certain provisions**

**33.(1)** Any provision in any agreement or other document whereby—

- (a) any right conferred on the hirer by this Act to determine a hire-purchase agreement is excluded or restricted; or
- (b) any liability beyond the liability imposed by this Act is imposed on the hirer under a hire-purchase agreement by reason of the determination of the agreement in accordance with this Act; or
- (c) the hirer under a hire-purchase agreement is subject to any greater liability on the determination, in any manner whatsoever, of the agreement or of the bailment thereunder, than the liability to which the hirer would be subject if the agreement were determined in accordance with this Act; or
- (d) the hirer under a hire-purchase agreement is required to pay any sum (whether or not it is described in the agreement as interest) in respect of any amount due under the agreement but not paid exceeding a sum equal to the simple interest on that amount calculated at the rate of 8% per annum on a daily basis for the period for which it is due and not paid; or
- (e) any person acting on behalf of the owner under a hire-purchase agreement in connection with or in the course of the negotiations leading to the entering into the agreement is to be treated as, or declared to be, the agent of the hirer; or
- (f) the owner under a hire-purchase agreement is relieved from liability for the acts or defaults of any person acting in connection with or in the course of the negotiations leading to the entering into the agreement; or
- (g) the owner under a hire-purchase agreement or any person acting on the owner's behalf is authorised to enter upon the premises for the purpose of taking possession of goods comprised in the agreement or is relieved from liability for any such entry; or
- (h) the operation of a hire-purchase agreement is determined or modified or any person is authorised to repossess any goods comprised in a hire-purchase agreement if the hirer becomes bankrupt or commits an act of bankruptcy or executes a deed of assignment or a deed of arrangement (whether all or any of these



events are named); or

- (i) except as expressly provided by this Act the operation of any provision of this Act is excluded, modified, or restricted;

shall be void.

(1A) However, but without affecting the liability of any person to be convicted for an offence against this section, all moneys paid and the value of any other consideration provided by or on behalf of the hirer under a provision in an agreement or other document that is void under the provisions of this subsection shall be recoverable by the hirer from the owner under the hire-purchase agreement concerned by action as for a debt.

(2) Where any agreement or other document contains a provision that is void under the provisions of subsection (1), the owner under the hire-purchase agreement concerned shall be guilty of an offence against this Act.

### **Restrictions on payments to owners of goods by financiers**

**34.(1)** If in connection with any goods any person (in this section called the “**dealer**”) arranges that some other person (in this section called the “**financier**”) shall—

- (a) enter into a hire-purchase agreement in relation to those goods with a hirer; or
- (b) accept any assignment of the dealer’s property in the goods comprised in, or of the dealer’s rights under, a hire-purchase agreement; or
- (c) advance or pay money to the dealer or to some person on the dealer’s behalf in respect of a hire-purchase agreement in relation to such goods;

such dealer shall not seek, accept, demand, or receive from the financier and such financier shall not pay, offer, or grant to the dealer, directly or indirectly, any money or other valuable consideration which, together with the money (if any) paid or payable by or on behalf of the hirer to the dealer and the value of any other consideration (if any) furnished or to be furnished by or on behalf of the hirer to the dealer would exceed the cash price of the goods.

**(2) However—**

- (a) where the dealer has entered into a contract guaranteeing the performance of the hire-purchase agreement by the hirer—a commission not exceeding one-tenth of the total terms charges payable under the hire-purchase agreement may be paid by the financier to the dealer; and
- (b) where the dealer has agreed with the hirer to maintain or to provide any service for the goods during the currency of the hire-purchase agreement—any amount payable under the agreement in respect of the maintenance or service may be paid by the financier to the dealer.

**Certain transactions prohibited**

**35.** Any person (in this section called the “**owner**”) who knowingly—

- (a) enters into an agreement for the bailment of goods to any person (in this section called the “**hirer**”) which agreement does not by itself constitute a hire-purchase agreement; or
- (b) takes from any person (in this section called the “**hirer**”) an offer in writing that, if accepted, will constitute an agreement for the bailment of goods but will not by itself constitute a hire-purchase agreement;

in association, directly or indirectly, with the making, by the hirer to the owner or to any person associated, directly or indirectly, in business with the owner, of an offer in writing to purchase the goods the subject of the agreement referred to in paragraph (a) or of the offer referred to in paragraph (b), on terms and conditions that, if the offer in writing to purchase the goods is accepted, will constitute a hire-purchase agreement shall be guilty of an offence against this Act.

**As to securities collateral to hire-purchase agreements**

**36.** Where—

- (a) a bill of exchange or promissory note has been given by a hirer or guarantor under a hire-purchase agreement to the owner in respect of an amount payable under the agreement; and

- (b) the payment in due course of the bill of exchange or promissory note would, by virtue of the operation of any provision of this Act or otherwise result in payment of an amount in excess of the liability of the hirer under the agreement;

the owner shall be liable to indemnify the hirer or guarantor, as the case may be, in respect of the amount of the excess.

### **False statement by dealers in proposals**

**37.** Any dealer who prepares or causes to be prepared any hire-purchase agreement or offer in writing which, if accepted, will constitute a hire-purchase agreement with the intention of bringing about a contractual relationship between an owner and a hirer and which agreement or offer contains to the knowledge of the dealer any false statement or representation that is false in any material particular shall be guilty of an offence against this Act.

Maximum penalty—\$400 or 3 months imprisonment.

### **Hirer may be required to state where goods are**

**38.** The owner of any goods comprised in a hire-purchase agreement may at any time by notice in writing served on the hirer thereof require the hirer to state in writing where the goods are, or, if the goods are not in the hirer's possession, to whom the hirer delivered the goods or the circumstances under which the hirer lost possession of them and any hirer who does not within 14 days after the receipt of any such notice give to the owner such a statement or who gives a statement containing any information which is to the knowledge of the hirer false shall be guilty of an offence against this Act.

### **Fraudulent sale or disposal of goods by hirer**

**39.** Every person who, by the disposal or sale of any goods comprised in a hire-purchase agreement, or by the removal of the goods, or by any other means defrauds or attempts to defraud the owner, shall be guilty of an offence against this Act.

Maximum penalty—\$400 or 3 months imprisonment.

**Power to court to extend times**

**40.** Any time prescribed by this Act for the service or giving of any notice or other document or for the commencement of proceedings may, on an application made to the court (either before or after the expiration of that time but after notice to the other party to the hire-purchase agreement) be extended by that court for such further period, and upon such conditions, as the court thinks fit.

**Power to court to order delivery of goods unlawfully detained**

**41.(1)** Upon complaint made by an owner who is entitled to take possession of any goods comprised in a hire-purchase agreement or by any person acting on behalf of an owner that the hirer or any person acting on behalf of the hirer has refused or failed to deliver up possession of the goods on the service of a notice of demand made by the owner or by an agent of the owner authorised in that behalf, any justice of the peace may summon the person complained of to appear before a court and if it appears to the court hearing the case that the goods are being detained without just cause, the court may order the goods to be delivered up to the owner at or before a time, and at a place, to be specified in the order.

**(2)** Any person who neglects or refuses to comply with any order made under this section shall be guilty of an offence against this Act.

**As to service of notices**

**42.(1)** Any notice or document required or authorised to be served on or given to an owner or hirer under this Act may be so served or given—

- (a) by delivering it personally; or
- (b) by leaving it at the owner's or hirer's place of abode or business with some other person apparently an inmate thereof or employed thereat and apparently of or over the age of 16 years; or
- (c) by posting it addressed to the owner or hirer at the owner's or hirer's last-known place of abode or business.

**Proof of service**

**(2)** The affidavit or oral evidence of an owner or his or her servant or agent as to the delivery or posting document required to be served by this

Act shall be admissible as prima facie evidence of the due service of the document or notice if the deponent swears to the facts necessary to prove due service either from the deponent's own knowledge or to the deponent's information and belief based on and verified by the records of the owner.

### **Size etc. of type etc. required in certain documents**

**43.(1)** Any part of a prescribed document that is not clear and legible or that is printed in type of a size smaller than the type known as 10-point times, shall be deemed to be not in writing.

**(2)** In this section—

**“prescribed document”** means—

- (a) every hire-purchase agreement; and
- (b) any statement under section 3(1); and
- (c) any copy of an agreement, notice, or statement required by section 4 to be served on a hirer; and
- (d) any statement required by section 7(1) to be sent to the hirer; and
- (e) any notice under section 13(1) or (3).

### **Appointment of inspector**

**44.(1)** Inspectors necessary for this Act are to be employed under the *Public Service Act 1996*.

**(5)** Every inspector shall as far as practicable be furnished with a certificate of appointment signed by the Minister and upon entering any premises shall, if required, produce that certificate to the owner or occupier of the premises.

### **General powers of inspectors**

**(6)** Any inspector may—

- (a) call to his or her aid any person the inspector thinks competent to assist the inspector in making any inspection or examination;
- (b) make such examination and inquiry as may be necessary to ascertain whether the provision of this Act have been or are being

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complied with by any person or in respect of any hire-purchase agreement or any agreement made in connection with any hire-purchase agreement;

- (c) question, with respect to matters under this Act, the owner or occupier of any premises, every person whom the inspector finds in any premises, and every person who has been within the preceding 6 months employed in or on any premises to ascertain whether this Act has been or is being complied with, and require any such person to answer the question put and to sign a declaration as to the truth of the person's answers;
- (d) require the production of any book, account, notice, record, certificate, document or other writing which is in the inspector's opinion material to any examination or inquiry under paragraph (b), and inspect, examine, and take copies of or extracts from the same.

**Inspector may require name and address**

(7) Any inspector who—

- (a) finds any person committing or who reasonably suspects any person of having committed an offence against this Act; or
- (b) is making inquiries or investigations with a view to establishing whether or not an offence against this Act has been committed by any person;

may require such person to state the person's name and address, or name or address, and, if the inspector has reasonable ground to suppose that the name and address, or name or address, given is false, may require evidence of the correctness thereof.

**Records to be kept of hire-purchase agreements**

(8) Every owner who enters into a hire-purchase agreement shall keep proper records setting out particulars of the agreement and of the amounts charged and received in respect thereof.

(8A) All such records shall be preserved by the owner for a period of not less than 1 year after the completion of the agreement concerned.

**Obstructing an inspector etc.**

(9) A person shall not—

- (a) assault, resist or obstruct an inspector in the exercise of the inspector's powers or in the discharge of the inspector's duties under this Act, or attempt so to do; or
- (b) fail to comply with the lawful requisition or any part of the lawful requisition of an inspector; or
- (c) fail, without reasonable excuse the proof whereof shall lie upon the person, to produce any book, account, notice, record, certificate, document or other writing which the person is required under this Act by an inspector to produce, or fail to allow an inspector to take a copy of or extract from any such book, account, notice, record, certificate, document or other writing; or
- (d) directly or indirectly prevent any person from appearing before or being questioned by an inspector, or attempting so to do; or
- (e) use any threat or any abusive or insulting language to any inspector or to any other person with respect to any inspection or examination or questioning.

Maximum penalty—\$400.

**(9A)** No person shall be required under this section to answer any question, or give any information or evidence, or to sign any declaration tending to criminate himself or herself.

### **Meaning of terms**

**(10)** In this section and section 46—

**“inspector”** means any inspector appointed under this Act, and includes any person appointed to act as an inspector, and also any person acting under direction, or in aid, of an inspector.

### **Place where proceedings in Magistrates Courts to be heard**

**45.(1)** Every matter or proceeding (other than proceedings for an offence against this Act) made or taken in a Magistrates Court under this Act shall be heard and determined summarily at a place appointed for holding such Magistrates Courts district wherein is situated the place whereat the goods comprised in the hire-purchase agreement to which the matter or proceeding relates are by virtue of the agreement required to be kept or, where no such place is so appointed, the place whereat the hirer ordinarily resides.

(1A) However, the court may, upon the application of any party to the said matter or proceeding at or before the hearing thereof and if satisfied that there is a manifest preponderance of convenience in so doing, direct that the matter or proceeding be heard at any other place appointed for holding Magistrates Courts whether situated within the same Magistrates Court district or not and thereupon the matter or proceeding may be lawfully heard and determined by a Magistrates Court at such other place.

(1B) In addition, the decision of the court upon any such application shall be final and conclusive.

### **Appeal from order of Magistrates Court**

(2) Any person aggrieved by an order made by a Magistrates Court in any matter or proceeding under the Act may appeal from that order under the *Justices Act 1886*, as if the same were a penalty imposed upon conviction for an offence by justices sitting as a Magistrates Court.

(3) The provisions of the *Justices Act 1886*, part 9 shall, with and subject to all necessary adaptations, apply to appeals under this section.

### **Penalty**

46.(1) Any person who contravenes or fails to comply with any provision of this Act shall for every such contravention or failure be guilty of an offence, and every person guilty of an offence against this Act where no other penalty is expressly provided shall be liable to a penalty of not more than \$400.

### **Summary proceedings**

(2) All offences against this Act may be prosecuted in a summary way under the *Justices Act 1886*, upon complaint of any person thereunto authorised by the Minister, either generally or in any special case.

### **Time for commencement of prosecutions**

(3) A prosecution for an offence against this Act may be commenced at any time within 12 months after the commission of the offence or within 6 months after the commission of the offence comes to the knowledge of the complainant, whichever is the later period.



**SCHEDULE 1*****Hire-purchase Act 1959*****SUMMARY OF YOUR FINANCIAL OBLIGATIONS  
UNDER PROPOSED HIRE-PURCHASE AGREEMENT  
RELATING TO**

section 3(1)

\* .....

The cash price of goods is ..... \$ .....

(a) The terms charges are ..... \$ .....

(a) Other charges are—

(a) For insurance for ..... years ..... \$ .....

(a) For maintenance ..... \$ .....

(a) For freight, vehicle registration, etc. \$ ..... \$ .....

The total amount you will have to pay (including  
deposit of \$ ..... ) is ..... \$ .....The difference between the cash price of goods and the total amount you  
will have to pay is therefore \$ .....

Your instalments under the proposed agreement will be †.

*NOTE.—The sequence of the items marked “(a)” in this form may be  
rearranged if desired provided that the sequence of items not so marked is  
unchanged.*

\* Insert short description of goods.

† Insert number, amount, and intervals of instalments.

**SCHEDULE 2*****Hire-purchase Act 1959*****ADVICE TO HIRERS**

section 4

Under the provisions of the *Hire-purchase Act 1959*—

- (a) you are entitled to a copy of the agreement and a statement of the amount that you owe if you make a written request to the owner for them (you may not request a copy or a statement more than once in 3 months);
- (b) with the written consent of the owner you can assign your rights under the hire-purchase agreement and the owner may not unreasonably refuse consent (for details of the procedure of assignment see section 9 of the Act);
- (c) you have the right to complete the agreement at any time and if you do you will be entitled to a rebate of some of the charges payable under the agreement (for details see section 11 of the Act);
- (d) if you are unable to pay your instalments you are entitled to return the goods to the owner at your own expense, but if you do you will be liable to pay an amount sufficient to cover the loss suffered by the owner (for details of the amount that you will have to pay see section 12 of the Act).

**SCHEDULE 3*****Hire-purchase Act 1959*****NOTICE OF INTENTION TO REPOSSESS**

section 13(1)

Take notice that .....  
 owner of \* .....  
 hired by you under an agreement dated the ..... day  
 of ..... 19 ..... intends to retake  
 possession of the goods after the expiration of † ..... days from the  
 service of this notice unless the arrears of instalments which now amount to  
 \$ .....  
 are paid to ..... at ..... on or  
 before ..... 19 .. .

Total amount payable ..... \$

Amount paid or provided by hirer to ...../..... 19 ..... \$

Arrears under agreement to ...../..... 19 ..... \$

\* Insert description of goods.

† Insert number of days, not being less than 7, or, where the hirer is a  
 farmer and section 30 applies not being less than 30.

**SCHEDULE 4*****Hire-purchase Act 1959*****ADVICE TO HIRERS**

section 11(3)

Now that the goods you hired have been repossessed you will be entitled to get them back—

- (a) If, within 21 days, you require the owner, by a notice in writing signed by you or your agent to redeliver the goods to you and if, within 14 days after giving the notice, you reinstate the agreement by paying the arrears and remedy the following breaches of the agreement (or pay the owner's expenses in remedying them).

The owner's estimate of the amount you must pay to reinstate the agreement is—

Arrears of instalments . . . . .	\$ . . . . .
Cost of storage, repair or maintenance . . . . .	\$ . . . . .
Cost of repossession . . . . .	\$ . . . . .
Cost of redelivery . . . . .	\$ . . . . .
Total . . . . .	\$ . . . . .

or

- (b) If, within 21 days, you give notice of your intention to finalise the agreement and pay the balance due under the agreement and costs of the repossession.

The owner's estimate of the amount required to finalise the agreement is—

Total amount payable under the agreement . . .	\$ . . . . .
Less deposit and instalments paid . . . . .	\$ . . . . .

## SCHEDULE 4 (continued)

Balance due under agreement .....	\$ .....
Less statutory rebates .....	\$ .....
Add cost of repossession .....	\$ .....
Storage, repair, or maintenance .....	\$ .....
Total .....	\$ .....

*If you don't reinstate or finalise the agreement* you will be liable for the owner's own loss unless the value of the goods repossessed is sufficient to cover your liability. If the value of the goods is more than sufficient to cover your liability you will be entitled to a refund.

The owner's estimate of the value of the goods repossessed is \$ .....  
entitled to a refund of \$ .....

\*On the basis of that estimate you are

liable to pay the owner \$ .....

NOTE—You may give a written notice to the owner requiring the owner to sell the goods to any cash buyer you can introduce who is willing to pay the owner's estimate of the value, i.e. †.

\* Strike out whichever inapplicable.

† Insert owner's estimate of value.

## DO NOT DELAY

Action to enforce your rights should be taken at once. You will lose your rights 21 days after the service or posting of this notice if you do not take action.

If you think you have rights under the *Hire-purchase Act 1959*, you should seek advice at once.

NOTE—Where this notice is sent to a guarantor it shall be endorsed as follows—

This notice is sent to you as guarantor of .....

As guarantor you have certain rights under the *Hire-purchase Act 1959*, and you should seek advice at once.

## ENDNOTES

### **1 Index to endnotes**

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2 Date to which amendments incorporated . . . . .	44
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### **2 Date to which amendments incorporated**

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 10 March 2000. Future amendments of the Hire-purchase Act 1959 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

### 3 Key

#### Key to abbreviations in list of legislation and annotations

AIA	=	Acts Interpretation Act 1954	(prev)	=	previously
amd	=	amended	proc	=	proclamation
amdt	=	amendment	prov	=	provision
ch	=	chapter	pt	=	part
def	=	definition	pubd	=	published
div	=	division	R[X]	=	Reprint No.[X]
exp	=	expires/expired	RA	=	Reprints Act 1992
gaz	=	gazette	reloc	=	relocated
hdg	=	heading	renum	=	renumbered
ins	=	inserted	rep	=	repealed
lap	=	lapsed	s	=	section
notfd	=	notified	sch	=	schedule
o in c	=	order in council	sdiv	=	subdivision
om	=	omitted	SIA	=	Statutory Instruments Act 1992
orig	=	original	SIR	=	Statutory Instruments Regulation 1992
p	=	page	SL	=	subordinate legislation
para	=	paragraph	sub	=	substituted
prec	=	preceding	unnum	=	unnumbered
pres	=	present			
prev	=	previous			

### 4 Table of earlier reprints

#### TABLE OF EARLIER REPRINTS

[If a reprint number includes a roman letter, the reprint was released in unauthorised, electronic form only.]

Reprint No.	Amendments included	Reprint date
1	to Act No. 82 of 1993	20 December 1995
1A	to Act No. 38 of 1996	14 January 1997
2	to Act No. 38 of 1996	16 February 1998
2A	to Act No. 63 of 1999	11 February 2000

## 5 Tables in earlier reprints

### TABLES IN EARLIER REPRINTS

Name of table	Reprint No.
Changed citations and remade laws	1
Changed names and titles	1
Corrected minor errors	1
Obsolete and redundant provisions	1
Renumbered provisions	1

## 6 List of legislation

### **Hire-purchase Act 1959 8 Eliz 2 No. 33**

date of assent 10 November 1959

commenced 1 January 1960 (proc pubd gaz 14 November 1959 p 1805)

as amended by—

### **Credit Act 1987 No. 52 s 179**

date of assent 1 October 1987

commenced 1 May 1989 (proc pubd gaz 17 December 1988 p 1943)

### **Public Service (Administrative Arrangements) Act (No. 2) 1990 No. 80 s 3 sch 6**

date of assent 14 November 1990

commenced on date of assent

### **Justice Legislation (Miscellaneous Amendments) Act 1991 No. 42 ss 1–3, sch**

date of assent 5 August 1991

commenced on date of assent (see s 2(1))

### **Consumer Law (Miscellaneous Provisions) Act 1993 No. 82 ss 1–3, pt 5**

date of assent 17 December 1993

commenced on date of assent

### **Public Service Act 1996 No. 37 ss 1–2, 147 sch 2**

date of assent 22 October 1996

ss 1–2 commenced on date of assent

remaining provisions commenced 1 December 1996 (1996 SL No. 361)

### **Consumer Credit Legislation Amendment Act 1996 No. 38 pt 1 sch**

date of assent 1 November 1996

ss 1–2 commenced on date of assent

remaining provisions commenced 1 November 1996 (see s 2 and 1996 SL No. 152)

### **Equity and Fair Trading (Miscellaneous Provisions) Act 1999 No. 63 pts 1, 7**

date of assent 6 December 1999

ss 1–2 commenced on date of assent

remaining provisions commenced 10 March 2000 (2000 SL No. 36)



## **7 List of annotations**

### **Short title**

**s 1** amd 1991 No. 42 s 3 sch; R1 (see RA ss 37, 40)

### **Interpretation**

**s 2** amd 1987 No. 52 s 179(1)(b); 1996 No. 38 s 3 sch  
def **“hire-purchase agreement”** amd 1987 No. 52 s 179(1)(a); 1993  
No. 82 s 32; 1996 No. 38 s 3 sch; 1999 No. 63 s 65  
def **“Schedule”** om R1 (see RA s 39)

### **Summary of proposed hire-purchase transaction to be given to prospective hirer**

**s 3** amd 1991 No. 42 s 3 sch

### **Powers of court in relation to insurance contracts associated with hire-purchase agreements**

**s 21** om 1991 No. 42 s 3 sch

### **As to contents of contracts of insurance**

**s 22** om 1991 No. 42 s 3 sch

### **Application of Part V**

**s 23** om 1991 No. 42 s 3 sch

## **PART VI—MINIMUM DEPOSITS**

**pt 6 (ss 24–27)** om 1991 No. 42 s 3 sch

### **Maximum rate of terms charges**

**s 29** om 1991 No. 42 s 3 sch

### **Appointment of inspector**

**s 44** amd 1990 No. 80 s 3 sch 6; R1 (see RA s 39); 1996 No. 37 s 147 sch 2

### **Fifth Schedule**

om R1 (see RA s 40)