

Hire-Purchase Act 1964

CHAPTER 53

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ELIZABETH II



1964 CHAPTER 53

An Act to amend the law relating to hire-purchase and credit-sale, and, in relation thereto, to amend the enactments relating to the sale of goods; to make provision with respect to dispositions of motor vehicles which have been let or agreed to be sold by way of hire-purchase or conditional sale; to amend the Advertisements (Hire-Purchase) Act 1957; and for purposes connected with the matters aforesaid. [16th July 1964]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

PART I

AMENDMENT OF LAW RELATING TO HIRE-PURCHASE AND CREDIT-SALE IN ENGLAND AND WALES

1.—(1) The Hire-Purchase Act 1938 (in this Part of this Act referred to as “the principal Act”) shall (except as provided by section 2 of this Act) apply as amended by subsection (5) of this section to all hire-purchase agreements and credit-sale agreements under which the hire-purchase price or total purchase price, as the case may be, does not exceed £2000. Extension of application of Hire-Purchase Act 1938.

(2) In accordance with the preceding subsection, in section 1 of the principal Act (which specifies a limit of £1000 in the case of livestock and of £300 in all other cases), for paragraphs (b) and (c) there shall be substituted the figure “£2000”.

(3) If at any time after the commencement of this Act it appears to Her Majesty in Council that the limit specified in section 1 of the principal Act (whether by virtue of the last preceding subsection or of a previous Order in Council under this

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subsection) should be further raised, Her Majesty may by Order in Council direct that section 1 of the principal Act shall be further amended so as to substitute, for the sum specified in that section, such larger sum as may be specified in the Order.

(4) No recommendation shall be made to Her Majesty to make an Order in Council under the last preceding subsection unless a draft of the Order has been laid before Parliament and approved by a resolution of each House of Parliament.

(5) In section 4(1) of the principal Act there shall be inserted the words " Provided that, if the court is satisfied in any action that a sum less than the amount 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 would be equal to the loss sustained by the owner in consequence of the termination of the agreement by the hirer, the court may make an order for the payment of that sum in lieu of that amount ".

Exclusion of
bodies
corporate.

2. The principal Act shall not apply to any hire-purchase agreement or credit-sale agreement which is made by or on behalf of a body corporate (whether incorporated in the United Kingdom or elsewhere) as the hirer or buyer of the goods to which the agreement relates.

Requirements
relating to
hire-purchase
agreements
and credit-sale
agreements.

3.—(1) The requirements specified in section 2(2) of the principal Act (which specifies requirements relating to hire-purchase agreements) and the requirements specified in section 3(2) of that Act (which specifies requirements relating to credit-sale agreements) shall apply to the hire-purchase agreement or credit-sale agreement, as the case may be, and not to a note or memorandum of such an agreement; and accordingly—

(a) in paragraph (a) of the said section 2(2) and in paragraph (a) of the said section 3(2) (which in each case requires that a note or memorandum of the agreement shall be made and signed by the hirer or buyer, as the case may be, and by or on behalf of all other parties to the agreement), for the words " a note or memorandum of the agreement is made and ", there shall be substituted the words " the agreement is ", and

(b) in paragraphs (b) to (d) of the said section 2(2) and in paragraphs (b) and (c) of the said section 3(2), for the words " note or memorandum ", in each place where they occur, there shall be substituted the word " agreement ".

(2) In the said section 2(2), after paragraph (d), there shall be inserted the words " and

(e) either—

(i) the agreement is signed by or on behalf of all other parties immediately after it is signed by the

hirer, and the copy referred to in paragraph (d) of this subsection is there and then delivered to him, or, the agreement having been signed by or on behalf of all other parties before it is signed by the hirer, that copy is delivered to him immediately after he signs the agreement, or

(ii) if, in a case not falling within the foregoing sub-paragraph, the relevant document (that is to say, the document which, on being signed as mentioned in paragraph (a) of this subsection, became the agreement) was presented, and not sent, to the hirer for his signature, then immediately after he signed the relevant document there was delivered to him a copy of that document in the form in which it then was, or

(iii) if the relevant document was sent to the hirer for his signature, then 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 in the proviso to the said section 2(2) for the words “or (d)” there shall be substituted the words “(d) or (e)”.

(3) In section 3(2) of the principal Act, after paragraph (c), there shall be inserted the words “and

(d) either—

(i) the agreement is signed by or on behalf of all other parties immediately after it is signed by the buyer, and the copy referred to in paragraph (c) of this subsection is there and then delivered to him, or, the agreement having been signed by or on behalf of all other parties before it is signed by the buyer, that copy is delivered to him immediately after he signs the agreement, or

(ii) if, in a case not falling within the foregoing sub-paragraph, the relevant document (that is to say, the document which, on being signed as mentioned in paragraph (a) of this subsection, became the agreement) was presented, and not sent, to the buyer for his signature, then immediately after he signed the relevant document there was delivered to him a copy of that document in the form in which it then was, or

(iii) if the relevant document was sent to the buyer for his signature, then 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 in the proviso to the said section 3(2) for the words “or (c)” there shall be substituted the words “(c) or (d)”.

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(4) The Board of Trade may by regulations provide that in any document which, on being signed as mentioned in section 2(2)(a) or section 3(2)(a) of the principal Act,—

- (a) constitutes a hire-purchase agreement to which that Act applies, or
- (b) constitutes a credit-sale agreement to which that Act applies under which the total purchase price exceeds £30,

the signature of the hirer or buyer shall be inserted in a space marked in such manner, and accompanied in the document by such words, as may be specified in the regulations; and the regulations may include provision as to the location of those words in relation to the space in which the signature is inserted, and may prescribe such other requirements (whether as to type, size, colour or disposition of lettering or otherwise) as the Board may consider appropriate for securing that the words come to the attention of the hirer or buyer at the time when he is about to sign the document.

(5) A document to which any regulations made under the last preceding subsection apply shall not be invalid by reason only that the regulations are not complied with; but—

- (a) in the case of a document which constitutes a hire-purchase agreement, section 2(2) of the principal Act shall have effect in relation to compliance with the requirements of any such regulations as it has effect in relation to compliance with the requirements specified in paragraphs (b) to (e) of the said section 2(2), and
- (b) in the case of a document which constitutes a credit-sale agreement, section 3(2) of the principal Act shall have effect in relation to compliance with the requirements of any such regulations as it has effect in relation to compliance with the requirements specified in paragraphs (b) to (d) of the said section 3(2).

(6) Section 3 of the principal Act shall have effect as if, for any reference to £5, there were substituted a reference to £30.

Right of
cancellation
of certain
hire-purchase
and credit-sale
transactions.

4.—(1) The provisions of this section shall have effect where a person (in this section referred to as “the prospective hirer or buyer”) signs a document (in this section referred to as “the relevant document”) which—

- (a) constitutes a hire-purchase agreement to which the principal Act applies, or would constitute such an agreement if executed by or on behalf of another person as owner of the goods to which it relates, or
- (b) constitutes a credit-sale agreement to which that Act applies under which the total purchase price exceeds

£30, or would constitute such an agreement if executed by or on behalf of another person as seller of the goods to which it relates,

and (in either case) the relevant document is signed by the prospective hirer or buyer at a place other than appropriate trade premises.

(2) At any time after he has signed the relevant document and before the end of the period of four days beginning with the day on which he receives the second statutory copy, the prospective hirer or buyer may serve a notice under this section (in this Part of this Act referred to as a "notice of cancellation")—

(a) on the owner or seller, or

(b) on any person who (whether by virtue of this Act or otherwise) is the agent of the owner or seller for the purpose of receiving such a notice.

(3) A notice of cancellation served as mentioned in the last preceding subsection shall have effect if, however expressed, it indicates the intention of the prospective hirer or buyer to withdraw from the transaction to which the relevant document relates.

(4) Where the prospective hirer or buyer serves a notice of cancellation, then—

(a) if, at the time when that notice is served, the relevant document constitutes such a hire-purchase agreement or credit-sale agreement as is mentioned in paragraph (a) or paragraph (b) of subsection (1) of this section, the service of the notice shall operate so as to rescind that agreement;

(b) in any other case, the service of the notice shall operate as a withdrawal of any offer to enter into such an agreement which is contained in, or implied by, the relevant document, and as notice to the owner or seller that any such offer is withdrawn.

(5) In this section "appropriate trade premises", in relation to a document, means premises at which either the owner or seller normally carries on a business, or goods of the description to which the document relates, or goods of a similar description, are normally offered or exposed for sale in the course of a business carried on at those premises, and "the second statutory copy", in relation to a document, means the copy of that document (in the form in which the document is after it has been signed by the prospective hirer or buyer and by or on behalf of the other party or parties thereto) which is sent by post to the prospective hirer or buyer after the document has been so signed and is the copy referred to in paragraph (d) of

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section 2(2) of the principal Act as modified by the next following section, or in paragraph (c) of section 3(2) of that Act as so modified, as the case may be.

(6) In this section “owner or seller”, in relation to the relevant document, means the person who, at the time when the document is signed by the prospective hirer or buyer, is specified in the document as the person who is to let the goods on hire to him or to sell the goods to him, as the case may be:

Provided that, if no person is so specified at that time, any person by whom, or on whose behalf, the document is executed at any subsequent time, and who is then specified in the document as the person letting or selling the goods, shall for the purposes of this section be deemed to be, and at all material times to have been, the owner or seller in relation to that document.

Information
as to right of
cancellation.

5.—(1) Where the following circumstances exist, that is to say—

- (a) subsection (1) of the last preceding section applies, and
- (b) the relevant document either constitutes such a hire-purchase agreement or credit-sale agreement as is mentioned in that subsection at the time when it is signed by the prospective hirer or buyer, or is subsequently executed by or on behalf of the owner or seller and thereupon constitutes such an agreement,

section 2 or section 3 of the principal Act, as the case may be, shall have effect in relation to the agreement subject to the modifications specified in the following provisions of this section.

(2) Section 2(2) or section 3(2) of the principal Act, as the case may be, shall apply in relation to that agreement as if in paragraph (d) of the said section 2(2) and in paragraph (c) of the said section 3(2) (each of which, as amended by section 3 of this Act, requires a copy of the agreement to be delivered or sent to the hirer or buyer within seven days) for the words “delivered or sent”, there were substituted the words “sent by post”, and as if, in paragraph (e) of the said section 2(2) and in paragraph (d) of the said section 3(2), sub-paragraph (i), and in sub-paragraph (ii) the words “in a case not falling within the foregoing sub-paragraph”, were omitted.

(3) If the agreement is a hire-purchase agreement, section 2(2) of the principal Act (as modified by the last preceding subsection) shall apply in relation to the agreement as if, at the end of paragraph (e), there were inserted the words “and

- (f) each copy referred to in paragraph (d) or paragraph (e) of this subsection which is delivered or sent to the hirer contains such a statement of the rights of the hirer under section 4 of the Hire-Purchase Act 1964,

and of matters relating to or consequential upon the exercise of those rights, as may be prescribed by regulations made by the Board of Trade, and that statement is so contained in such position, and complies with such other requirements (whether as to type, size, colour or disposition of lettering or otherwise) as may be so prescribed”.

(4) If the agreement is a credit-sale agreement, section 3(2) of the principal Act (as modified by subsection (2) of this section) shall apply in relation to the agreement as if, at the end of paragraph (d), there were inserted the words “ and

(e) each copy referred to in paragraph (c) or paragraph (d) of this subsection which is delivered or sent to the buyer contains such a statement of the rights of the buyer under section 4 of the Hire-Purchase Act 1964, and of matters relating to or consequential upon the exercise of those rights, as may be prescribed by regulations made by the Board of Trade, and that statement is so contained in such position, and complies with such other requirements (whether as to type, size, colour or disposition of lettering or otherwise) as may be so prescribed”.

(5) Any statement which, in accordance with regulations made under section 2(2) or section 3(2) of the principal Act as modified by this section, is contained either in the first statutory copy or in the second statutory copy of a document shall specify the name of a person to whom, and an address to which, notice of cancellation may be sent; and (without prejudice to any other respect in which, in accordance with section 33(3) of this Act, the regulations may make different provision as between the first statutory copy and the second statutory copy of a document, or as between copies delivered and copies sent) different names and addresses may be so specified in the first statutory copy and the second statutory copy of the same document.

(6) In the circumstances specified in subsection (1) of this section, any power of the court—

(a) under the proviso to section 2(2) of the principal Act, to dispense with the requirement specified in paragraph (d) thereof, or

(b) under the proviso to section 3(2) of that Act, to dispense with the requirement specified in paragraph (c) thereof, shall not be exercisable except where the copy of the agreement has been sent to the hirer or buyer but not within the period of seven days of the making of the agreement; and no power of the court under that proviso shall apply to any requirement imposed by virtue of subsection (3) or subsection (4) of this section.

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(7) In this and the next following section “the first statutory copy”, in relation to a document, means the copy thereof (in the form in which it is at the material time) which is either delivered as mentioned in sub-paragraph (ii), or sent as mentioned in sub-paragraph (iii), of section 2(2)(e) or section 3(2)(d) of the principal Act.

Service of
notice of
cancellation.

6.—(1) For the purposes of section 4 of this Act a notice of cancellation—

(a) shall be deemed to be served on the owner or seller if it is sent by post addressed to a person specified in a statement contained either in the first statutory copy or in the second statutory copy of the relevant document as being a person to whom such a notice may be sent, and is addressed to that person at an address so specified, and

(b) where the preceding paragraph applies, shall be deemed to be served on the owner or seller at the time when it is posted.

(2) The preceding subsection shall have effect without prejudice to the service of a notice of cancellation (whether by post or otherwise) on the owner or seller, or on such a person as is mentioned in section 4(2)(b) of this Act, in any way in which the notice could be served apart from the preceding subsection.

(3) A notice of cancellation which is sent by post to a person at his proper address, otherwise than in accordance with subsection (1) of this section, shall be deemed to be served on him at the time when it is posted.

(4) So much of section 26 of the Interpretation Act 1889 as relates to the time when service is deemed to have been effected shall not apply to a notice of cancellation.

Re-delivery,
and interim
care, of goods
comprised in
notice of
cancellation.

7.—(1) The provisions of this section shall have effect where a notice of cancellation is served, and at any time, whether before or after the service of that notice, any of the goods to which the relevant document relates are in the possession of the prospective hirer or buyer, having come into his possession in consequence, or in anticipation, of his signing that document.

(2) The prospective hirer or buyer shall not be under any obligation (whether arising by contract or otherwise) to deliver the goods except at his own premises and in pursuance of a request in writing signed by or on behalf of the person entitled to possession of the goods and served on the prospective hirer or buyer either before, or at the time when, the goods are collected from his premises; and any such obligation shall be subject to any lien, or other right to retain the goods, which he may have under section 8(2) or section 9(3) of this Act.

(3) If the prospective hirer or buyer—

- (a) delivers the goods (whether at his own premises or elsewhere) to an authorised person, or to a person designated for the purpose by an authorised person, or
- (b) sends the goods at his own expense to an authorised person,

he shall be taken to have done so with the consent of that authorised person and (if that person is not for the time being entitled to possession of the goods) with the consent of the person who is so entitled, and shall be discharged from any obligation (whether arising by contract or otherwise) to retain the goods or to deliver them to any person so entitled.

(4) Until the occurrence of whichever of the following events first occurs, that is to say—

- (a) the prospective hirer or buyer delivers or sends the goods as mentioned in paragraph (a) or paragraph (b) of the last preceding subsection, or
- (b) the period of twenty-one days beginning with the date of service of the notice of cancellation expires without his having received such a request as is mentioned in subsection (2) of this section and unreasonably refused or unreasonably failed to comply with it,

the prospective hirer or buyer shall be under an obligation to take reasonable care of the goods; and if he sends them to an authorised person as mentioned in paragraph (b) of the last preceding subsection, he shall be under an obligation to take reasonable care to see that they are received by that person and are not damaged in transit to him.

(5) Any obligation under the last preceding subsection shall be owed to the person for the time being entitled to possession of the goods, and any breach of that obligation shall be actionable, at the suit of that person, as a breach of statutory duty.

(6) Except as provided by subsections (4) and (5) of this section, the prospective hirer or buyer shall not be under any obligation (whether arising by contract or otherwise) to take care of the goods by reason of their having come into his possession as mentioned in subsection (1) of this section.

(7) In this section “authorised person” means a person falling within any one or more of the following descriptions, that is to say—

- (a) the person who conducted any antecedent negotiations in pursuance of which the prospective hirer or buyer signed the relevant document;
- (b) the person for the time being entitled to possession of the goods;

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(c) the owner or seller ;

(d) any person who is specified, as mentioned in section 6(1)(a) of this Act, as a person to whom a notice of cancellation may be sent,

and any reference to the premises of the prospective hirer or buyer is a reference to the premises which in the relevant document are specified as his address.

Further
consequences
of notice of
cancellation.

8.—(1) Where a notice of cancellation operates so as to rescind a hire-purchase agreement or credit-sale agreement—

(a) that agreement, and any contract of guarantee relating thereto, shall be deemed never to have had effect, and

(b) any security given by the prospective hirer or buyer in respect of money payable under the agreement, or given by a guarantor in respect of money payable under such a contract of guarantee, shall be deemed never to have been enforceable.

(2) On the service of a notice of cancellation, any sum which—

(a) has been paid by the prospective hirer or buyer in respect of the goods to which the relevant document relates, whether it has been paid before the signature of the document or in pursuance of any provision contained in that document, and

(b) is comprised (or would, if the document constituted a hire-purchase agreement or credit-sale agreement, be comprised) in the hire-purchase price or total purchase price, or (if it is not or would not be so comprised) has in pursuance of any antecedent negotiations been paid to, or for the benefit of, the owner or seller, or has in pursuance of any such negotiations been paid to, or for the benefit of, any person (other than the owner or seller) who conducted those negotiations,

shall be recoverable by the prospective hirer or buyer from the person to whom it has been paid ; and, if the prospective hirer or buyer is in possession of those goods, he shall have a lien on them for any sum which he is entitled to recover by virtue of this subsection.

(3) Any obligation to pay any sum which, if it had been paid before the service of a notice of cancellation, would have been recoverable by the prospective hirer or buyer under the last preceding subsection, shall be extinguished on the service of such a notice.

(4) Any sum recoverable under subsection (2) of this section shall be recoverable as a simple contract debt in any court of competent jurisdiction.

9.—(1) The provisions of this section shall have effect where a notice of cancellation is served, and, in pursuance of any antecedent negotiations conducted by him, a person (in this section referred to as “the dealer”) has agreed to take goods in part-exchange and those goods have been delivered to the dealer.

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Effect of
notice of
cancellation
where goods
given in part-
exchange.

(2) Unless, before the end of the period of ten days beginning with the date of service of the notice of cancellation, the goods in question are delivered to the prospective hirer or buyer, and are then in a condition which is substantially as good as when they were delivered to the dealer, the prospective hirer or buyer shall be entitled to recover from the dealer a sum equal to the part-exchange allowance.

(3) During the period of ten days referred to in the last preceding subsection the prospective hirer or buyer, if he is in possession of the goods to which the relevant document relates, shall be entitled to retain possession of them until either—

(a) the goods agreed to be taken in part-exchange are delivered to him in such a condition as is mentioned in that subsection, or

(b) a sum equal to the part-exchange allowance is paid to him ;

and if, immediately before the end of that period, he continues by virtue of this subsection to be entitled to retain possession of the goods to which the relevant document relates, he shall have a lien on those goods for any sum which he is entitled to recover by virtue of the last preceding subsection.

(4) Any sum recoverable under subsection (2) of this section shall be recoverable as a simple contract debt in any court of competent jurisdiction.

(5) Where the prospective hirer or buyer recovers from the dealer a sum equal to the part-exchange allowance, then, if the title of the prospective hirer or buyer to the goods agreed to be taken in part-exchange has not vested in the dealer, that title shall so vest on the recovery of that sum.

(6) For the purposes of this section—

(a) the dealer shall be taken to have agreed to take goods in part-exchange if, in pursuance of the antecedent negotiations, he has either purchased or agreed to purchase those goods or has accepted or agreed to accept them as part of the consideration for the transaction to which the relevant document relates, and

(b) the part-exchange allowance shall be taken to be the sum which, in the antecedent negotiations, was agreed to be allowed in respect of the goods referred to in

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the preceding paragraph, or, if no such sum was agreed, the part-exchange allowance shall be taken to be such sum as in all the circumstances it would have been reasonable to allow in respect of those goods if no notice of cancellation had been served.

Dealer to be agent of owner or seller in respect of certain representations.

10.—(1) Where a person (in this section referred to as “the owner or seller”) lets goods under a hire-purchase agreement to which the principal Act applies, or sells goods under a credit-sale agreement to which that Act applies, 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 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.

Dealer to be agent of owner or seller for receiving certain notices.

11.—(1) In relation to a document to which section 4(1) of this Act applies, any person who conducted any antecedent negotiations, but is not the owner or seller, shall be deemed to be the agent of the owner or seller for the purpose of receiving any notice of cancellation served by the prospective hirer or buyer.

(2) The preceding subsection shall have effect without prejudice to the operation of section 6(1) of this Act.

(3) Where a person has made an offer to enter into a hire-purchase agreement to which the principal Act applies, or a credit-sale agreement to which that Act applies, in a case not falling within section 4(1) of this Act, and wishes to withdraw that offer before it is accepted, any person who conducted any antecedent negotiations shall be deemed to be the agent of any other person concerned for the purpose of receiving notice that the offer is withdrawn.

(4) In the last preceding subsection “other person concerned”, in relation to an offer, means any person who would be in a position to accept the offer if it were not withdrawn.

(5) Where the hirer under a hire-purchase agreement to which the principal Act applies, or the buyer under a credit-sale agreement to which that Act applies, claims to have a right to rescind

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the agreement otherwise than by serving a notice of cancellation under section 4 of this Act, any person who conducted any antecedent negotiations shall be deemed to be the agent of the owner or the seller, as the case may be, for the purpose of receiving any notice rescinding the agreement (not being a notice of cancellation) which is served by the hirer or buyer.

(6) References in this section to rescinding an agreement do not include the termination of an agreement under section 4 of the principal Act or by the exercise of a right or power in that behalf expressly conferred by the agreement.

12.—(1) In section 8(1) of the principal Act (which provides that certain conditions and warranties shall be implied in hire-purchase agreements to which that Act applies), paragraph (d) (which relates to an implied condition that the goods shall be of merchantable quality) shall have effect subject to the following provisions of this subsection, that is to say,—

- (a) for the words “except where the goods are let as second hand goods, and the note or memorandum of the agreement made in pursuance of section two of this Act contains a statement to that effect” there shall be substituted the words “except in so far as the condition referred to in this paragraph is excluded by virtue of subsection (3A) or subsection (3B) of this section”, and
- (b) the words “as regards defects of which the owner could not reasonably have been aware at the time when the agreement was made, or” shall be omitted.

(2) The following subsection shall be substituted for section 8(2) of the principal Act (whereby a condition is implied where the hirer makes known the particular purpose for which the goods are required):—

“(2) Where the hirer, whether expressly or by implication,—

- (a) has made known to the owner, or to a servant or agent of the owner, 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 be an implied condition that the goods shall be reasonably fit for that purpose.

Section 24(2) of the Hire-Purchase Act 1964 shall apply for the purposes of this subsection as it applies for the purposes of Part I of that Act”.

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(3) At the beginning of subsection (3) of section 8 of the principal Act there shall be inserted the words "Subject to the following provisions of this section"; and after that subsection there shall be inserted the following subsections:—

"(3A) Where under a hire-purchase agreement goods are let as second-hand goods and—

(a) the agreement contains a statement to that effect, and a provision that the condition referred to in subsection (1)(d) of this section 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 and its effect made clear to him,

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

(3B) Where under a hire-purchase agreement goods are let 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 (1)(d) of this section 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 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."

Implied
conditions in
hire-purchase
by reference
to sample or
by description.

13.—(1) Where goods are let under a hire-purchase agreement to which the principal Act applies, and the goods are so let by reference to a sample, there shall be in the hire-purchase agreement—

(a) an implied condition that the bulk will correspond with the sample in quality, and

(b) an implied condition that the hirer will have a reasonable opportunity of comparing the bulk with the sample.

(2) Where goods are let under a hire-purchase agreement to which the principal Act applies, and are so let by description, there shall be in the hire-purchase agreement an implied condition that the goods will correspond with the description;

and if the goods are let under the hire-purchase 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.

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14.—(1) Where goods have been let under a hire-purchase agreement to which the principal Act applies, and the owner brings an action to enforce a right to recover possession of any of the goods from the hirer before one-third of the hire-purchase price has been paid or tendered as mentioned in section 11(1) of that Act, the action shall be brought in the county court for the district in which the hirer resides or carries on business, or resided or carried on business at the date on which he last made a payment under the hire-purchase agreement. Jurisdiction of county court.

(2) If in any such action the owner claims any sum due under the hire-purchase agreement, or under any contract of guarantee relating thereto, the county court shall have jurisdiction to hear and determine the action as well in relation to that claim as in relation to the claim to enforce such a right as is mentioned in the preceding subsection, if apart from this section the county court would not have jurisdiction to do so.

15.—(1) The provisions of this section shall have effect where goods are let under a hire-purchase agreement to which the principal Act applies, and that agreement, or any other agreement, contains a provision (however expressed, and whether limited to defaults in payment or not) whereby, apart from this section, on the occurrence of, or at a time to be ascertained by reference to, a default in the payment of one or more instalments or other sums payable by the hirer, such of the consequences mentioned in the next following subsection as are specified in that provision (in this section referred to as “the specified consequences”) would follow. Notice of hirer’s default.

(2) The consequences referred to in the preceding subsection are that the hire-purchase agreement, or the bailment of the goods, shall terminate, or shall be terminable, or that the owner shall have a right to recover possession of the goods.

(3) If default is made in the payment of one or more sums to which that provision (in this subsection referred to as “the relevant provision”) applies, the specified consequences shall not follow by reason of that default unless the owner serves on the hirer, by post or otherwise, a notice (in this section referred to as a “notice of default”) stating the amount which has become due, but remains unpaid, in respect of sums to which the relevant provision applies, and requiring the amount so stated to be paid within such period (not being less than seven days beginning with the date of service of the notice) as may be specified in the notice.

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(4) Where a notice of default is served, the specified consequences shall not follow before the end of the period specified in the notice by reason of any default to which the notice relates; and, if before the end of that period the amount specified in the notice is paid or tendered by or on behalf of the hirer or any guarantor, the specified consequences shall not follow thereafter by reason of any such default.

(5) In a case where the specified consequences are that the hire-purchase agreement, or the bailment of the goods, may be terminated by notice given by the owner, a notice of default may include a notice terminating the hire-purchase agreement or the bailment at or after the end of the period specified therein in accordance with subsection (3) of this section, subject to a condition that the termination is not to take effect if before the end of that period the amount specified in the notice of default is paid or tendered as mentioned in the last preceding subsection.

(6) Without prejudice to the service of a notice of default in any way in which such a notice could be served apart from this subsection, a notice of default shall be deemed to be served on the hirer under a hire-purchase agreement if—

- (a) it is addressed to the person last known to the owner as the hirer under the agreement, and is delivered at, or sent by post to, the last known address of that person, or
- (b) in a case where that person has died, the notice (if not served in accordance with the preceding paragraph) is addressed to that person's personal representative (whether by that or any similar description, and whether for the time being there is any personal representative of his or not) and is delivered at, or sent by post to, the address which was the last known address of the deceased person.

(7) Where the person who, immediately before his death, was the hirer under a hire-purchase agreement has died, and his rights under the agreement have not yet passed to a personal representative,—

- (a) section 9 of the Administration of Estates Act 1925 (vesting of estate of intestate between death and grant of administration) shall not be construed as enabling a notice of default to be served on the Probate Judge (as defined by that Act) as being the hirer under that agreement, and
- (b) subsections (1) to (5) of this section shall have effect as if the deceased person had not died, and any reference in those subsections to default in the payment of a sum payable by the hirer shall be construed accordingly.

(8) At any time after the service of a notice of default and before the amount specified in the notice is paid or tendered as mentioned in subsection (4) of this section or the period specified in the notice expires (whichever first occurs) the goods to which the hire-purchase agreement relates shall not be treated,—

- (a) for the purposes of section 4 of the Law of Distress Amendment Act 1908, as goods comprised in a hire-purchase agreement made by the hirer, or
- (b) for the purposes of that section or of section 38 of the Bankruptcy Act 1914, as goods which are by the consent and permission of the owner in the possession, order or disposition of the hirer.

16.—(1) The provisions of subsection (2) or (as the case may be) subsection (3) of this section shall have effect where goods are let under a hire-purchase agreement to which the principal Act applies, 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 provision in question,—

Avoidance of certain provisions relating to death of hirer.

- (a) the hire-purchase agreement, or the bailment of the goods, shall terminate, or shall be terminable, or the owner shall have a right to recover possession of the goods to which the hire-purchase agreement relates, or
- (b) any sum shall become payable by the hirer or any guarantor, or any liability of the hirer or any guarantor shall be increased or accelerated, or
- (c) any right of the hirer under the hire-purchase 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 the preceding subsection is the death of the hirer, 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, so much of the agreement as makes any such provision shall have effect as if any reference to the death of the hirer were omitted.

(4) Without prejudice to the preceding provisions of this section, where goods are let under a hire-purchase agreement to which the principal Act applies, and that agreement, or any other agreement contains any provision (whether expressed as a provision that the hire-purchase agreement shall be personal to the hirer or otherwise) which, if the hire-purchase agreement is in force immediately before the death of the hirer, would

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apart from this subsection have the effect of terminating the hire-purchase agreement on the death of the hirer or otherwise preventing the benefit of the hire-purchase agreement from being transmitted on his death, that provision shall be void in so far as it would have that effect.

Recovery of
possession of
goods after
death of hirer.

17.—(1) The provisions of this section shall have effect where goods have been let under a hire-purchase agreement to which the principal Act applies, and at any time after the death of a person who, immediately before his death, was the hirer in relation to that agreement (in this section referred to as “the deceased hirer”) the following circumstances exist, that is to say,—

- (a) the goods have not been delivered to the owner, and a person (in this section referred to as “the person in possession”) who is neither the owner of the goods nor a personal representative of the deceased hirer is in possession of the goods;
- (b) no order for the specific delivery of the goods or of any part of them has been made against the deceased hirer under paragraph (a) or paragraph (c) of section 12(4) of the principal Act or under section 13(4)(c) of that Act;
- (c) if an order for the specific delivery of the goods has been made against the deceased hirer under section 12(4)(b) of the principal Act, the postponement of the operation of the order has not been revoked by the court; and
- (d) no order under section 12(4) or section 13(4)(c) of the principal Act has (whether in pursuance of this section or otherwise) been made in respect of the goods against any person since the death of the deceased hirer.

(2) In relation to any time when those circumstances exist, subsection (1) of section 11 of the principal Act (which prevents an owner, after one-third of the hire-purchase price has been paid or tendered, from recovering possession of the goods from the hirer except by an action) shall have effect (subject to subsection (3) of that section) as if the reference to recovering the goods from the hirer included a reference to recovering them from the person in possession.

(3) Any reference in the principal Act to contravention of section 11 of that Act, or of subsection (1) of that section, shall include a reference to contravention of that subsection as applied by the last preceding subsection; and, if the owner recovers possession of the goods in contravention of that subsection as so applied, a personal representative of the deceased hirer shall (without prejudice to any other right exercisable by him as the hirer in relation to the hire-purchase agreement) be entitled to

recover from the owner, in an action for money had and received, all such sums as are mentioned in paragraph (a) of subsection (2) of that section.

(4) In section 12(1) of the principal Act, and in the following provisions of this Part of this Act,—

- (a) any reference to a case to which section 11 of that Act applies shall include a case to which section 11(1) of that Act applies by virtue of subsection (2) of this section, and
- (b) in relation to a case to which section 11(1) of that Act so applies; any reference to an action to enforce a right to recover possession of goods from the hirer shall include a reference to an action to enforce a right to recover possession of the goods from the person in possession;

and, in relation to any action to enforce a right to recover possession of the goods from the person in possession, section 10 of the principal Act shall apply as if any reference in that section to the hirer were a reference to the person in possession.

(5) In any action to which section 12(1) of the principal Act applies by virtue of subsection (4) of this section, the court (without prejudice to any other power exercisable by the court) may—

- (a) on the application of any party to the action, adjourn the action to enable a grant of probate or letters of administration to be obtained, and, if such a grant is obtained by a person who is not a party to the action, to enable that person to be made a party thereto, or
- (b) on the application of any person who is not a party to the action, but who satisfies the court that he is a personal representative of the deceased hirer, or that he intends to apply for letters of administration in respect of his estate, adjourn the action to enable that person to be made a party to the action, and, if he has not obtained a grant of probate or letters of administration, to enable him to obtain such a grant.

(6) Section 12(5) of the principal Act (which prevents a postponed order for the specific delivery of goods from being made unless they are in the possession or control of the hirer) shall not apply to an action to enforce a right to recover possession of the goods from the person in possession.

(7) Where the circumstances specified in subsection (1) of this section exist, in a case where an order for the specific delivery of the goods has been made under section 12(4)(b) of the principal Act in an action against the deceased hirer, then,

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notwithstanding anything in subsection (2) of this section, any right of the owner to recover possession of the goods from the person in possession shall be enforceable in that action (and not in an action against that person) and shall be so enforceable by an application for the issue of a warrant of delivery; and the court may adjourn any such application in the like circumstances, and for the like purposes, as in accordance with paragraphs (a) and (b) of subsection (5) of this section the court could adjourn an action.

(8) If, at any time when section 11(1) of the principal Act has effect in accordance with subsection (2) of this section, the person in possession refuses to give up possession of the goods to the owner, the person in possession shall not, by reason only of the refusal, be liable to the owner for conversion of the goods.

(9) The preceding provisions of this section shall have effect in relation to sections 11(1) and 12(1) of the principal Act as modified by section 15 of that Act (which relates to successive hire-purchase agreements between the same parties) as those provisions have effect in relation to the said sections 11(1) and 12(1) apart from the said section 15.

Powers of court on non-compliance with order for specific delivery of goods.

18.—(1) Where goods have been let under a hire-purchase agreement to which the principal Act applies, and, in a case to which section 11 of that Act applies, the owner has brought an action to enforce a right to recover possession of the goods from the hirer, then if—

- (a) the court has made an order in that action under section 12(4) or section 13(4)(c) of that Act (in this section referred to as “the previous order”), and
- (b) the previous order has not been complied with, or, in the case of an order under section 12(4)(b) of that Act (which relates to postponed orders for the specific delivery of goods), the hirer or any guarantor has failed to comply with any condition of the postponement, or with any term of the hire-purchase agreement as varied by the court, or has wrongfully disposed of the goods, and
- (c) the owner has not recovered possession of all the goods which under the previous order were directed to be delivered to him,

the owner may make an application under this section.

(2) Any application under this section shall be made to the court by which the previous order was made, and (whether the operation of the previous order was postponed or not) shall be made in the action in which that order was made.

(3) On any such application the court shall have power, if in the circumstances it considers it just to do so,—

- (a) to revoke the previous order, and
- (b) to make an order for the payment (in any manner in which money may be ordered to be paid in accordance with section 99 of the County Courts Act 1959) of a sum determined in accordance with subsection (4) of this section.

(4) Subject to any reduction under subsection (6) of this section, the sum referred to in paragraph (b) of the last preceding subsection shall be a sum equal to the balance of the price of the unrecovered goods which remains outstanding at the date when the order under that paragraph is made.

(5) The power to make an order under subsection (3)(b) of this section shall be exercisable against any person who, at the time when the order is made, is (apart from the previous order) liable to pay any sum which has then accrued due under the hire-purchase agreement; and on the making of such an order the owner's title to the unrecovered goods shall vest in the person against whom the order is made.

(6) Where the court makes an order under subsection (3)(b) of this section, the court shall deduct from the balance referred to in subsection (4) of this section such amount as the court thinks just, having regard to the extent to which the order requires any part of that balance to be paid at a date earlier than the date on which it would have become payable in accordance with the hire-purchase agreement.

(7) Where an order is made under subsection (3)(b) of this section after the issue of a warrant in pursuance of the previous order, the court shall cancel the warrant.

(8) In this section—

- (a) “the unrecovered goods” means those goods which, under the previous order, were directed to be delivered to the owner but of which he has not recovered possession at the time when the court makes the order under subsection (3)(b) of this section; and
- (b) “price” in relation to any goods, has the same meaning as in section 12 of the principal Act, and any reference to the balance of the price of any goods remaining outstanding shall be construed accordingly.

19.—(1) Where, in a case to which section 11 of the principal Act applies, the owner has brought an action to enforce a right to recover possession of the goods from the hirer, and the court has made an order under paragraph (a) or paragraph (b) of

Money claim after order for specific delivery.

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section 12(4) of that Act (in this section referred to as “the previous order”), then if—

- (a) the owner (whether the operation of the previous order was postponed or not) has recovered possession of all the goods, or
- (b) where the operation of the previous order was postponed, the court revokes the postponement,

the owner may make, or (if the claim in question has already been made in that action) may proceed with, any claim to which this section applies.

(2) This section applies to any claim—

- (a) for the payment of one or more instalments which had accrued due under the hire-purchase agreement before the action was brought, or
- (b) for the payment of any sum for which the hire-purchase agreement makes provision as mentioned in section 14(1) of the principal Act (which relates to provision in a hire-purchase agreement for bringing the payments up to a fixed amount on the termination of the agreement or of the bailment) and which had become payable before the action was brought.

(3) Where in pursuance of subsection (1) of this section the owner proposes to make or proceed with a claim as therein mentioned, that claim shall (whether the operation of the previous order was postponed or not) be made or proceeded with in the action in which the previous order was made, and, if the owner has recovered possession of all the goods, may, notwithstanding anything in section 14(1) of the principal Act, be so made or proceeded with at any time after he has recovered possession of them.

(4) In determining a claim to which this section applies the court may treat any sum paid in pursuance of an order made under section 12(4)(b) of the principal Act as a payment made (wholly or partly) in respect of any instalment or sum to which the claim relates.

Provisions as to guarantees and indemnities.

20.—(1) A contract of guarantee relating to a hire-purchase agreement to which the principal Act applies, or relating to a credit-sale agreement to which the principal Act applies under which the total purchase price exceeds £30, and any security given by a guarantor in respect of money payable under such a contract, shall (subject to the next following subsection) not be enforceable unless, within seven days of the making of the

contract of guarantee or the making of the hire-purchase agreement or credit-sale agreement, whichever is the later, there is delivered or sent to the guarantor—

- (a) a copy of the hire-purchase agreement or credit-sale 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 authorised by him to sign it on his behalf.

(2) If in any action the court is satisfied that a failure to comply with any requirement imposed by the preceding subsection 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.

(3) Where a contract of guarantee relating to a hire-purchase agreement to which the principal Act applies or to a credit-sale agreement to which that Act applies 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 four days after he has received a request in writing from the guarantor, and the guarantor has tendered to him the sum of 2s. 6d. for expenses, supply to the guarantor the documents specified in the next following subsection.

(4) The documents referred to in the last preceding subsection are—

- (a) a copy of the hire-purchase agreement or credit-sale agreement or, in the case of a credit-sale agreement under which the total purchase price does not exceed £30, a copy of any note or memorandum of the 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 the last preceding subsection is made, showing the matters specified in paragraphs (a) to (c) of section 6(1) of the principal Act (which relates to information required to be given to the hirer or buyer).

(5) In the event of a failure without reasonable cause to comply with subsection (3) of this section, then, while the default continues,—

- (a) no person shall be entitled to enforce the contract of guarantee against the guarantor, and

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- (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, the defaulter shall be liable on summary conviction to a fine not exceeding £25.

(6) The principal Act, the Hire-Purchase Act 1954 and this Part of this Act shall have effect in relation to a contract, made at the request (express or implied) of the hirer or buyer under a hire-purchase agreement or credit-sale agreement, to indemnify the owner or seller against any loss which he may incur in respect of that agreement, as they have effect in relation to a contract, made at the like request, to guarantee the performance of the hirer's or buyer's obligations under such an agreement.

Conditional
sale
agreements.

21.—(1) In the principal Act and in this Part of this Act “credit-sale agreement” shall not include a conditional sale agreement.

(2) In the following provisions of this section any reference to a conditional sale agreement to which this section applies is a reference to a conditional sale agreement under which the total purchase price does not exceed £2000 or such larger sum (if any) as is for the time being specified in section 1 of the principal Act:

Provided that any such reference shall not include a conditional sale agreement which is made by or on behalf of a body corporate (whether incorporated in the United Kingdom or elsewhere) as the buyer of the goods to which the agreement relates.

(3) The provisions of the principal Act (except section 20 thereof) and of the Hire-Purchase Act 1954 and of this Part of this Act relating to hire-purchase agreements shall have effect in relation to all conditional sale agreements to which this section applies as they have effect in relation to hire-purchase agreements to which the principal Act applies, subject to the exceptions and modifications specified in Part I of Schedule 1 to this Act.

(4) Without prejudice to the last preceding subsection, the enactments specified in Part II of Schedule 1 to this Act shall have effect subject to the provisions of that Part of that Schedule.

(5) In this section “conditional sale agreement” means an agreement for the sale of goods under which—

- (a) the purchase price or part of it is payable by instalments,
and

(b) 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,

and "total purchase price" means the total sum payable by the buyer under a conditional sale agreement, exclusive of any sum payable as a penalty or as compensation or damages for a breach of the agreement.

22.—(1) The Board of Trade may make regulations prescribing such requirements (whether as to type, size, colour or disposition of lettering, quality or colour of paper, or otherwise) as the Board may consider appropriate for securing that documents to which this section applies are easily legible. Legibility of documents.

(2) Subject to the provisions of subsection (4) of this section, the documents to which this section applies are documents of any of the following descriptions, that is to say—

- (a) any hire-purchase agreement to which the principal Act applies, and any such copy as is mentioned in paragraph (d) or paragraph (e) of section 2(2) of that Act ;
- (b) any credit-sale agreement to which the principal Act applies under which the total purchase price exceeds £30, and any such copy as is mentioned in paragraph (c) or paragraph (d) of section 3(2) of that Act ;
- (c) any copy supplied to a hirer or buyer in pursuance of a request made by him under section 6 of the principal Act ;
- (d) any note or memorandum of a contract of guarantee relating to such a hire-purchase agreement or credit-sale agreement as is mentioned in paragraph (a) or paragraph (b) of this subsection, and any such copy as is mentioned in paragraph (a) or paragraph (b) of section 20(1) of this Act ;
- (e) any such copy as is mentioned in paragraph (a) or paragraph (b) of subsection (4) of section 20 of this Act which is supplied to a guarantor in pursuance of a request made by him under subsection (3) of that section.

(3) A hire-purchase agreement, credit-sale agreement or contract of guarantee shall not be invalid by reason only that any regulations made under this section are not complied with ; but where the requirements of any such regulations relating to a document are not complied with,—

- (a) if the document falls within paragraph (a) or paragraph (b) of the last preceding subsection, section 2(2) or section 3(2) of the principal Act shall apply as if those

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requirements were included among the requirements specified in paragraphs (b) to (e) of the said section 2(2) or paragraphs (b) to (d) of the said section 3(2), as the case may be ;

- (b) if the document is a copy falling within paragraph (c) or paragraph (e) of the last preceding subsection, section 6(2) of the principal Act, or section 20(5) of this Act, shall apply as if that copy had not been supplied to the hirer or buyer, or the guarantor, as the case may be ;
- (c) if the document falls within paragraph (d) of the last preceding subsection, subsections (1) and (2) of section 20 of this Act shall apply as if the requirements of the regulations relating to that document were included among the requirements imposed by subsection (1) of that section.

(4) Without prejudice to the operation of section 33(3) of this Act in relation to any regulations made under this section, any such regulations—

- (a) may specify which parts of the contents of a document to which the regulations apply are permitted to consist of handwriting or a reproduction of handwriting, and may prescribe different requirements in relation to so much of the contents of such a document as is permitted to consist, and consists, of handwriting or a reproduction of handwriting and in relation to the remainder of the contents of such a document ; and
- (b) may except from any of the requirements of the regulations any marginal notes or other subsidiary parts of a document.

(5) In relation to so much of any document falling within paragraph (a) or paragraph (b) of subsection (2) of this section as consists of—

- (a) words or other matters prescribed by regulations made under section 3(4) of this Act, or
- (b) a statement required to be contained therein as prescribed by regulations made under section 2(2) or section 3(2) of the principal Act as modified by section 5 of this Act,

any regulations made under this section shall have effect subject to the provisions of the regulations referred to in paragraph (a) or paragraph (b) of this subsection, as the case may be.

Avoidance of provisions and contracts inconsistent with Part I.

23.—(1) Any provision which is contained in an agreement (whether a hire-purchase agreement or credit-sale agreement or not) and is a provision to which this subsection applies shall be void.

(2) The preceding subsection applies to—

- (a) any provision excluding or restricting the operation of any enactment contained in sections 4 to 9 of this Act or the exercise of any right conferred by such an enactment or imposing any liability in consequence of the exercise of such a right, other than or in addition to any liability imposed by such an enactment;
- (b) any provision excluding or restricting the operation of any enactment contained in section 10 or section 11 of this Act;
- (c) any provision excluding or modifying any condition implied by virtue of section 13 of this Act.

(3) Any contract, whether oral or in writing, which apart from this subsection would have effect as a contract to enter into an agreement to which this subsection applies (as distinct from a contract constituting such an agreement) shall be void.

(4) The last preceding subsection applies—

- (a) to any hire-purchase agreement to which the principal Act applies, and
- (b) to any credit-sale agreement to which that Act applies under which the total purchase price exceeds £30.

(5) This section shall have effect without prejudice to the operation of section 5 of the principal Act (which avoids certain provisions specified in that section).

24.—(1) In this Part of this Act “notice of cancellation” has the meaning assigned to it by section 4(2) of this Act. Interpretation
of Part I.

(2) In this Part of this Act “antecedent negotiations”, in relation to a hire-purchase agreement or credit-sale agreement, means any negotiations or arrangements with the hirer or buyer whereby he was induced to make the agreement or which otherwise promoted the transaction to which the agreement relates; and any reference in this Part of 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.

(3) The last preceding subsection—

- (a) shall have effect in relation to a document to which section 4 of this Act applies, but which does not constitute a hire-purchase agreement or credit-sale agreement, as if references to the agreement and to making the agreement were references respectively to the document and to signing the document and any reference to the hirer or buyer were a reference to the prospective hirer or buyer (within the meaning of that section), and

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(b) for the purposes of section 11(3) of this Act, shall have effect in relation to any offer to enter into a hire-purchase agreement or credit-sale agreement as if any reference to the agreement were a reference to the offer and any reference to the hirer or buyer were a reference to the person making the offer.

(4) Expressions to which a meaning is assigned by section 4 of this Act have the same meanings in sections 5 to 9 and section 11(1) of this Act as in the said section 4.

(5) For the purposes of this Part 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 10 of this Act, and references to making representations shall be construed accordingly.

(6) Section 21(1) of the principal Act (which defines certain expressions used in that Act) and section 3(1) of the Hire-Purchase Act 1954 (which provides that any deposit shall form part of the hire-purchase price) shall have effect for the purposes of this Part of this Act as they have effect for the purposes of the principal Act; and section 21(2) of the principal Act (which relates to the discharge of part of the hire-purchase price otherwise than by the payment of money) shall apply for the purposes of sections 18 and 19 of this Act.

(7) Without prejudice to the application, by virtue of the last preceding subsection, of the definition of "hire-purchase agreement" in section 21(1) of the principal Act, any reference in this Part of this Act to a document which constitutes a hire-purchase agreement or a credit-sale 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 shall be construed accordingly.

PART II

AMENDMENT OF LAW RELATING TO HIRE-PURCHASE AND
CREDIT-SALE IN SCOTLAND

25.—(1) The Hire-Purchase Act 1938, as amended by sections 1(1), (2) and (5), 3(1), (2), (3) and (6), 12, 21(1) and 34 of this Act, shall extend to Scotland, subject to—

(a) the modifications set out in Part I of Schedule 2 to this Act, and

Extension of
principal Act
to Scotland.

(b) the addition of the provisions set out in Part II of the said Schedule, being provisions corresponding to the provisions enacted for England and Wales by sections 2 and 3(1) of the Hire-Purchase Act 1954 and sections 1(3) and (4), 3(4) and (5) and 24(7) of this Act.

(2) In accordance with the preceding subsection the said Act of 1938 shall have effect in Scotland as set out in Part III of the said Schedule 2.

(3) The following enactments shall cease to have effect, that is to say, sections 1 to 5 and 8 and 9 of the Hire Purchase and Small Debt (Scotland) Act 1932, the Hire-Purchase Act 1954 (in so far as it applies to Scotland) and the Credit-Sale Agreements (Scotland) Act 1961.

(4) The following provisions of this subsection shall have effect for the purpose of the construction of any reference (however expressed) in any enactment passed before this Act to a contract to which the Hire Purchase and Small Debt (Scotland) Act 1932 applied or would in certain circumstances have applied:—

- (a) if the reference is a reference to a contract to which paragraph (a) of section 1 of that Act applied or would have applied, it shall be construed as a reference to a hire-purchase agreement within the meaning assigned to that expression by section 21(1) of the Act of 1938;
- (b) if the reference is a reference to a contract to which paragraph (b) of the said section 1 applied or would have applied, it shall be construed as a reference to a conditional sale agreement within the meaning assigned to that expression by section 21(5) of this Act;
- (c) if the context of the reference requires that it shall be construed as a reference only to a contract relating to an article within the limitation as to value specified in the said paragraph (a) or, as the case may be, the said paragraph (b) it shall be construed as a reference to a hire-purchase agreement (within the meaning assigned as aforesaid) under which the hire-purchase price does not exceed the limitation for the time being specified in section 1(1) of the Act of 1938 or, as the case may be, a conditional sale agreement (within the meaning assigned as aforesaid) under which the total purchase price does not exceed the limitation specified or referred to in section 21(2) of this Act;
- (d) for the removal of doubt it is hereby declared that except as required by the last preceding paragraph no account is to be taken of section 1 of the Act of 1938, or section 2 or the proviso to section 21(2) of this Act, in construing any such reference;

PART II

(e) in relation to any such reference, expressions to which meanings are assigned by section 21(1) of the Act of 1938 shall in any enactment passed before this Act have the meanings so assigned to them respectively, unless the context otherwise requires; and any words defining the expressions "purchaser" or "instalment" for the purposes of any such reference shall be disregarded.

(5) In this Part of, and in Schedules 2 and 7 to, this Act, the expression "the Act of 1938" means the said Act of 1938 as extended to Scotland by this section.

Extension to
Scotland of
provisions of
Part I.

26.—(1) For the purpose of further amending the law relating to hire-purchase and credit-sale in Scotland the provisions of this Act set out in the following Table shall extend to Scotland subject to the modifications specified in the next following subsection.

TABLE

Section 2.
Sections 4 to 11.
Section 13.
Sections 15 to 20.
Section 21(2) to (5).
Section 22.
Section 23.
Section 24 (in so far as it relates to the provisions mentioned in this Table).
Schedule 1.

(2) The modifications referred to in the preceding subsection are as follows:—

- (a) references to the principal Act and to Part I of this Act shall be construed respectively as references to the Act of 1938 and such of the provisions of the said Part I as are extended to Scotland by this section; and any reference to those provisions, or to any of them, shall be construed as a reference to those provisions, or, as the case may be, that provision, as so extended;
- (b) any reference to the Hire-Purchase Act 1954 or any provision thereof shall be omitted;
- (c) any reference to the bailment of goods shall be omitted;
- (d) for any reference to a personal representative there shall be substituted a reference to an executor;
- (e) in section 10(3), for any reference to a condition or warranty there shall be substituted a reference to a stipulation;

(f) in section 13 for any reference to a condition, in relation to an agreement, there shall be substituted a reference to a stipulation which is material to the agreement ;

(g) in section 15, subsection (8) and paragraph (a) of subsection (7) shall be omitted ;

(h) in section 17—

(i) for any reference to a grant of probate or letters of administration there shall be substituted a reference to an appointment as executor ;

(ii) for any reference, in relation to an action, to adjourning there shall be substituted a reference to sisting ;

(iii) in subsection (3), the words “ in an action for money had and received ” shall be omitted ;

(iv) in subsection (4), the words from “ and in relation to ” to the end of the subsection shall be omitted ;

(v) in subsection (7), for the words “ by an application for the issue of a warrant of delivery ” there shall be substituted the words “ by an application for the grant of a warrant to officers of court to search such premises in the occupation of that person as may be specified in the warrant and to take possession of the goods or any of them which may be found in such premises ” ; and at the end of the said subsection there shall be added the words “ Any warrant granted in pursuance of an application under this subsection shall be deemed to include authority to open, if need be, shut and lockfast places for the purpose of carrying the warrant into lawful execution ” ; and

(vi) subsection (8) shall be omitted ;

(i) in section 18(3)(b) the words “ (in any manner in which money may be ordered to be paid in accordance with section 99 of the County Courts Act 1959) ” shall be omitted ;

(j) in section 20, for subsection (1) there shall be substituted the following subsection:—

“ (1) A contract of guarantee relating to a hire-purchase agreement to which the Hire-Purchase Act 1938 as extended to Scotland applies or relating to a credit-sale agreement to which that Act applies under which the total purchase price exceeds £30, and any security given by a guarantor in respect of money payable under such a contract, shall (subject to the next following subsection) not

PART II

be enforceable unless the contract of guarantee is signed before two witnesses by the guarantor and, within seven days of the making of the contract of guarantee or the making of the hire-purchase agreement or credit-sale agreement, whichever is the later, there is delivered or sent to the guarantor a copy of the contract of guarantee and a copy of the hire-purchase agreement or credit-sale agreement."

and, in subsection (4)(b), the words " a note or memorandum of " shall be omitted ;

(k) in section 22—

(i) in subsection (2)(d), the words " note or memorandum of a " and the words " paragraph (a) or paragraph (b) of ", where those words second occur, shall be omitted ; and

(ii) in subsection (5)(a), for the words " section 3(4) of this Act " there shall be substituted the words " section 2(3) or 3(3) of the Hire-Purchase Act 1938 as extended to Scotland " ;

(l) in Schedule 1—

(i) paragraph 3 shall be omitted ;

(ii) in paragraph 4, for the word " bailee " there shall be substituted the word " custodier " ;

(iii) in paragraph 6(2), for any reference to an assignment there shall be substituted a reference to an assignation ;

(iv) in paragraph 8, the reference to section 9 of the Factors Act 1889 shall be construed as a reference to that section as extended to Scotland by the Factors (Scotland) Act 1890 ; and

(v) paragraph 9 shall be omitted.

PART III**MOTOR VEHICLES ON HIRE-PURCHASE OR CONDITIONAL SALE**

Protection of
purchasers of
motor vehicles.

27.—(1) The provisions of this section shall have effect where a motor vehicle has been let under a hire-purchase agreement, or has been agreed to be sold under a conditional sale agreement, and, at a time before the property in the vehicle has become vested in the hirer or buyer, he disposes of the vehicle to another person.

(2) Where the disposition referred to in the preceding subsection is to a private purchaser, and he is a purchaser of the

motor vehicle in good faith and without notice of the hire-purchase agreement or conditional sale agreement, that disposition shall have effect as if the title of the owner or seller to the vehicle had been vested in the hirer or buyer immediately before that disposition.

(3) Where the person to whom the disposition referred to in subsection (1) of this section is made (in this subsection referred to as "the original purchaser") is a trade or finance purchaser, then if the person who is the first private purchaser of the motor vehicle after that disposition (in this section referred to as "the first private purchaser") is a purchaser of the vehicle in good faith and without notice of the hire-purchase agreement or conditional sale agreement, the disposition of the vehicle to the first private purchaser shall have effect as if the title of the owner or seller to the vehicle had been vested in the hirer or buyer immediately before he disposed of it to the original purchaser.

(4) Where, in a case falling within the last preceding subsection,—

- (a) the disposition whereby the first private purchaser becomes a purchaser of the motor vehicle in good faith and without notice of the hire-purchase agreement or conditional sale agreement is itself a letting under a hire-purchase agreement, and
- (b) the person who is the owner in relation to that agreement disposes of the vehicle to the first private purchaser, or a person claiming under him, by way of transferring to him the property in the vehicle in pursuance of a provision in the agreement in that behalf,

the disposition referred to in paragraph (b) of this subsection (whether the person to whom it is made is then a purchaser in good faith and without notice of the original hire-purchase agreement or conditional sale agreement or not) shall, as well as the disposition referred to in paragraph (a) of this subsection, have effect as mentioned in the last preceding subsection.

(5) The preceding provisions of this section shall have effect—

- (a) notwithstanding anything in section 21 of the Sale of Goods Act 1893 (which relates to the sale of goods by a person who is not the owner), but
- (b) without prejudice to the provisions of the Factors Acts (as defined by section 62(1) of the said Act of 1893) or of any other enactment enabling the apparent owner of goods to dispose of them as if he were the true owner of the goods.

PART III

(6) Nothing in this section shall exonerate the hirer or buyer from any liability (whether criminal or civil) to which he would be subject apart from this section; and, in a case where the hirer or buyer disposes of the motor vehicle to a trade or finance purchaser, nothing in this section shall exonerate—

- (a) that trade or finance purchaser, or
- (b) any other trade or finance purchaser who becomes a purchaser of the vehicle and is not a person claiming under the first private purchaser,

from any liability (whether criminal or civil) to which he would be subject apart from this section.

Presumptions relating to dealings with motor vehicles.

28.—(1) Where in any proceedings (whether criminal or civil) relating to a motor vehicle it is proved—

- (a) that the vehicle was let under a hire-purchase agreement, or was agreed to be sold under a conditional sale agreement, and
- (b) that a person (whether a party to the proceedings or not) became a private purchaser of the vehicle in good faith and without notice of the hire-purchase agreement or conditional sale agreement,

the following provisions of this section shall have effect for the purposes of the operation of section 27 of this Act in relation to those proceedings.

(2) It shall be presumed for those purposes, unless the contrary is proved, that the disposition of the vehicle to the person referred to in paragraph (b) of the preceding subsection (in this section referred to as “the relevant purchaser”) was made by the hirer or buyer.

(3) If it is proved that that disposition was not made by the hirer or buyer, then it shall be presumed for those purposes, unless the contrary is proved,—

- (a) that the hirer or buyer disposed of the vehicle to a private purchaser who was a purchaser of the vehicle in good faith and without notice of the hire-purchase agreement or conditional sale agreement, and
- (b) that the relevant purchaser is or was a person claiming under the person to whom the hirer or buyer so disposed of the vehicle.

(4) If it is proved that the disposition of the vehicle to the relevant purchaser was not made by the hirer or buyer, and that the person to whom the hirer or buyer disposed of the vehicle (in this subsection referred to as “the original purchaser”) was a trade or finance purchaser, then it shall be presumed for those purposes, unless the contrary is proved,—

- (a) that the person who, after the disposition of the vehicle to the original purchaser, first became a private

purchaser of the vehicle was a purchaser in good faith and without notice of the hire-purchase agreement or conditional sale agreement, and

PART III

(b) that the relevant purchaser is or was a person claiming under the original purchaser.

(5) Without prejudice to any other mode of proof, where in any proceedings a party thereto admits a fact, that fact shall, for the purposes of this section, be taken as against him to be proved in relation to those proceedings.

29.—(1) In this Part of this Act—

Interpretation
of Part III.

“conditional sale agreement” and “seller” have the meanings assigned to them by section 21(5) of, and paragraph 6 of Schedule 1 to, this Act ;

“disposition” means any sale or contract of sale (including a conditional sale agreement), any letting under a hire-purchase agreement and any transfer of the property in goods in pursuance of a provision in that behalf contained in a hire-purchase agreement, and includes any transaction purporting to be a disposition (as so defined), and “dispose of” shall be construed accordingly ;

“hire-purchase agreement” and “owner” have the meanings assigned to them by section 21(1) of the Hire-Purchase Act 1938 ;

“motor vehicle” means a mechanically propelled vehicle intended or adapted for use on roads to which the public has access.

(2) In this Part of this Act “trade or finance purchaser” means a purchaser who, at the time of the disposition made to him, carries on a business which consists, wholly or partly,—

(a) of purchasing motor vehicles for the purpose of offering or exposing them for sale, or

(b) of providing finance by purchasing motor vehicles for the purpose of letting them under hire-purchase agreements or agreeing to sell them under conditional sale agreements,

and “private purchaser” means a purchaser who, at the time of the disposition made to him, does not carry on any such business.

(3) For the purposes of this Part of this Act a person becomes a purchaser of a motor vehicle if, and at the time when, a disposition of the vehicle is made to him ; and a person shall be taken to be a purchaser of a motor vehicle without notice of a hire-purchase agreement or conditional sale agreement if,

PART III at the time of the disposition made to him, he has no actual notice that the vehicle is or was the subject of any hire-purchase agreement or conditional sale agreement.

(4) In this Part of this Act “the hirer or buyer”,—

(a) in relation to a motor vehicle which has been let under a hire-purchase agreement, means the person who at the material time (whether the agreement has before that time been terminated or not) is the hirer in relation to that agreement for the purposes of the Hire-Purchase Act 1938, including a person who at that time is, by virtue of section 13(1) of that Act, deemed to be a bailee of the vehicle as therein mentioned ;

(b) in relation to a motor vehicle which has been agreed to be sold under a conditional sale agreement, means the person who at the material time (whether the agreement has before that time been terminated or not) is in relation to that agreement the buyer (as defined by paragraph 6 of Schedule 1 to this Act), including a person who at that time is, by virtue of section 13(1) of the Hire-Purchase Act 1938 (as modified by paragraph 4 of that Schedule), deemed to be in possession of the vehicle as therein mentioned.

(5) In this Part of this Act any reference to the title of the owner or seller to a motor vehicle which has been let under a hire-purchase agreement, or agreed to be sold under a conditional sale agreement, and is disposed of by the hirer or buyer, is a reference to such title (if any) to the vehicle as, immediately before that disposition, was vested in the person who then was the owner in relation to the hire-purchase agreement, or the seller in relation to the conditional sale agreement, as the case may be.

(6) In the application to Scotland of subsection (4) of this section, for the word “bailee” there shall be substituted the word “custodier”.

PART IV

ADVERTISEMENTS

Extension of advertisements to which Advertisements (Hire-Purchase) Act 1957 applies.

30. In section 1 of the Advertisements (Hire-Purchase) Act 1957 (which provides that that Act applies to any advertisement which includes one or more of the elements mentioned in subsection (2) of that section) at the end of subsection (2) there shall be inserted the following paragraphs:—

“(d) a fraction represented as being the rate of interest or rate of charge to be borne by the hirer or buyer in hiring or purchasing goods in accordance with the advertisement ;

(e) a sum stated as the hire-purchase price or total purchase price of the goods”;

PART IV

and at the end of that section there shall be added the following subsection:—

“ (4) For the purposes of this Act—

(a) a fraction stated in an advertisement shall be taken to be represented therein as mentioned in subsection (2)(d) of this section if it is stated in the advertisement in such a way that it could reasonably be understood to be so represented;

(b) a sum indicated in an advertisement (whatever the words used) as being the total amount which, on a hire-purchase or credit sale of any goods, would be payable by the hirer or buyer shall be taken to be stated therein as the hire-purchase price or total purchase price of the goods.”

31.—(1) Section 2 of the Advertisements (Hire-Purchase) Act 1957 (which sets out the information required to be included in advertisements to which that Act applies) shall be amended in accordance with the following provisions of this section. Information to be included in advertisements.

(2) In subsection (2) of that section (which relates to advertisements which contain details of payments), in paragraph (e) the word “and” shall be omitted, and at the end of paragraph (f) there shall be inserted the words “and

(g) a sum stated as the hire-purchase price or total purchase price of the goods and being, in either case, the amount (directly expressed) of the aggregate of the amount of the deposit (if any) and of all the instalments payable.”

(3) In subsection (3) of that section (which relates to advertisements which do not contain details of payments), in paragraph (b) (which excludes any requirement to set out the information specified in paragraphs (b) and (f) of subsection (2)) for the words “paragraphs (b) and (f)” there shall be substituted the words “paragraphs (b), (f) and (g)”.

(4) At the end of subsection (4) of that section (which defines an advertisement which contains details of payments) there shall be added the words “or if it states a sum as the hire-purchase price or total purchase price of those goods”.

32.—(1) The following section shall be inserted after section 2 of the Advertisements (Hire-Purchase) Act 1957:— Information as to rate of interest or charge.

“ 2A.—(1) An advertisement to which this Act applies which, in relation to any goods, contains a fraction repre-

PART IV

presented as mentioned in section 1(2)(d) of this Act shall not be displayed or issued unless—

- (a) the advertisement contains details of payments in respect of those goods ;
- (b) in so far as it relates to those goods, the instalments are expressed in the advertisement as being instalments of equal amounts and payable in respect of equal periods ; and
- (c) the fraction so represented in the advertisement is expressed as a specified amount per cent. per annum and the amount so specified is not less than an amount calculated in accordance with the prescribed formula.

(2) In paragraph (c) of the preceding subsection “the prescribed formula” means the formula set out in the Schedule to this Act (being a formula for calculating a rate of interest or charge on the basis of so much of the cash price, less any deposit, as remains outstanding after each instalment is paid).

(3) For the purposes of this section any period of a calendar month shall be taken to be equal to any other period of a calendar month.

(4) This section shall have effect without prejudice to any requirement imposed by section 2 of this Act.”.

(2) The provisions set out in Schedule 3 to this Act shall be inserted in the said Act of 1957 as the Schedule to that Act.

PART V

SUPPLEMENTARY PROVISIONS

Supplementary provisions as to regulations, Orders in Council and interpretation.

33.—(1) Any power of the Board of Trade to make regulations under this Act or the Hire-Purchase Act 1938 shall be exercisable by statutory instrument.

(2) Anything required or authorised by or under this Act or the Hire-Purchase Act 1938 to be done by, to or before the Board of Trade may be done by, to or before the President of the Board, any Minister of State with duties concerning the affairs of the Board, any secretary, under-secretary or assistant secretary of the Board or any person authorised in that behalf by the President.

(3) Where a power to make regulations is exercisable by virtue of this Act (including any amendment made by this Act in any other enactment) regulations made in the exercise of that power may make different provision in relation to different classes of cases.

(4) Any Order in Council made under section 1(3) of this Act may be revoked by any subsequent Order in Council made thereunder which substitutes a larger sum for the sum specified in the Order which is thereby revoked.

(5) Except in so far as the context otherwise requires, any reference in this Act to an enactment shall be construed as a reference to that enactment as amended or extended by or under any other enactment, including this Act.

34.—(1) Without prejudice to any amendments having effect by virtue of the preceding provisions of this Act, the enactments specified in Schedule 4 to this Act shall have effect subject to the amendments specified in that Schedule, being minor amendments or amendments consequential upon the preceding provisions of this Act. Minor and consequential amendments and repeals.

(2) The enactments specified in Schedule 5 to this Act are hereby repealed to the extent specified in relation thereto in the third column of that Schedule.

(3) For the removal of doubt it is hereby declared that no account is to be taken of section 1 of the principal Act, or of section 2 of this Act, for the purpose of construing any enactment whereby (however the enactment is expressed) it is provided that in the enactment (or, if the enactment extends to Scotland, in the enactment in its application to England and Wales) “hire-purchase agreement”, or any similar expression, has the same meaning as “hire-purchase agreement” has in the principal Act or the definition of “hire-purchase agreement” in the principal Act is otherwise applied for the purposes of the enactment:

Provided that this subsection shall not affect the construction of—

- (a) any enactment (not contained in this Act) which expressly refers to hire-purchase agreements “to which the Hire-Purchase Act 1938 applies”, or
- (b) any reference in this Act to hire-purchase agreements to which the principal Act applies.

35.—(1) The transitional provisions contained in Schedule 6 to this Act shall have effect with respect to the operation of Part I of this Act and with respect to the operation of the last preceding section in relation to enactments contained in the Hire-Purchase Act 1938 or the Hire-Purchase Act 1954. Transitional provisions.

(2) The transitional provisions contained in Schedule 7 to this Act shall have effect with respect to the operation of Part II of this Act and with respect to the operation of subsection (2) of the last preceding section in relation to enactments contained in the Hire Purchase and Small Debt (Scotland) Act 1932, the Hire-Purchase Act 1954 in its application to Scotland or the Credit-Sale Agreements (Scotland) Act 1961.

PART V

(3) The provisions of Part III of this Act—

- (a) shall have effect in relation to hire-purchase agreements and conditional sale agreements made before, as well as in relation to such agreements made after, the commencement of this Act, but
- (b) shall not have effect where the disposition by the hirer or buyer which is referred to in subsection (1) of section 27 of this Act was made before the commencement of this Act.

Commence-
ment.

36.—(1) Subject to the following provisions of this section, this Act shall come into operation on 1st January 1965.

(2) This section, any provisions of this Act which confer any power to make regulations (including any provision conferring such a power by way of amendment of another Act) and any provisions of this Act relating to the exercise of any such power shall come into operation on the passing of this Act; but no regulations shall be made in pursuance of any such provisions so as to come into operation before 1st January 1965.

(3) Any reference in this Act, and (notwithstanding anything in section 36 of the Interpretation Act 1889) any reference in any Act passed after the passing of this Act, to the commencement of this Act shall be construed as a reference to 1st January 1965.

(4) The preceding provisions of this section shall have effect without prejudice to the generality of section 37 of the Interpretation Act 1889 (which relates to the exercise of statutory powers between the passing and the commencement of an Act).

Short title,
citation and
extent.

37.—(1) This Act may be cited as the Hire-Purchase Act 1964.

(2) In their application to England and Wales, the Hire-Purchase Act 1938, the Hire-Purchase Act 1954, the Advertisements (Hire-Purchase) Act 1957 and this Act (except Parts II and III thereof and Schedules 2 and 7 thereto) may be cited together as the Hire-Purchase Acts 1938 to 1964.

(3) In their application to Scotland, the Hire-Purchase Act 1938, the Advertisements (Hire-Purchase) Act 1957 and this Act (except Parts I and III thereof and Schedule 6 thereto) may be cited together as the Hire-Purchase (Scotland) Acts 1938 to 1964.

(4) Except so far as otherwise provided in Part II of this Act, Part I of this Act and Schedule 6 thereto shall not extend to Scotland; and Part II of this Act and Schedules 2 and 7 thereto shall not extend to England and Wales.

(5) This Act shall not extend to Northern Ireland.

SCHEDULES

SCHEDULE 1

APPLICATION OF ENACTMENTS TO CONDITIONAL SALE AGREEMENTS

PART I

EXCEPTIONS AND MODIFICATIONS REFERRED TO IN SECTION 21(3)

1. The provisions of this Part of this Schedule shall have effect for the purposes of section 21(3) of this Act; and in this Part of this Schedule “conditional sale agreement” and “total purchase price” have the meanings assigned to them by section 21(5) of this Act.

2.—(1) Subject to paragraph 4 of this Schedule, the provisions specified in section 21(3) of this Act shall have effect as therein mentioned as if—

- (a) any reference to a hirer were a reference to a buyer;
- (b) any reference to an owner were a reference to a seller;
- (c) any reference to hire-purchase price were a reference to total purchase price;
- (d) any reference to hire-rent were a reference to instalments of the purchase price; and
- (e) any reference to goods let under a hire-purchase agreement were a reference to goods agreed to be sold under a conditional sale agreement.

(2) In accordance with the preceding sub-paragraph (and without prejudice to the generality thereof) in section 4(1) of this Act the reference to a document which, if executed by or on behalf of another person as owner of the goods to which it relates, would constitute a hire-purchase agreement to which the principal Act applies shall be construed as including a reference to a document which, if executed by or on behalf of another person as seller of the goods to which it relates, would constitute such a conditional sale agreement as is mentioned in section 21(3) of this Act.

3. In sections 5(c), 11(3) and 14(1) of the principal Act, the words “or the bailment”, and in section 15 of this Act the words “or the bailment of the goods” in subsections (2) and (5) and the words “or the bailment” in the second place where they occur in subsection (5), shall be omitted.

4. In section 13(1) of the principal Act, for the words “the hirer shall be deemed to be a bailee of the goods under and on the terms of the hire-purchase agreement” there shall be substituted the words “the buyer shall be deemed to be in possession of the goods under and on the terms of the conditional sale agreement, other than any term providing for the property in the goods to vest in the buyer at any time before the payment of the whole of the total purchase price (as defined by section 21(5) of the Hire-Purchase Act 1964)”.

SCH. 1

5.—(1) Where goods have been sold under a conditional sale agreement and 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 no longer be entitled to determine the agreement under section 4 of the principal Act.

(2) Subject to the preceding sub-paragraph, where a buyer under a conditional sale agreement determines the agreement under section 4 of the principal Act after the property in the goods has become vested in him, the property in the goods shall thereupon vest in the person (in this sub-paragraph 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.

6.—(1) The definitions of “buyer” and “seller” in section 21(1) of the principal Act shall not apply to conditional sale agreements.

(2) In this Part of this Schedule—

“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;

“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.

PART II

CONSEQUENTIAL EXCEPTIONS AND MODIFICATIONS

7. In this Part of this Schedule “conditional sale agreement” means a conditional sale agreement, as defined by subsection (5) of section 21 of this Act, in relation to which the provisions of Part I of this Act have effect in accordance with subsection (3) of that section, and “buyer” and “seller” have the meanings assigned to them by paragraph 6 of this Schedule.

8. For the purposes of section 9 of the Factors Act 1889 and of section 25(2) of the Sale of Goods Act 1893 (under which, notwithstanding that the property in the goods has not been transferred to him, a person who has bought or agreed to buy goods and is in possession of them can confer a good title to the goods) the buyer under a conditional sale agreement shall be deemed not to be a person who has bought or agreed to buy goods.

9.—(1) Section 11(1)(c) of the Sale of Goods Act 1893 (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 a conditional sale agreement.

SCH. 1

(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) In this paragraph "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.

10. A conditional sale agreement shall be treated as not being a contract of sale for the purposes of sections 12 to 15 of the Sale of Goods Act 1893 (which imply certain conditions and warranties in contracts of sale).

11. In section 9 of the principal Act the reference to payments in respect of two or more hire-purchase agreements shall include a reference to payments in respect of one or more hire-purchase agreements and one or more conditional sale agreements as well as a reference to payments in respect of two or more conditional sale agreements.

12. Section 15 of the principal Act shall have effect where—

- (a) after the making of a hire-purchase agreement, the owner, as seller, makes a conditional sale agreement with the hirer, as buyer, or
- (b) after the making of a conditional sale agreement, the seller, as owner, makes a hire-purchase agreement with the buyer, as hirer,

as it has effect where both agreements are hire-purchase agreements or both are conditional sale agreements.

SCHEDULE 2

EXTENSION OF HIRE-PURCHASE ACT 1938 TO SCOTLAND

PART I

MODIFICATIONS OF HIRE-PURCHASE ACT 1938 FOR PURPOSES OF EXTENSION TO SCOTLAND

1. In the Act of 1938, for any reference to an assignment (other than in section 12(8) thereof) there shall be substituted a reference to an assignation and any reference to the bailment of goods shall be omitted.

2. In section 8 of the Act of 1938, for any reference to a warranty or condition there shall be substituted a reference to a stipulation; and after subsection (3B) there shall be inserted the following subsection, that is to say:—

"(3C) In relation to every hire-purchase agreement the stipulations referred to in subsection (1)(b) and (d) and subsection (2) of this section shall be deemed to be material to the agreement."

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3. Section 10 of the Act of 1938 shall be omitted.
4. In section 11 of the Act of 1938,
 - (a) for any reference to a judgment there shall be substituted a reference to an order of the court ;
 - (b) at the end of subsection (1) there shall be added the words :—

“ Provided that nothing in this subsection shall be taken to confer on an owner any right to recover, otherwise than by action, possession of any goods let under a hire-purchase agreement where one-third of the hire-purchase price has not been paid or tendered as aforesaid ” ; and
 - (c) in subsection (2) the words “ in an action for money had and received ”, in each place where they occur, shall be omitted.
5. In section 12 of the Act of 1938,
 - (a) for subsection (1) there shall be substituted the following subsections—

“ (1) The following provisions of this section shall apply, in a case to which the last foregoing section applies, where the owner commences an action to enforce a right to recover possession of any of the goods from the hirer after one-third of the hire-purchase price has been paid or tendered as aforesaid.

(1A) After such an action has been commenced the owner shall not take any steps to enforce payment of any sum due under the hire-purchase agreement or under any contract of guarantee relating thereto, except by claiming the said sum in the said action ” ; and
 - (b) for any reference to the county court there shall be substituted a reference to the sheriff court.
6. In section 13 of the Act of 1938, for any reference to a bailee there shall be substituted a reference to a custodier ; and for any reference to executing an order there shall be substituted a reference to executing diligence on an order.
7. Sections 16 to 18 of the Act of 1938 shall be omitted.
8. In section 19 of the Act of 1938, the words “ made after the commencement of this Act ” and the words “ and in section 14(1) of the Hire-Purchase Act 1964 ” shall be omitted.
9. After section 19 of the Act of 1938 there shall be inserted the following section, that is to say—

“ Jurisdiction. 19A.—(1) Subject to the following provisions of this section, where goods have been let under a hire-purchase agreement to which this Act applies and the owner brings or institutes an action to enforce a right to recover possession of any of the goods from the hirer, the action shall be brought or instituted in the sheriff court for the district in which the hirer resides or carries on business or resided or carried on business at the date on which he last made a payment under the hire-purchase agreement.

(2) No cause, action or proceeding on or arising out of any hire-purchase agreement to which this Act applies or credit-sale agreement to which this Act applies which may competently be brought or instituted in the small debt court shall be brought or instituted otherwise than in that court; but nothing in this section shall affect or prejudice any power vested in the sheriff to remit to the ordinary court roll any such cause, action or proceeding brought or instituted in the small debt court.

(3) In this section "small debt court" means any court held in pursuance of the Small Debt (Scotland) Act 1837 as amended by any subsequent enactment."

10. Section 20 of the Act of 1938 shall be omitted.

11. In subsection (1) of section 21 of the Act of 1938, the definition of "warranty" shall be omitted and for the definition of "hire-purchase agreement" there shall be substituted the following definition, that is to say—

"hire-purchase agreement" means any contract, in whatsoever terms it may be expressed and whether it be truly one of sale or hire, whereby goods are taken on hire by one person from another person in consideration of periodical payments to be made by the first mentioned person to the other person, with an option to the first mentioned person to become the buyer of the goods.

12. In section 22 of the Act of 1938, subsection (3) shall be omitted.

13. In the Schedule to the Act of 1938—

- (a) in the second paragraph 1, the words from the beginning to "has been paid, then]" shall be omitted; and
- (b) in the second paragraph 2, after the word "If", in the first place where it occurs, there shall be inserted the words "[after (*here insert an amount calculated in accordance with the provisions of sections 11 and 19 of this Act*) has been paid]"; and after the word "court", in the second place where it occurs, there shall be inserted the words "(under powers conferred by the Hire-Purchase (Scotland) Acts 1938 to 1964)".

PART II

ADDITIONS TO HIRE-PURCHASE ACT 1938 FOR PURPOSES OF EXTENSION TO SCOTLAND

14. In section 1 of the Act of 1938 there shall be added the following subsections:—

"(2) If at any time after the commencement of the Hire-Purchase Act 1964 it appears to Her Majesty in Council that the limit specified in the foregoing subsection (whether by virtue of that subsection or of a previous Order in Council under this subsection) should be further raised, Her Majesty may by Order in

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Council direct that the foregoing subsection shall be amended so as to substitute, for the sum specified in that subsection, such larger sum as may be specified in the Order.

(3) No recommendation shall be made to Her Majesty to make an Order in Council under the last foregoing subsection unless a draft of the Order has been laid before Parliament and approved by resolution of each House of Parliament."

15. In section 2 of the Act of 1938 there shall be added the following subsections:—

"(3) The Board of Trade may by regulations provide that in any document which on being signed as mentioned in subsection (2)(a) of this section constitutes a hire-purchase agreement to which this Act applies, the signature of the hirer shall be inserted in a space marked in such manner and accompanied in the document by such words, as may be specified in the regulations; and the regulations may include provision as to the location of those words in relation to the space in which the signature is inserted and may prescribe such other requirements (whether as to type, size, colour or disposition of lettering or otherwise) as the Board may consider appropriate for securing that the words come to the attention of the hirer at the time when he is about to sign the document.

(4) A document to which any regulations made under the last foregoing subsection apply shall not be invalid by reason only that the regulations are not complied with; but subsection (2) of this section shall have effect in relation to compliance with the requirements of any such regulations as it has effect in relation to compliance with the requirements specified in paragraphs (b) to (e) of the said subsection."

16. In section 3 of the Act of 1938 there shall be added the following subsection:—

"(3) Subsections (3) and (4) of the last foregoing section shall apply in relation to a credit-sale agreement to which this Act applies under which the total purchase price exceeds £30 as it applies to a hire-purchase agreement, with the substitution for any reference to the hirer of a reference to the buyer and for any reference to paragraph (a) or to paragraphs (b) to (e) of subsection (2) of the said section, of a reference to paragraph (a) or, as the case may be, to paragraphs (b) to (d) of subsection (2) of this section."

17. After section 13 of the Act of 1938 there shall be inserted the following section:—

"Further provisions relating to postponed orders for specific delivery of goods.

13A.—(1) Where a postponed order for the specific delivery of goods to the owner has been made under paragraph (b) of subsection (4) of section 12 of this Act, the powers of the court under paragraphs (a) and (c) of subsection (4) of the last foregoing section may be exercised, notwithstanding that any condition of the postponement has not been complied with, at any time before the goods are delivered to the owner in accord-

ance with a warrant issued in pursuance of the order ; and where such a warrant has been issued the court shall—

(a) if the court varies the conditions of the postponement under the said paragraph (a), suspend the warrant on the like conditions ;

(b) if the court makes an order under the said paragraph (c) for the specific delivery of a part of the goods to the owner and for the transfer to the hirer of the owner's title to the remaining part thereof, cancel the warrant so far as it provides for the delivery of the last mentioned part of the goods.

(2) At any time before the delivery of goods to the owner in accordance with a warrant issued as aforesaid, the warrant may, so far as it provides for the delivery of the goods, be discharged by the payment to the owner by the hirer or any guarantor of the whole of the unpaid balance of the hire-purchase price ; and in any such case the owner's title to the goods shall vest in the hirer.

(3) If, in an action to which the said section 12 applies, an offer as to conditions for the postponement of the operation of an order under paragraph (b) of subsection (4) of that section is made by the hirer and accepted by the owner in accordance with rules of court, an order under that paragraph may thereupon be made by the court in accordance with the said offer without hearing evidence as to matters specified in the said paragraph (b) or in subsection (5) of that section :

Provided that where a guarantor is a party to the action, no such order shall be made before the date fixed for the hearing of the action."

18. In section 21(1) of the Act of 1938—

(a) in the definition of "hire-purchase price", after the words "to which the agreement relates" there shall be inserted the words "inclusive of any sum so payable by way of a deposit or other initial payment, or credited or to be credited to the hirer under such an agreement on account of any such deposit or payment, whether that sum is to be or has been paid to the owner 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 ; but" ; and

(b) at the end of the subsection there shall be added the following words :—

"and any reference in this Act to a document which constitutes a hire-purchase agreement or a credit-sale 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 shall be construed accordingly."

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PART III

PROVISIONS OF HIRE-PURCHASE ACT 1938 IN ITS APPLICATION
TO SCOTLAND

Application of
Act.

1.—(1) This Act shall (except as provided by section 2 of the Hire-Purchase Act 1964) apply in relation to all hire-purchase agreements and credit-sale agreements under which the hire-purchase price or total purchase price, as the case may be, does not exceed £2000; and the expressions “hire-purchase agreement” and “credit-sale agreement” shall be construed accordingly.

(2) If at any time after the commencement of the Hire-Purchase Act 1964 it appears to Her Majesty in Council that the limit specified in the foregoing subsection (whether by virtue of that subsection or of a previous Order in Council under this subsection) should be further raised, Her Majesty may by Order in Council direct that the foregoing subsection shall be amended so as to substitute, for the sum specified in that subsection, such larger sum as may be specified in the Order.

(3) No recommendation shall be made to Her Majesty to make an Order in Council under the last foregoing subsection unless a draft of the Order has been laid before Parliament and approved by resolution of each House of Parliament.

Requirements
relating to
hire-purchase
agreements.

2.—(1) Before any hire-purchase agreement is entered into in respect of any goods, the owner shall state in writing to the prospective hirer, otherwise than in the agreement, a price at which the goods may be purchased by him for cash (in this section referred to as the “cash price”);

Provided that this section shall be deemed to have been sufficiently complied with—

- (a) if the hirer has inspected the goods or like goods and 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
- (b) if the hirer 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.

(2) An owner shall not be entitled to enforce a hire-purchase agreement or any contract of guarantee relating thereto or any right to recover the goods from the hirer, and no security given by the hirer in respect of money payable under the hire-purchase agreement or given by a guarantor in respect of money payable under such a contract of guarantee as aforesaid shall be enforceable against the hirer or guarantor by any holder thereof, unless the requirement specified in the foregoing subsection has been complied with, and—

- (a) the agreement is signed by the hirer and by or on behalf of all other parties to the agreement, and

- (aa) the agreement, at the time when it is signed by the hirer, complies with the requirements of any regulations made under subsection (3) of this section which are applicable thereto, and
- (b) the agreement contains a statement of the hire-purchase price and of the cash price of the goods to which the agreement relates and of the amount of each of the instalments by which the hire-purchase price is to be paid and of the date, or the mode of determining the date, upon which each instalment is payable, and contains a list of the goods to which the agreement relates sufficient to identify them, and
- (c) the agreement contains a notice, which is at least as prominent as the rest of the contents of the agreement, in the terms prescribed in the Schedule to this Act, and
- (d) a copy of the agreement is delivered or sent to the hirer within seven days of the making of the agreement, and
- (e) either—

(i) the agreement is signed by or on behalf of all other parties immediately after it is signed by the hirer, and the copy referred to in paragraph (d) of this subsection is there and then delivered to him, or, the agreement having been signed by or on behalf of all other parties before it is signed by the hirer, that copy is delivered to him immediately after he signs the agreement, or

(ii) if, in a case not falling within the foregoing sub-paragraph, the relevant document (that is to say, the document which, on being signed as mentioned in paragraph (a) of this subsection, became the agreement) was presented, and not sent, to the hirer for his signature, then immediately after he signed the relevant document there was delivered to him a copy of that document in the form in which it then was, or

(iii) if the relevant document was sent to the hirer for his signature, then 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:

Provided that, if the court is satisfied in any action that a failure to comply with the requirement specified in the foregoing subsection or any requirement specified in paragraph (aa), (b), (c), (d) or (e) of this subsection has not prejudiced the hirer, 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 that requirement for the purposes of the action.

(3) The Board of Trade may by regulations provide that in any document which on being signed as mentioned in subsection (2)(a) of this section constitutes a hire-purchase agreement to which this Act applies, the signature of the hirer shall be inserted in a space marked in such manner, and accompanied in the document by such words, as may be specified in the regulations; and the regulations may include provision as to the location of those words

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in relation to the space in which the signature is inserted and may prescribe such other requirements (whether as to type, size, colour or disposition of lettering or otherwise) as the Board may consider appropriate for securing that the words come to the attention of the hirer at the time when he is about to sign the document.

(4) A document to which any regulations made under the last foregoing subsection apply shall not be invalid by reason only that the regulations are not complied with; but subsection (2) of this section shall have effect in relation to compliance with the requirements of any such regulations as it has effect in relation to compliance with the requirements specified in paragraphs (b) to (e) of the said subsection.

Requirement relating to credit-sale agreements.

3.—(1) Before making any credit-sale agreement under which the total purchase price exceeds £30, the seller shall state in writing to the prospective buyer, otherwise than in the agreement, a price at which the goods may be purchased by him for cash (in this section referred to as the “cash price”):

Provided that this subsection shall be deemed to have been sufficiently complied with—

- (a) if the buyer has inspected the goods or like goods and 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
- (b) if the buyer 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.

(2) A person who has sold goods by a credit-sale agreement under which the total purchase price exceeds £30 shall not be entitled to enforce the agreement or any contract of guarantee relating thereto, and no security given by the buyer in respect of money payable under the credit-sale agreement or given by a guarantor in respect of money payable under such a contract of guarantee as aforesaid shall be enforceable against the buyer or guarantor by any holder thereof, unless the requirement specified in the foregoing subsection has been complied with, and—

- (a) the agreement is signed by the buyer and by or on behalf of all other parties to the agreement, and
- (aa) the agreement, at the time when it is signed by the buyer, complies with the requirements of any regulations made under subsection (3) of the last foregoing section (as extended by subsection (3) of this section) which are applicable thereto, and
- (b) the agreement contains a statement of the total purchase price and of the cash price of the goods to which the agreement relates and of the amount of each of the instalments by which the total purchase price is to be paid and of the date, or the mode of determining the date, upon which each instalment is payable, and contains a list of the goods to which the agreement relates sufficient to identify them, and

(c) a copy of the agreement is delivered or sent to the buyer within seven days of the making of the agreement, and

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(d) either—

(i) the agreement is signed by or on behalf of all other parties immediately after it is signed by the buyer, and the copy referred to in paragraph (c) of this subsection is there and then delivered to him, or, the agreement having been signed by or on behalf of all other parties before it is signed by the buyer, that copy is delivered to him immediately after he signs the agreement, or

(ii) if, in a case not falling within the foregoing subparagraph, the relevant document (that is to say, the document which, on being signed as mentioned in paragraph (a) of this subsection, became the agreement) was presented, and not sent, to the buyer for his signature, then immediately after he signed the relevant document there was delivered to him a copy of that document in the form in which it then was, or

(iii) if the relevant document was sent to the buyer for his signature, then 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:

Provided that, if the court is satisfied in any action that a failure to comply with the requirement specified in the foregoing subsection or any requirement specified in paragraph (aa), (b), (c) or (d) of this subsection has not prejudiced the buyer, 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 that requirement for the purposes of the action.

(3) Subsections (3) and (4) of the last foregoing section shall apply in relation to a credit-sale agreement to which this Act applies under which the total purchase price exceeds £30 as it applies to a hire-purchase agreement, with the substitution for any reference to the hirer of a reference to the buyer and, for any reference to paragraph (a) or to paragraphs (b) to (e) of subsection (2) of the said section, of a reference to paragraph (a) or, as the case may be, to paragraphs (b) to (d) of subsection (2) of this section.

4.—(1) A hirer shall, at any time before the final payment under a hire-purchase agreement falls due, be entitled to determine the agreement by giving notice of termination in writing to any person entitled or authorised to receive the sums payable under the agreement, and shall, on determining the agreement under this section, be liable, without prejudice to any liability which has accrued before the termination, 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 such less amount as may be specified in the agreement:

Right of hirer to determine hire-purchase agreement.

Provided that, if the court is satisfied in any action that a sum less than the amount 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 would

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be equal to the loss sustained by the owner in consequence of the termination of the agreement by the hirer, the court may make an order for the payment of that sum in lieu of that amount.

(2) Where a hire-purchase agreement has been determined under this section, the hirer shall, if he has failed to take reasonable care of the goods, be liable to pay damages for the failure.

(3) Where a hirer, having determined a hire-purchase agreement under this section, wrongfully retains possession of the goods then, in any action brought by the owner to recover possession of the goods from the hirer, the court shall, unless it is satisfied that having regard to the circumstances it would not be just and equitable so to do, order the goods to be delivered to the owner, without giving the hirer an option to pay the value of the goods.

(4) Nothing in this section shall prejudice any right of a hirer to determine a hire-purchase agreement otherwise than by virtue of this section.

Avoidance of certain provisions.

5.—(1) Any provision in any agreement—

- (a) whereby an owner or any person acting on his behalf is authorised to enter upon any premises for the purpose of taking possession of goods which have been let under a hire-purchase agreement or is relieved from liability for any such entry or,
- (b) whereby the right conferred on a hirer by this Act to determine the hire-purchase agreement is excluded or restricted, or whereby any liability in addition to the liability imposed by this Act is imposed on a hirer by reason of the termination of the hire-purchase agreement by him under this Act, or
- (c) whereby a hirer, after the determination of the hire-purchase agreement in any manner whatsoever, 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, the amount first mentioned in section 4(1) of this Act and an amount equal to the loss sustained by the owner in consequence of the termination of the agreement, or
- (d) whereby any person acting on behalf of an owner or seller in connection with the formation or conclusion of a hire-purchase or credit-sale agreement is treated as, or deemed to be, an agent of the hirer or the buyer, or
- (e) whereby an owner or seller 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 hire-purchase agreement or credit-sale agreement,

shall be void.

Duty of owners and sellers to supply documents and information.

6.—(1) At any time before the final payment has been made under a hire-purchase agreement or credit-sale agreement, any person entitled to enforce the agreement against the hirer or buyer shall, within four days after he has received a request in writing from the hirer or buyer and the hirer or buyer has tendered to him the

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sum of two shillings and six pence for expenses, supply to the hirer or buyer a copy of the agreement, or, in the case of a credit-sale agreement under which the total purchase price does not exceed £30, a copy of any note or memorandum of the agreement, together (in either case) with a statement signed by the said person or his agent showing—

- (a) the amount paid by or on behalf of the hirer or buyer,
- (b) the amount which has become due under the agreement but remains unpaid, and the date upon 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 upon which each future instalment is to become payable, and the amount of each such instalment.

(2) In the event of a failure without reasonable cause to comply with the last foregoing subsection, then, while the default continues—

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

and, if the default continues for a period of one month, the defaulter shall be liable on summary conviction to a fine not exceeding £25.

7.—(1) Where by virtue of a hire-purchase agreement a hirer is under a duty to keep the goods comprised in the agreement in his possession or control, the hirer shall, on receipt of a request in writing from the owner, inform the owner where the goods are at the time when the information is given or, if it is sent by post, at the time of posting.

Duty of hirer to give information as to whereabouts of goods.

(2) If a hirer fails without reasonable cause to give the said information within fourteen days of the receipt of the notice, he shall be liable on summary conviction to a fine not exceeding £25.

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

- (a) an implied stipulation that the hirer shall have and enjoy quiet possession of the goods ;
- (b) an implied stipulation on the part of the owner that he shall have a right to sell the goods at the time when the property is to pass ;
- (c) an implied stipulation 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 ;

Stipulations to be implied in hire-purchase agreements.

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(d) except in so far as the stipulation referred to in this paragraph is excluded by virtue of subsection (3A) or subsection (3B) of this section, an implied stipulation that the goods shall be of merchantable quality, so, however, that no such stipulation shall be implied by virtue of this paragraph, if the hirer has examined the goods or a sample thereof, as regards defects which the examination ought to have revealed.

(2) Where the hirer, whether expressly or by implication,—

(a) has made known to the owner, or to a servant or agent of the owner, 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 be an implied stipulation that the goods shall be reasonably fit for that purpose.

Section 24(2) of the Hire-Purchase Act 1964 shall apply for the purposes of this subsection as it applies for the purposes of Part I of that Act.

(3) Subject to the following provisions of this section, the stipulations set out in subsection (1) of this section shall be implied notwithstanding any agreement to the contrary, and the owner shall not be entitled to rely on any provision in the agreement excluding or modifying the stipulation set out in subsection (2) of this section unless he proves that before the agreement was made the provision was brought to the notice of the hirer and its effect made clear to him.

(3A) Where under a hire-purchase agreement goods are let as second-hand goods and—

(a) the agreement contains a statement to that effect, and a provision that the stipulation referred to in subsection (1)(d) of this section 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 stipulation was brought to the notice of the hirer and its effect made clear to him,

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

(3B) Where under a hire-purchase agreement goods are let 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 stipulation referred to in subsection (1)(d) of this section 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 stipulation, were brought to the notice of the hirer and the effect of that provision was made clear to him,

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

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(3C) In relation to every hire-purchase agreement the stipulations referred to in subsection (1)(b) and (d) and subsection (2) of this section shall be deemed to be material to the agreement.

(4) Nothing in this section shall prejudice the operation of any other enactment or rule of law whereby any stipulation is to be implied in any hire-purchase agreement.

9. A hirer who is liable to make payments in respect of two 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 appropriate a sum so paid by him 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 two or more of the agreements in such proportions as he thinks fit, and, if he fails to make any such appropriation as aforesaid, the payment shall by virtue of this section be appropriated towards the satisfaction of the sums due under the respective hire-purchase agreements in the proportions which those sums bear to one another.

Appropriation of payment made in respect of hire-purchase agreements.

11.—(1) Where goods have been let under a hire-purchase agreement and one-third of the hire-purchase price has been paid, whether in pursuance of an order of a court or otherwise, or tendered by or on behalf of the hirer or any guarantor, the owner shall not enforce any right to recover possession of any of the goods from the hirer otherwise than by action:

Restriction of owner's right to recover possession.

Provided that nothing in this subsection shall be taken to confer on an owner any right to recover, otherwise than by action, possession of any goods let under a hire-purchase agreement where one-third of the hire-purchase price has not been paid or tendered as aforesaid.

(2) If an owner recovers possession of goods in contravention of the foregoing subsection the hire-purchase agreement, if not previously determined, shall determine, and—

- (a) the hirer shall be released from all liability under the agreement and shall be entitled to recover from the owner all sums paid by the hirer under the agreement or under any security given by him in respect thereof, and
- (b) any guarantor shall be entitled to recover from the owner all sums paid by him under the contract of guarantee or under any security given by him in respect thereof.

(3) The provisions of this section shall not apply in any case in which the hirer has determined the agreement by virtue of any right vested in him.

12.—(1) The following provisions of this section shall apply, in a case to which the last foregoing section applies, where the owner commences an action to enforce a right to recover possession of any of the goods from the hirer after one-third of the hire-purchase price has been paid or tendered as aforesaid.

Powers of court in certain actions by owners to recover possession of the goods.

SCH. 2

(1A) After such an action has been commenced the owner shall not take any steps to enforce payment of any sum due under the hire-purchase agreement, or under any contract of guarantee relating thereto, except by claiming the said sum in the said action.

(2) Subject to such exceptions as may be provided for by rules of court, all parties to the agreement and any guarantor shall be made parties to the action.

(3) Pending the hearing of the action the court shall, in addition to any other powers, have power, upon the application of the owner, to make such orders as the court thinks just for the purpose of protecting the goods from damage or depreciation, including orders restricting or prohibiting the user of the goods or giving directions as to their custody.

(4) On the hearing of the action the court may, without prejudice to any other power—

(a) make an order for the specific delivery of all the goods to the owner, or

(b) make an order for the specific delivery of all the goods to the owner and postpone the operation of the order on condition that the hirer or any guarantor pays the unpaid balance of the hire-purchase price at such times and in such amounts as the court, having regard to the means of the hirer and of any guarantor, thinks just, and subject to the fulfilment of such other conditions by the hirer or a guarantor as the court thinks just, or

(c) make an order for the specific delivery of a part of the goods to the owner and for the transfer to the hirer of the owner's title to the remainder of the goods.

(5) No order shall be made under paragraph (b) of the last foregoing subsection unless the hirer satisfies the court that the goods are in his possession or control at the time when the order is made.

(6) The court shall not make an order transferring to the hirer the owner's title to a part of the goods unless it is satisfied that the amount which the hirer has paid in respect of the hire-purchase price exceeds the price of that part of the goods by at least one-third of the unpaid balance of the hire-purchase price.

(7) Where damages have been awarded against the owner in the proceedings, the court may treat the hirer as having paid in respect of the hire-purchase price, in addition to the actual amount paid, the amount of the damages, or such part thereof as the court thinks fit, and thereupon the damages shall accordingly be remitted either in whole or in part.

(8) In this section the expression "order for the specific delivery of the goods" means an order for the delivery of the goods to the owner without giving the hirer an option to pay their value, and the expression "price" in relation to any goods means such part of the hire-purchase price as is assigned to those goods by the hire-purchase agreement, or, if no such assignment is made, such part of the hire-purchase price as the court may determine.

(9) If at any time before the hearing of an action to which this section applies the owner has recovered possession of a part of the goods, the references in subsection (4) hereof to all the goods shall be construed as references to all the goods which the owner has not recovered and, if the parties have not agreed upon an adjustment of the hire-purchase price in respect of the goods so recovered, the court may for the purposes of paragraphs (b) and (c) of subsection (4) hereof make such reduction of the hire-purchase price and of the unpaid balance thereof as the court thinks just.

(10) Where an owner has recovered a part of the goods let under a hire-purchase agreement, and recovery was effected in contravention of the last foregoing section, the provisions of this section shall not apply in relation to any action by the owner to recover the remainder of the goods.

13.—(1) While the operation of an order for the specific delivery of goods to the owner is postponed under the last foregoing section, the hirer shall be deemed to be a custodian of the goods under and on the terms of the hire-purchase agreement:

Effect of postponement of operation of order for specific delivery of goods to the owner.

Provided that—

- (a) no further sum shall be or become payable by the hirer or guarantor on account of the unpaid balance of the hire-purchase price, except in accordance with the terms of the order, and
- (b) the court may make such further modification of the terms of the hire-purchase agreement and of any contract of guarantee relating thereto as the court considers necessary having regard to the variation of the terms of the payment.

(2) If while the operation of an order for the specific delivery of the goods to the owner is so postponed the hirer or a guarantor fails to comply with any condition of the postponement, or with any term of the agreement as varied by the court, or wrongfully disposes of the goods, the owner shall not take any civil proceedings against the hirer or guarantor otherwise than by making an application to the court by which the order was made:

Provided that, in the case of a breach of any condition relating to the payment of the unpaid balance of the hire-purchase price, it shall not be necessary for the owner to apply to the court for leave to execute diligence on the order unless the court has so directed.

(3) When the unpaid balance of the hire-purchase price has been paid in accordance with the terms of the order, the owner's title to the goods shall vest in the hirer.

(4) The court may at any time during the postponement of the operation of such an order as aforesaid—

- (a) vary the conditions of the postponement, and make such further modification of the hire-purchase agreement and of any contract of guarantee relating thereto as the court considers necessary having regard to the variation of the conditions of the postponement ;
- (b) revoke the postponement ;

SCH. 2

- (c) make an order, in accordance with the provisions of the last foregoing section, for the specific delivery of a part of the goods to the owner and for the transfer to the hirer of the owner's title to the remainder of the goods.

Further provisions relating to postponed orders for specific delivery of goods.

13A.—(1) Where a postponed order for the specific delivery of goods to the owner has been made under paragraph (b) of subsection (4) of section 12 of this Act, the powers of the court under paragraphs (a) and (c) of subsection (4) of the last foregoing section may be exercised, notwithstanding that any condition of the postponement has not been complied with, at any time before the goods are delivered to the owner in accordance with a warrant issued in pursuance of the order; and where such a warrant has been issued the court shall—

- (a) if the court varies the conditions of the postponement under the said paragraph (a), suspend the warrant on the like conditions;
- (b) if the court makes an order under the said paragraph (c) for the specific delivery of a part of the goods to the owner and for the transfer to the hirer of the owner's title to the remaining part thereof, cancel the warrant so far as it provides for the delivery of the last mentioned part of the goods.

(2) At any time before the delivery of goods to the owner in accordance with a warrant issued as aforesaid, the warrant may, so far as it provides for the delivery of the goods, be discharged by the payment to the owner by the hirer or any guarantor of the whole of the unpaid balance of the hire-purchase price; and in any such case the owner's title to the goods shall vest in the hirer.

(3) If, in an action to which the said section 12 applies, an offer as to conditions for the postponement of the operation of an order under paragraph (b) of subsection (4) of that section is made by the hirer and accepted by the owner in accordance with rules of court, an order under that paragraph may thereupon be made by the court in accordance with the said offer without hearing evidence as to matters specified in the said paragraph (b) or in subsection (5) of that section:

Provided that where a guarantor is a party to the action, no such order shall be made before the date fixed for the hearing of the action.

Powers of the court to deal with payments arising on determination of hire-purchase agreements.

14.—(1) Where a hire-purchase agreement validly provides for the payment by the hirer on or after the determination of the agreement of such sum as, when added to the sums paid and the sums due in respect of the hire-purchase price before the determination, is equal to a fixed amount, and a claim is made in respect of any such sum in an action to which section 12 of this Act applies, then—

- (a) if the court makes an order for the specific delivery of a part of the goods to the owner and the transfer to the hirer of the owner's title to the remainder of the goods, the claim shall be disallowed,

(b) if the court postpones the operation of an order for the specific delivery of the goods to the owner, it shall not entertain the claim unless and until the postponement is revoked, and shall then deal with the claim as if the agreement had just been determined.

SCH. 2

(2) Where the hirer or a guarantor has paid or has been ordered to pay any such sum as aforesaid, and the owner subsequently seeks to recover goods in an action to which section 12 of this Act applies, the court may treat the said sum as a sum paid or payable, as the case may be, in respect of the hire-purchase price.

15. Where goods have been let under a hire-purchase agreement and at any time after one-third of the hire-purchase price has been paid or tendered the owner makes a further hire-purchase agreement with the hirer relating to the whole or any part of those goods (with or without other goods), the provisions of sections 11 and 12 of this Act shall have effect in relation to that further agreement as if in section 11(1) of this Act the words from "and one-third" to "any guarantor", and in section 12(1) of this Act the words "after one-third of the hire-purchase price has been paid or tendered as aforesaid", were omitted.

Successive hire-purchase agreements between the same parties.

19.—(1) Where under any hire-purchase agreement the owner is required to carry out any installation, and the agreement specifies as part of the hire-purchase price the amount to be paid in respect of the installation, the references in section 4 of this Act to one-half of the hire-purchase price and in sections 11, 12 and 15 of this Act to one-third of the hire-purchase price shall be construed as references to the aggregate of the said amount and either one-half of the remainder of the hire-purchase price or one-third of the remainder of the hire-purchase price, as the case may be.

Special provisions as to installation charges.

(2) For the purpose of this section the expression "installation" means—

- (a) the installing of any electric line as defined by the Electric Lighting Act 1882 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 thereon, 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 such construction or erection.

19A.—(1) Subject to the following provisions of this section, where goods have been let under a hire-purchase agreement to which this Act applies and the owner brings or institutes an action to enforce a right to recover possession of any of the goods from the hirer, the action shall be brought or instituted in the sheriff court for the district in which the hirer resides or carries on business or resided or carried on business at the date on which he last made a payment under the hire-purchase agreement.

Jurisdiction.

SCH. 2

(2) No cause, action or proceeding on or arising out of any hire-purchase agreement to which this Act applies or credit-sale agreement to which this Act applies which may competently be brought or instituted in the small debt court shall be brought or instituted otherwise than in that court; but nothing in this section shall affect or prejudice any power vested in the sheriff to remit to the ordinary court roll any such cause, action or proceeding brought or instituted in the small debt court.

(3) In this section "small debt court" means any court held in pursuance of the Small Debt (Scotland) Act 1837 as amended by any subsequent enactment.

Interpretation.

21.—(1) In this Act, unless the context otherwise requires, the following expressions have the meanings hereby assigned to them, that is to say:—

- "action", "buyer", "delivery", "goods", "property", "sale", "seller", have the meanings respectively assigned to them by the Sale of Goods Act 1893;
- "hire-purchase agreement" means any contract, in whatsoever terms it may be expressed and whether it be truly one of sale or hire, whereby goods are taken on hire by one person from another person in consideration of periodical payments to be made by the first mentioned person to the other person, with an option to the first mentioned person to become the buyer of the goods;
- "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;
- "conditional sale agreement" has the meaning assigned to it by section 21(5) of the Hire-Purchase Act 1964;
- "hire-purchase price" 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, inclusive of any sum so payable by way of a deposit or other initial payment, or credited or to be credited to the hirer under such an agreement on account of any such deposit or payment, whether that sum is to be or has been paid to the owner 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; but exclusive of any sum payable as a penalty or as compensation or damages for a breach of the agreement;
- "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 assignation or by operation of law;
- "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 assignation or by operation of law ; SCH. 2

“ contract of guarantee ” means, in relation to any hire-purchase agreement or credit-sale agreement, a contract, made at the request express or implied of the hirer or buyer, to guarantee the performance of the hirer’s or buyer’s obligations under the hire-purchase agreement or credit-sale agreement, or to indemnify the owner or the seller against any loss which he may incur in respect of the hire-purchase agreement or credit-sale agreement ; and the expression “ guarantor ” shall be construed accordingly ;

“ total purchase price ” means the total sum payable by the buyer under a credit-sale agreement, exclusive of any sum payable as a penalty or as compensation or damages for a breach of the agreement ;

and any reference in this Act to a document which constitutes a hire-purchase agreement or a credit-sale 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 shall be construed accordingly.

(2) Where an owner has agreed that any part of the hire-purchase price may be discharged otherwise than by the payment of money, any such discharge shall, for the purposes of sections 4, 6, 11, 12, 13, 14 and 15 of this Act, be deemed to be a payment of that part of the hire-purchase price.

22.—(1) This Act may be cited as the Hire-Purchase Act 1938. Short title.

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SCHEDULE

(to Hire-Purchase Act 1938)

NOTICE TO BE INCLUDED IN HIRE-PURCHASE AGREEMENT

NOTICE

Right of Hirer to terminate Agreement

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 which the hirer is required to pay in accordance with the provisions of sections 4 and 19 of this Act apart from the proviso to subsection (1) of section 4*) 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.

SCH. 2

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.

Restriction of Owner's right to recover Goods

1. 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 obtains an order of the court.

2. If *[after (*here insert an amount calculated in accordance with the provisions of sections 11 and 19 of this Act*) has been paid] the owner applies to the court for such an order, the court (under powers conferred by the Hire-Purchase (Scotland) Acts 1938 to 1964) may, if the court thinks it just to do so, allow the hirer to keep either—

- (a) the whole of the goods, on condition that the hirer pays the balance of the price in the manner ordered by the court; or
- (b) a fair proportion of the goods having regard to what the hirer has already paid.

* *If the agreement is a "further" agreement within the meaning of section 15 of this Act, the words in square brackets should be omitted.*

SCHEDULE 3

SCHEDULE TO BE INSERTED IN ADVERTISEMENTS (HIRE-PURCHASE) ACT 1957

FORMULA FOR CALCULATING RATE OF INTEREST OR CHARGE

1. The provisions of this Schedule shall have effect for the purposes of the application of section 2A of this Act to an advertisement.

2. Let m be the number by which the period in respect of which, in accordance with the advertisement, each instalment is payable must be multiplied in order to be equal to a period of twelve months.

3. Let d be the amount of the difference between—

- (a) the sum stated in the advertisement in accordance with section 2(2)(g) of this Act, and
- (b) the sum stated in the advertisement as the cash price of the goods.

4. Let p be the amount of the difference between—

- (a) the sum stated in the advertisement as the cash price of the goods, and

(b) the amount of the deposit (if any) as stated in the advertisement, if that amount is directly expressed therein, or, if it is not so expressed, the amount of the deposit (if any) calculated in accordance with the statement in the advertisement,

or, if it is stated in the advertisement that no deposit is payable, let p be the amount of the cash price.

5. Let n be the number specified in the advertisement as the total number of instalments payable.

6. The formula referred to in subsection (2) of section 2A of this Act is

$$\frac{200 \, md}{p \, (n+1) + \frac{d}{3} \, (n-1)}$$

SCHEDULE 4

ENACTMENTS AMENDED

Enactment	Amendment
The Hire-Purchase Act 1938 (1 & 2 Geo. 6. c. 53).	<p>In section 1, after the word " shall ", in the first place where it occurs, there shall be inserted the words " (except as provided by section 2 of the Hire-Purchase Act 1964) ".</p> <p>In section 2, in subsection (2), after paragraph (a) there shall be inserted the following paragraph:—</p> <p>“ (aa) the agreement, at the time when it is signed by the hirer, complies with the requirements of any regulations made under section 3(4) of the Hire-Purchase Act 1964 which are applicable thereto, and ”,</p> <p>and, in the proviso to that subsection, after “ paragraph ” there shall be inserted “ (aa) ”.</p> <p>In section 3, in subsections (1) and (2), for the word “ five ”, in each place where it occurs, there shall be substituted the word “ thirty ”; and in subsection (2), after paragraph (a) there shall be inserted the following paragraph:—</p> <p>“ (aa) the agreement, at the time when it is signed by the buyer, complies with the requirements of any regulations made under section 3(4) of the Hire-Purchase Act 1964 which are applicable thereto, and ”,</p> <p>and, in the proviso to that subsection, after “ paragraph ” there shall be inserted “ (aa) ”.</p> <p>In section 5, in paragraph (c), for the words from “ subject to a liability ” to the end of the paragraph there shall be substituted the</p>

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Enactment	Amendment
<p>The Hire-Purchase Act 1938 (1 & 2 Geo. 6. c. 53) —cont.</p>	<p>words “ (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, the amount first mentioned in section 4(1) of this Act and an amount equal to the loss sustained by the owner in consequence of the termination of the agreement or bailment ”.</p> <p>In section 6(1), for the words “ one shilling ” there shall be substituted the words “ two shillings and sixpence ”, and for the words from “ any memorandum ” to “ together ” there shall be substituted the words “ the agreement or, in the case of a credit-sale agreement under which the total purchase price does not exceed thirty pounds, a copy of any note or memorandum of the agreement, together (in either case) ”; and in section 6(2), for the word “ ten ” there shall be substituted the words “ twenty-five ”.</p> <p>In section 7(2), for the word “ ten ” there shall be substituted the words “ twenty-five ”.</p> <p>In section 11(1), after the words “ possession of ” there shall be inserted the words “ any of ”.</p> <p>In section 15, for the words “ comprising those goods ” there shall be substituted the words “ relating to the whole or any part of those goods (with or without other goods) ”, and for the words “ as from the commencement thereof ” there shall be substituted the words “ as if in section 11(1) of this Act the words from ‘ and one-third ’ to ‘ any guarantor ’, and in section 12(1) of this Act the words ‘ after one-third of the hire-purchase price has been paid or tendered as aforesaid ’, were omitted ”.</p> <p>In section 18(1), for the words “ this Act ”, in the first place where they occur, there shall be substituted the words “ the Hire-Purchase Acts 1938 to 1964 ”, after the words “ section twelve of this Act ” there shall be inserted the words “ or section 14 of the Hire-Purchase Act 1964 ”, and after the words “ the said section ” there shall be inserted the words “ twelve or section 14, as the case may be ”.</p> <p>In section 19(1), after the words “ this Act ”, in the third place where they occur, there shall be inserted the words “ and in section 14(1) of the Hire-Purchase Act 1964 ”.</p>

Enactment	Amendment
<p>The Hire-Purchase Act 1938 (1 & 2 Geo. 6. c. 53) —<i>cont.</i></p>	<p>In section 21(1), at the end of the definition of “credit-sale agreement” there shall be added the words “not being a conditional sale agreement”; after that definition there shall be inserted the following definition:— “conditional sale agreement” has the meaning assigned to it by section 21(5) of the Hire-Purchase Act 1964”; and in the definition of “contract of guarantee”, after the word “agreement” in the last place where it occurs, there shall be inserted the words “or to indemnify the owner or the seller against any loss which he may incur in respect of the hire-purchase agreement or credit-sale agreement”.</p> <p>In the Schedule, in the first paragraph 2, after the word “Act”, there shall be inserted the words “apart from the proviso to subsection (1) of section four”, and at the end there shall be added the words “unless the court determines that a smaller sum would be equal to the owner’s loss”.</p>
<p>The Advertisements (Hire-Purchase) Act 1957 (5 & 6 Eliz. 2. c. 41).</p>	<p>In section 2(4), for the word “section” there shall be substituted the word “Act”.</p> <p>In section 3(1), for the words “the last preceding section” there shall be substituted the words “section 2 or section 2A of this Act”.</p>

SCHEDULE 5
ENACTMENTS REPEALED

Chapter	Short Title	Extent of Repeal
22 & 23 Geo. 5. c. 38.	The Hire Purchase and Small Debt (Scotland) Act 1932.	Sections 1 to 5. Sections 8 and 9. In section 10(1), the definition of "instalment" and section 10(2).
1 & 2 Geo. 6. c. 53.	The Hire-Purchase Act 1938.	In section 2(1), the words "the note or memorandum of". In section 3(1), the words "the note or memorandum of". In section 8(1), the words "as regards defects of which the owner could not reasonably have been aware at the time when the agreement was made, or". In section 12(8), the words "the note or memorandum of". In section 19(1), the words "the note or memorandum of". In section 21(1), the definition of "livestock". In section 22(3), the words "Scotland or". In the Schedule, the words "NOTE OR MEMORANDUM OF".
2 & 3 Eliz. 2. c. 51.	The Hire-Purchase Act 1954.	Sections 1 and 4.
9 & 10 Eliz. 2. c. 56.	The Credit-Sale Agreements (Scotland) Act 1961.	The whole Act.

SCHEDULE 6

TRANSITIONAL PROVISIONS (ENGLAND AND WALES)

1. Section 20 of the principal Act (which provides for the limited application of certain provisions of that Act to agreements made before the commencement of the Act and in all other respects excludes such agreements from that Act) shall have effect in relation—

- (a) to hire-purchase agreements of a class to which the principal Act applies by virtue only of subsections (1) and (2) of section 1 of this Act, and
- (b) to conditional sale agreements to which section 21 of this Act applies,

as if any reference in the said section 20 to the commencement of the principal Act were a reference to the commencement of this Act.

2. The following provisions of Part I of this Act shall, to the extent specified in this paragraph, have effect in relation to all hire-purchase agreements to which the principal Act applies, whether by virtue of section 1 of this Act or otherwise, and whether made before or after the commencement of this Act, and in relation to all conditional sale agreements to which section 21 of this Act applies, whether made before or after the commencement of this Act, that is to say—

- (a) section 15, except in relation to a default committed before the commencement of this Act,
- (b) sections 16 and 17, except where the hirer or buyer has died before the commencement of this Act, and
- (c) sections 14, 18 and 19, so far as they relate to actions begun after the commencement of this Act.

3. Except as provided by paragraph 2 of this Schedule, Part I of this Act, and section 34 of this Act in so far as it amends or repeals any enactment contained in the principal Act or the Hire-Purchase Act 1954, shall not have effect in relation to any hire-purchase agreement, credit-sale agreement or conditional sale agreement made before the commencement of this Act.

4.—(1) In relation to hire-purchase agreements of a class to which the principal Act applies by virtue only of an Order in Council made under section 1(3) of this Act, and in relation to conditional sale agreements of a class to which section 21 of this Act applies by virtue only of such an Order, subsections (1) and (2) of section 20 of the principal Act shall apply as if any reference in those subsections to the commencement of the principal Act were a reference to the coming into operation of that Order.

(2) In relation to any such agreement as is mentioned in the preceding sub-paragraph, whether made before, on or after the date on which the Order comes into operation,—

- (a) section 15 of this Act shall apply, except in the case of a default committed before that date ;

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(b) sections 16 and 17 of this Act shall apply, except where the hirer or buyer has died before that date; and

(c) sections 14, 18 and 19 of this Act shall apply so far as they relate to actions begun after that date.

5. Except as provided by the last preceding paragraph, the principal Act and Part I of this Act shall not have effect in relation to any hire-purchase agreement, credit-sale agreement or conditional sale agreement which—

(a) is of a class to which the principal Act or, as the case may be, section 21 of this Act, applies by virtue only of such an Order in Council as is mentioned in the last preceding paragraph, and

(b) is made before the date on which that Order comes into operation.

6. For the purposes of the operation of this Schedule in relation to conditional sale agreements—

(a) any reference in section 20 of the principal Act to a hire-purchase agreement shall be construed as a reference to a conditional sale agreement;

(b) that section shall be construed subject to the modifications specified in sub-paragraphs (a) to (e) of paragraph 2(1) of Schedule 1 to this Act;

(c) any reference in that section to any other provision of the principal Act shall be construed as a reference to that provision as modified by that Schedule.

7.—(1) Section 21(1) of the principal Act shall have effect for the purposes of this Schedule as it has effect for the purposes of that Act.

(2) In this Schedule “the principal Act” means the Hire-Purchase Act 1938, “conditional sale agreement” has the meaning assigned to it by subsection (5) of section 21 of this Act, and any reference to a conditional sale agreement to which that section applies shall be construed as if this Schedule were included in that section after subsection (2) thereof, and references to conditional sale agreements of a class to which that section applies shall be construed accordingly.

SCHEDULE 7

TRANSITIONAL PROVISIONS (SCOTLAND)

1. The following provisions of the Act of 1938 and of Part I of this Act shall, to the extent specified in this paragraph, have effect in relation to hire-purchase agreements to which the Act of 1938 applies, whether made before or after the commencement of this Act, and in relation to conditional sale agreements to which section 21 of this Act applies, whether made before or after the commencement of this Act, that is to say—

(a) section 9 of the Act of 1938, so far as it relates to payments made after the commencement of this Act,

- (b) sections 11 and 15 of the Act of 1938, so far as they relate to the recovery of possession of goods after the commencement of this Act, otherwise than in pursuance of a decree pronounced in an action commenced before the commencement of this Act,
- (c) sections 12, 13, 13A, 14, 15 and 19A(1) of the Act of 1938, so far as they relate to actions commenced after the commencement of this Act,
- (d) section 19 of the Act of 1938, so far as it relates to section 11, 12 or 15 of that Act,
- (e) section 15 of this Act, except in relation to a default committed before the commencement of this Act,
- (f) sections 16 and 17 of this Act, except where the hirer or buyer has died before the commencement of this Act, and
- (g) sections 18 and 19 of this Act, so far as they relate to actions begun after the commencement of this Act.

2. Except as provided by the last preceding paragraph, the Act of 1938, Part I of this Act, section 25(4) of this Act, and section 34(2) of this Act in so far as it repeals any enactment contained in the Hire Purchase and Small Debt (Scotland) Act 1932 or the Hire-Purchase Act 1954 or the Credit-Sale Agreements (Scotland) Act 1961, shall not have effect in relation to any hire-purchase agreement, credit-sale agreement or conditional sale agreement made before the commencement of this Act.

3.—(1) The following provisions of the Act of 1938 and of Part I of this Act shall, to the extent specified in this paragraph, have effect in relation to hire-purchase agreements of a class to which the Act of 1938 applies by virtue only of an Order in Council made under section 1(2) of the Act of 1938, and in relation to conditional sale agreements of a class to which section 21 of this Act applies by virtue only of such an Order,—

- (a) section 9 of the Act of 1938, so far as it relates to payments made after the date on which that Order comes into operation,
- (b) sections 11 and 15 of the Act of 1938, so far as they relate to the recovery of possession of goods after the date on which that Order comes into operation,
- (c) sections 12, 13, 13A, 14, 15 and 19A(1) of the Act of 1938, so far as they relate to actions commenced after the date on which that Order comes into operation,
- (d) section 19 of the Act of 1938, so far as it relates to section 11, 12 or 15 of that Act,
- (e) section 15 of this Act, except in relation to a default committed before the date on which that Order comes into operation,
- (f) sections 16 and 17 of this Act, except where the hirer or buyer has died before the date on which that Order comes into operation, and
- (g) sections 18 and 19 of this Act, so far as they relate to actions begun after the date on which that Order comes into operation.

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(2) The preceding sub-paragraph shall apply to any such agreement as is therein mentioned, whether the agreement was made before, on or after the date on which the Order comes into operation.

4. Except as provided by the last preceding paragraph, the Act of 1938 and Part I of this Act shall not have effect in relation to any hire-purchase agreement, credit-sale agreement or conditional sale agreement which—

- (a) is of a class to which the Act of 1938 or, as the case may be, section 21 of this Act, applies by virtue only of such an Order in Council as is mentioned in the last preceding paragraph, and
- (b) is made before the date on which that Order comes into operation.

5.—(1) For the purposes of this Schedule—

- (a) section 21(1) of the Act of 1938 shall have effect as it has effect for the purposes of that Act ;
- (b) section 21(3) of this Act shall have effect as it has effect for the purposes of Part I of this Act.

(2) In this Schedule, the expression “ the Act of 1938 ” has the meaning assigned to it by section 25(5) of this Act ; references to Part I of this Act are references to such of the provisions of that Part as are extended to Scotland by section 26 of this Act ; and any reference to those provisions, or to any of them, shall be construed as a reference to those provisions, or, as the case may be, that provision, as so extended.

Table of Statutes referred to in this Act

Short Title	Session and Chapter
Small Debt (Scotland) Act 1837	7 Will. 4 & 1 Vict. c. 41.
Electric Lighting Act 1882... ..	45 & 46 Vict. c. 56.
Factors Act 1889	52 & 53 Vict. c. 45.
Interpretation Act 1889	52 & 53 Vict. c. 63.
Factors (Scotland) Act 1890	53 & 54 Vict. c. 40.
Sale of Goods Act 1893	56 & 57 Vict. c. 71.
Law of Distress Amendment Act 1908	8 Edw. 7. c. 53.
Bankruptcy Act 1914	4 & 5 Geo. 5. c. 59.
Administration of Estates Act 1925	15 & 16 Geo. 5. c. 23.
Hire Purchase and Small Debt (Scotland) Act 1932	22 & 23 Geo. 5. c. 38.
Hire-Purchase Act 1938	1 & 2 Geo. 6. c. 53.
Hire-Purchase Act 1954	2 & 3 Eliz. 2. c. 51.
Advertisements (Hire-Purchase) Act 1957	5 & 6 Eliz. 2. c. 41.
County Courts Act 1959	7 & 8 Eliz. 2. c. 22.
Credit Sale Agreements (Scotland) Act 1961	9 & 10 Eliz. 2. c. 56.