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**CHAPTER 342****HIRE-PURCHASE**

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**CHAPTER 342****HIRE-PURCHASE**

**An Act to make provision for the regulation of hire-purchase, credit sale and conditional sale agreements and for purposes connected with the matters aforesaid.** *21 of 1974*

*[Assent 24th October, 1974]  
[Commencement 19th December, 1974]*

**PART I  
PRELIMINARY**

1. This Act may be cited as the Hire-Purchase Act. Short title.
2. (1) In this Act, unless the context otherwise requires — Interpretation.

“appropriate trade premises”, in relation to a document, means premises at which either the owner or the seller named in the document normally carries on business, or at which 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;

“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 operation of law;

“conditional sale agreement” means an agreement for the sale of goods under which the purchase price or part of it is payable by instalments and the property in the goods is to remain in the seller, notwithstanding that the buyer is to be in possession of the goods, until such conditions as to the payment of instalments or otherwise as may be specified in the agreement are fulfilled;

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- “contract of guarantee”, in relation to a hire-purchase agreement, credit sale agreement or conditional sale agreement means a contract made at the request, express or implied, of the hirer or buyer, either to guarantee the performance of the hirer's or buyer's obligations under the agreement, or to indemnify the owner or seller against any loss which he may incur in respect of that agreement and “guarantor” shall be construed accordingly;
- “court” means, subject to section 47, any court having jurisdiction to hear and determine the matter in issue in accordance with any law in force in The Bahamas;
- “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;
- “hire-purchase agreement” means an agreement for the bailment of goods under which the bailee may buy the goods or under which the property in the goods will or may pass to the bailee;
- “hire-purchase price”, subject to subsection (3), means the total sum payable by the hirer under a hire-purchase agreement in order to complete the purchase of the goods to which the agreement relates, exclusive of any sum payable as a penalty or as compensation or damages for a breach of the agreement;
- “hirer” means the person who takes or has taken goods from an owner under a hire-purchase agreement and includes a person to whom the hirer's rights or liabilities under the agreement have passed by assignment or by operation of law;
- “Minister” means the Minister responsible for Hire-purchase;
- “notice of cancellation” has the meaning assigned to it by section 10;
- “owner” means the person who lets or has let goods to a hirer under a hire-purchase agreement and includes a person to whom the owner's property in the goods or any of the owner's rights or liabilities under the agreement has passed by assignment or by operation of law;

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“Part” means a Part of this Act;

“seller”, in relation to a conditional sale agreement, means the person who agrees to sell goods under the agreement and includes any 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;

“total purchase price”, subject to subsection (3), means the total sum payable by the buyer under a credit sale agreement or a conditional sale agreement, exclusive of any sum payable as a penalty or as compensation or damages for a breach of the agreement.

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

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

(4) In this Act, “antecedent negotiations”, in relation to an actual or prospective hire-purchase agreement, credit sale agreement or conditional 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 Act to the person by whom the 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.

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

Restricted application of Parts II, IV and V.

**3.** (1) Parts II, IV and V shall apply, and shall apply only, to and in relation to hire-purchase agreements, conditional sale agreements and credit sale agreements under which the hire-purchase price or total purchase price, as the case may be, does not exceed ten thousand dollars, and references in those Parts to a hire-purchase agreement, a conditional sale agreement or a credit sale agreement shall be construed accordingly.

(2) Whenever it appears to the Minister that the amount specified as a limit in subsection (1) ought to be raised or to be further raised, the Minister may by order substitute such greater amount as he may think fit as a limit; and from and after the date of any such order, subsection (1) shall have effect as so amended.

## PART II GENERAL

Enforcement conditional on compliance with specified requirements.

**4.** (1) Where goods are let under a hire-purchase agreement or are sold, or agreed to be sold, under a credit sale agreement or a conditional sale agreement then, subject to the exercise of any power of the court under section 9, the owner or seller shall not be entitled to enforce the agreement unless —

- (a) it is signed by the hirer or buyer, and by or on behalf of all other parties to it; and
- (b) the requirements of sections 5 and 6 and also of section 7 or section 8, as the case may be, are complied with.

(2) Where by virtue of subsection (1) the owner or seller is not entitled to enforce any agreement —

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

payable under a contract of guarantee relating to it, shall be enforceable against either the hirer or buyer or against such guarantor by the holder of such a security; and

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

**5.** (1) The requirements of this section, in relation to an agreement, are that, before the agreement is made —

Requirements as to cash price.

- (a) the cash price of the goods has been stated in writing to the hirer or buyer by the owner or seller, otherwise than in the agreement itself; or
- (b) if the hirer or buyer has inspected the goods or like goods, then, at the time of his inspection, tickets or labels were attached to or displayed with the goods clearly stating the cash price either of the goods as a whole or of all the different articles or sets of articles comprised therein; or
- (c) the hirer or 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) In this Part, “cash price” in relation to any goods, means the price at which the goods might be purchased by the hirer or buyer for an immediate cash payment.

**6.** The requirements of this section, in relation to an agreement, are that —

Requirements as to content and form of agreements.

- (a) the agreement contains a statement of —
  - (i) the hire-purchase price or total purchase price (specifically stating the rate of interest payable) as the case may be;
  - (ii) the cash price of the goods to which it relates;
  - (iii) the amount of each instalment by which the hire-purchase price or total purchase price is to be paid; and
  - (iv) the date, or mode of determining the date upon which each instalment is payable;

First and Second Schedules.

Requirements as to copies where hirer or buyer signs at appropriate trade premises.

- (b) the agreement contains a list of the goods to which the agreement relates, sufficient to identify them;
- (c) the agreement complies with the requirements of any regulations made under section 28; and
- (d) if it is a hire-purchase agreement or a credit sale agreement, it contains a notice, which is at least as prominent as the rest of its contents, in the terms set out in the First and Second Schedules to this Act, as appropriate.

7. (1) The requirements of this section, in relation to an agreement which is signed by the hirer or buyer at appropriate trade premises, are that copies are delivered or sent to the hirer or buyer in accordance with the following provisions of this section.

- (2) If either —
  - (a) the agreement is signed by or on behalf of all other parties immediately after it is signed by the hirer or buyer, and a copy of the agreement is then and there delivered to him; or
  - (b) the agreement having been signed by or on behalf of all other parties before it is signed by the hirer or buyer, a copy of the agreement is delivered to him immediately after he signs the agreement,

and, in either case, the copy so delivered complies with all the requirements of any regulations made under section 28, then delivery of that copy shall be taken to have fulfilled the requirements of this section in relation to that agreement.

- (3) If, in a case not falling within subsection (2) —
  - (a) either —
    - (i) the relevant document was presented, and not sent, to the hirer or buyer for his signature, and immediately after he signed it there was delivered to him a copy of that document in the form in which it then was; or
    - (ii) the relevant document was sent to the hirer for his signature together with a copy of that document in the form in which it then was; and

- (b) in either case, a further copy of the agreement is delivered or sent to the hirer or buyer within seven days of the making of the agreement,

then, if each copy delivered or sent to the hirer or buyer as aforesaid complies with all the requirements of any regulations made under section 28, the delivery or sending of those copies shall be taken to have fulfilled the requirements of this section in relation to that agreement.

(4) In this Part, “the relevant document” means the document which constitutes or is intended to constitute the original hire-purchase agreement, credit sale agreement or conditional sale agreement between the parties.

**8.** (1) The requirements of this section, in relation to an agreement which is signed by the hirer or buyer at a place other than appropriate trade premises, are that copies are delivered or sent to the hirer or buyer in accordance with the following provisions of this section.

Requirements as to copies where hirer or buyer signs elsewhere than at appropriate trade premises.

(2) A copy of the relevant document (in this Part referred to as “the first statutory copy”) must be delivered or sent to the hirer or buyer as follows, that is to say —

- (a) if the relevant document is presented, and not sent, to the hirer or buyer for his signature, a copy of that document in the form in which it then is, must be delivered to him immediately after he signs it;
- (b) if the relevant document is sent to the hirer or buyer for his signature, a copy of that document, in the form in which it then is, must be sent to him together with it.

(3) Within seven days of the making of the agreement, a further copy of the agreement (in this Part referred to as “the second statutory copy”) must be sent by registered post to the hirer or buyer.

(4) The first statutory copy and the second statutory copy must each contain a full and sufficient statement as to the rights of the hirer or buyer under section 10.

(5) Any statement which, in accordance with regulations made under this Act, is contained in either the first statutory copy or second statutory copy shall specify the name and address of a person to whom notice of cancellation may be sent, but different names and addresses may be so specified in the first statutory copy and second statutory copy of the same agreement.

Power of court to dispense with requirements.

**9.** (1) Subject to the following provisions of this section, if in any action the court is satisfied that a failure to comply with any of the requirements specified in sections 5 to 8 inclusive has not prejudiced the hirer or buyer, and that it would be just and equitable to dispense with that requirement, the court may dispense with that requirement for the purposes of the action, subject to any conditions which it thinks fit to impose.

(2) The power conferred by subsection (1) shall not be exercised in relation to subsection (3) of section 8 except where the second statutory copy has actually been sent to the hirer or buyer but not within the period therein specified.

(3) The power conferred by subsection (1) shall not be exercised in relation to subsection (4) of section 8.

Notice of cancellation.

**10.** (1) The provisions of this section shall have effect where a prospective hirer or buyer signs a document which constitutes a hire-purchase agreement, credit sale agreement or conditional sale agreement or which would constitute such an agreement, if executed by or on behalf of another person as owner or seller of the goods, and that document is signed by him 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 of cancellation under this section upon —

- (a) the owner or seller; or
- (b) any person who is the agent of the owner or seller for the purpose of receiving such a notice.

(3) A notice of cancellation 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 a prospective hirer or buyer serves a notice of cancellation then —

- (a) if, at the time when the notice is served, the relevant document constitutes a hire-purchase agreement, credit sale agreement or conditional sale agreement, the service of the notice shall operate so as to rescind it; and

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

(5) In this section “owner” or “seller” means the person who, at the time when the relevant document is signed by the prospective hirer or buyer, is specified therein as the person who is to let or 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 subsequently executed and 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.

**11.** (1) For the purposes of section 10 a notice of cancellation —

Service of notice of cancellation.

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

(2) The provisions of subsection (1) shall be without prejudice to the service of a notice of cancellation by any other lawful method upon the owner or seller or his agent.

(3) 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 of the prospective hirer or buyer.

**12.** (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

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

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into his possession in consequence, or in anticipation, of his signing that document.

(2) The prospective hirer or buyer shall be under no obligation to deliver the goods except at his own premises and in pursuance of a written request signed by or on behalf of the person entitled to possession of the goods 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 subsection (2) of section 13 or subsection (3) of section 14.

(3) If the prospective hirer or buyer —

(a) delivers the goods (whether at his own premises or elsewhere) to 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 of any other person who is then entitled to possession of the goods, and shall be discharged from any obligation to retain the goods or to deliver them to any person so entitled.

(4) Subject to the following provisions of this section, the prospective hirer or buyer shall be under an obligation to take reasonable care of the goods until the end of the period of twenty-one days commencing with the date of service of the notice of cancellation.

(5) Where the prospective hirer or buyer delivers the goods as mentioned in paragraph (a) of subsection (3), his obligation to take care of the goods shall thereupon cease; and if he sends the goods to an authorised person as mentioned in paragraph (b) of that 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, but in other respects his obligation to take care of the goods shall cease when he sends them to that person.

(6) Where, at any time during the period of twenty-one days mentioned in subsection (4), the prospective hirer or buyer receives a request such as is mentioned in subsection (2) and, unreasonably refuses or fails to comply with it, his obligation to take reasonable care of the goods shall continue until he delivers or sends the goods as mentioned in paragraph (a) or paragraph (b) of subsection (3).

(7) Any obligation under subsections (4), (5) or (6) 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.

(8) Except as in this section specifically provided, the prospective hirer or buyer shall be under no obligation to take care of the goods by reason of their having come into his possession as is mentioned in subsection (1).

(9) In this section, “authorised person” means any one of the following category of persons, 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;
- (c) the owner or seller;
- (d) any person who is specified, as mentioned in paragraph (a) of subsection (1) of section 11, as a person to whom notice of cancellation may be sent,

and any reference to the premises of the prospective hirer or buyer is a reference to the premises specified in the relevant document as his address, or if no such premises are so specified, to the premises where he usually or habitually resides.

**13.** (1) Where a notice of cancellation operates so as to rescind a hire-purchase agreement, a credit sale agreement or a conditional 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) Upon 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 paid before or after the signature thereof; and

Further consequences of notice of cancellation.

- (b) is comprised in the hire-purchase price or total purchase price or has, in pursuance of any antecedent negotiations, been paid to or for the benefit of the owner or seller or any other person who conducted those negotiations,

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

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

**14.** (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.

(2) Unless, before the end of the period of twenty-one days beginning with the date of service of the notice of cancellation, the goods in question are re-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 twenty-one days mentioned in subsection (2) 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 therein mentioned; 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 those goods, he shall have a lien upon them for any sum which he is entitled to recover by virtue of subsection (2).

(4) Where the prospective hirer or buyer recovers from the dealer a sum equal to the part-exchange allowance, his title to the goods agreed to be taken in part-exchange shall thereupon vest in the dealer, if it has not already done so.

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- (5) 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 taken in part-exchange or, if no such sum was agreed, the sum which in all the circumstances it would have been reasonable to allow in respect of those goods in that transaction.

**15.** (1) Where an owner lets goods under a hire-purchase agreement or sells or agrees to sell goods under a credit sale agreement or conditional sale agreement, any representations with respect to the goods to which the agreement relates made either orally or in writing to the hirer or buyer by any other person in the course of any antecedent negotiations conducted by him shall be deemed to have been made by him as agent of the owner or seller.

Agency in regard to certain representations.

(2) In this section “representations” includes any statement or undertaking, whether or not it constitutes a condition or warranty.

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

Implied conditions and warranties.

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

(2) Subject to section 17, in every hire-purchase agreement and conditional sale agreement there shall be implied a condition that the goods will be of merchantable quality:

Provided that, where the hirer or buyer has examined the goods or a sample of them, the condition referred to in this subsection shall not be implied in respect of defects which the examination ought to have revealed.

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

- (a) has made known to the owner or seller, or to a servant or agent of the owner or seller, the particular purpose for which the goods are required; or
- (b) in the course of any antecedent negotiations has made that purpose known to any other person by whom those negotiations were conducted, or to a servant or agent of such a person,

there shall, subject to section 17, be implied a condition that the goods shall be reasonably fit for that purpose.

(4) Nothing contained in this section or in section 17 shall prejudice the operation of any other enactment or rule of law whereby any condition or warranty is to be implied in any hire-purchase agreement or conditional sale agreement.

Provisions as to exclusion of implied conditions and warranties.

**17.** (1) Where under a hire-purchase agreement or a conditional sale agreement goods are let or agreed to be sold as second-hand goods and —

- (a) the agreement contains a statement to that effect, and a provision that the condition referred to in subsection (2) of section 16 is excluded in relation to those goods; and
- (b) it is proved that before the agreement was made the provision thereof so excluding that condition was brought to the notice of the hirer or buyer and its effect made clear to him,

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

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

- (a) the agreement contains a provision that the condition referred to in subsection (2) of section 16 is excluded in relation to those goods in respect of those defects; and

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

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

(3) The condition and warranty specified in subsection (1) of section 16 and, except as provided by subsections (1) and (2) of this section, the condition specified in subsection (2) of that section, shall be implied notwithstanding any agreement to the contrary.

(4) The owner or seller shall not be entitled to rely on any provision in a hire-purchase agreement or conditional sale agreement excluding or modifying the conditions referred to in subsection (3) of section 16 unless he proves that before the agreement was made that provision was brought to the notice of the hirer or buyer and its effect was made clear to him.

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

Further implied conditions in special cases.

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

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

**19.** (1) Subsection (3) of section 13 of the Sale of Goods Act shall not apply to conditional sale agreements.

Special provisions as to conditional sale agreements. Ch. 337.

(2) A conditional sale agreement shall be treated as not being a contract of sale for the purposes of sections 14 to 17 inclusive of the Sale of Goods Act.

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(3) A breach of a condition whether expressed 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 for treating the agreement as repudiated if, but only if, it would have fallen to be so treated had the condition been one to be performed by the owner and had been contained in a hire-purchase agreement relating to the same goods and made between the same parties as nearly as may be in the same terms and under the same circumstances as that conditional sale agreement.

Owner or seller  
to supply certain  
information on  
request.

**20.** (1) At any time before the final payment has been made under a hire-purchase agreement, a credit sale agreement or a conditional sale agreement, any person entitled to enforce the agreement against the hirer or buyer shall, within four days after receiving a request in writing from the hirer or buyer together with tender of two dollars for expenses, supply to the hirer or buyer a copy of the agreement together with a statement signed by that person or his agent showing —

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

(2) In the event of a failure to comply with the requirements of subsection (1), 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 or a conditional sale agreement, the owner or seller shall not be entitled to recover the goods from the hirer or buyer; and
- (b) no security given by the hirer or buyer in respect of any money payable under the agreement, or

given by a guarantor in respect of money payable under a contract of guarantee relating to the agreement, shall be enforceable against the hirer or buyer or the guarantor by any holder thereof.

(3) Any copy supplied to a hirer or buyer in pursuance of a request made under this section shall comply with such requirements as may be specified by regulations made under section 28, and, in default of such compliance, such copy shall be deemed not to have been supplied to the hirer or buyer.

**21.** (1) Where by virtue of a hire-purchase agreement or conditional sale agreement a hirer or buyer is under a duty to keep the goods comprised in the agreement in his possession or under his control, the hirer or buyer shall, on receipt of a request in writing from the owner or seller, inform the owner or seller within fourteen days of the receipt of the request where the goods are at the time when the information is given.

Hirer or buyer to supply information.

(2) If a hirer or buyer fails without reasonable cause to comply with subsection (1) he shall be guilty of an offence and liable on summary conviction to a fine not exceeding fifty dollars.

**22.** (1) The provisions of this section shall have effect where goods are let under a hire-purchase agreement, or are agreed to be sold under a conditional sale agreement, and that agreement, or any other agreement, contains a provision whereby 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 or buyer, the agreement or, in the case of a hire-purchase agreement, the bailment of the goods thereunder, shall terminate or shall be terminable, or that the owner or seller shall be entitled to recover possession of the goods.

Notice of default.

(2) If default is made in the payment of one or more sums to which a provision such as is mentioned in subsection (1) applies, none of the consequences specified in the provision shall follow by reason of that default, unless the owner or seller serves on the hirer or buyer, by post or otherwise, a notice (in this Act referred to as “a notice of default”) stating the amount which has become due but remains unpaid and requiring the payment of that

amount within such period, not being less than seven days beginning with the date of service of the notice, as may be specified therein.

(3) Where a notice of default is served in accordance with subsection (2), none of the consequences in question shall follow before the end of the period specified in the notice by reason of any default to which it 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 buyer, none of those consequences shall follow thereafter on account of that default.

Supplementary provisions as to service of notice of default.

**23.** Without prejudice to the service of a notice of default under section 22 in any other way in which a notice can lawfully be served, such a notice shall be deemed to be served on a hirer or buyer if —

- (a) it is addressed to the person last known to the owner or seller as the hirer or buyer under the agreement concerned and is delivered at, or sent by registered post to, the last known address of that person; or
- (b) in a case where that person has died, the notice is addressed to the personal representative of that person (whether or not for the time being there is any personal representative of his or not) and is delivered at, or sent by registered post to, the address which was the last known address of the deceased person.

Right to terminate agreement.

**24.** (1) At any time before the final payment under a hire-purchase agreement or conditional sale agreement falls due, the hirer or buyer shall be entitled to terminate the agreement by giving notice of termination in writing to any person entitled or authorised to receive the sums payable under the agreement:

Provided that, in the case of a conditional sale agreement, where the property in the goods, having become vested in the buyer is subsequently transferred to a person who does not become the buyer under the agreement, this subsection shall have no application.

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

**25.** (1) Where the hirer under a hire-purchase agreement or the buyer under a conditional sale agreement terminates the agreement by virtue of section 24, then, subject to the following provisions of this section, and without prejudice to any liability which has accrued before the termination, he shall be liable —

Liability of hirer or buyer giving notice of termination.

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

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

(3) Where a hire-purchase agreement or conditional sale agreement has been terminated under section 24, the hirer or buyer shall be liable to pay damages for any failure on his part to take reasonable care of the goods.

(4) Where a hirer or buyer, having terminated a hire-purchase agreement or conditional sale agreement under section 24, wrongfully retains possession of the goods, then, in any action brought by the owner or seller to recover possession of the goods from the hirer or buyer, the court, unless it is satisfied that it would be just or equitable to do otherwise, shall order that the goods be delivered to the owner or seller without giving the hirer or buyer any option to pay the value of the goods.

**26.** (1) Any provision of any agreement shall be void, that is to say, any provision —

Avoidance of certain contractual provisions.

- (a) whereby an owner or seller, or any person acting on his behalf, is authorised to enter upon any premises for the purpose of taking possession of

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- goods which have been let under a hire-purchase agreement or agreed to be sold under a conditional sale agreement, or is relieved from liability for any such entry; or
- (b) whereby the right conferred by section 24 to terminate a hire-purchase agreement or conditional sale agreement is excluded or restricted, or whereby any liability greater than, or additional to, that imposed by section 25, is imposed on a hirer or buyer on account of such termination; or
  - (c) whereby any person acting on behalf of an owner or seller in connection with a hire-purchase agreement, credit sale agreement or conditional sale agreement is treated as, or deemed to be, the agent of the hirer or buyer; or
  - (d) whereby an owner or seller is relieved from liability for the acts or defaults of any person acting on his behalf in connection with a hire-purchase agreement, credit sale agreement or conditional sale agreement.
- (2) There shall also be void any provision in any agreement whatsoever which purports to exclude or restrict —
- (a) the operation of any provision contained in sections 10 to 14 inclusive or the exercise of any right conferred by any such provision, or imposing any liability as a consequence of the exercise of such a right, other than or in addition to any liability imposed by such a provision; or
  - (b) the operation of any provision contained in section 15; or
  - (c) any condition implied by section 10.
- (3) Any provision of any agreement whatsoever shall be void to the extent to which, in the event of the death of the hirer or buyer under a hire-purchase agreement or conditional sale agreement, it provides that or would take effect so that —
- (a) the hire-purchase agreement or credit sale agreement or any bailment of the goods thereunder, shall terminate, or be terminable, or that the owner or seller shall have a right to recover possession of the goods; or

- (b) any sum shall become payable by the hirer or the buyer or his estate or by any guarantor, or any liability of the hirer or buyer or any guarantor shall be increased or accelerated; or
- (c) any right of the hirer or buyer under the agreement shall cease to be exercisable or become, or be liable to become, restricted or postponed.

**27.** (1) Where goods have been let under a hire-purchase agreement or have been agreed to be sold under a conditional sale agreement and the goods are not protected goods and the owner or seller cannot obtain possession of the goods because they are kept upon enclosed premises by or at the direction of the hirer or buyer, the owner or seller may apply *ex parte* to the court for a warrant under this section.

Power of court to authorise entry on enclosed premises to recover goods other than protected goods.

(2) Upon any application made under the provisions of this section the court, if it is satisfied by evidence on oath as to the facts of the case, may issue a warrant authorising the complainant with or without assistance to enter upon the premises specified in the warrant and to take and remove therefrom all the goods so specified.

(3) No person acting *bona fide* under and in execution of any warrant of the court issued in pursuance of this section shall be liable to any proceedings in tort at the suit of any person in connection therewith.

(4) In this section, “protected goods” has the meaning assigned to it by subsection (1) of section 32.

**28.** (1) The Minister may make regulations prescribing such requirements (whether as to type, size, colour or disposition of lettering, quality or colour of paper, or otherwise) as he may consider appropriate for securing that documents to which this section applies are easily legible.

Regulations as to legibility of documents.

(2) The documents to which this section applies are hire-purchase agreements, credit sale agreements and conditional sale agreements, and copies of any such agreements prepared or supplied in accordance with the provisions of this Part, and notes or memoranda of contracts of guarantee relating to any such agreements.

- (3) Without prejudice to the generality of 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 thereof, and may prescribe different requirements in relation to the handwritten parts and in relation to any other parts of any such documents;
  - (b) may except from any of the requirements of the regulations any marginal notes or other subsidiary parts of a document; and
  - (c) may contain special provisions as to the positioning of the statement referred to in subsection (4) of section 8 in relation to the remainder of any document in which it is inserted.

### **PART III MOTOR VEHICLES**

Protection of  
purchaser of  
motor vehicles.

**29.** (1) The following 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 any other person.

(2) Where the disposition referred to in subsection (1) is to a private purchaser, who takes the motor vehicle in good faith and without notice of the hire-purchase agreement or conditional sale agreement, that disposition shall be effective to vest in that purchaser the title of the owner or seller to the vehicle.

(3) Where the disposition referred to in subsection (1) is to a trade or finance purchaser, then the first person who is a private purchaser of the motor vehicle after that disposition and who takes it in good faith and without notice of the hire-purchase agreement or conditional sale agreement, shall by virtue of the disposition of the same to him, have vested in him the title of the owner or seller to the vehicle.

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

- (a) notwithstanding anything to the contrary contained in section 23 of the Sale of Goods Act; but Ch. 337.
- (b) without prejudice to the provisions of the Mercantile Agents Act or of any other enactment enabling the apparent owner of goods to dispose of them as if he were the true owner. Ch. 333.

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

**30.** (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 or not a party to the proceedings, became a private purchaser of the vehicle in good faith and without notice of the agreement,

Presumptions relating to dealings in motor vehicles.

the following provisions of this section shall have effect for the purposes of the operation of section 29 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 subsection (1) (in this section referred to as “the relevant purchaser”) was made by the hirer or buyer.

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

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- (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 original purchaser of the vehicle to whom the hirer or buyer disposed of it 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 that 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
  - (b) that the relevant purchaser is or was a person claiming under the original purchaser.

Interpretation of  
Part III.

**31.** (1) In this Part —

“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 pursuant to a provision in that behalf contained in a hire-purchase agreement, and includes any transaction purporting to be such a disposition; and “dispose of” shall be construed accordingly.

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

“trade or finance purchaser” means a person who, at the time of the disposition made to him, carries on the business of purchasing motor vehicles for the purpose of offering or exposing them for resale or of providing finance by purchasing motor vehicles for the purpose of letting them under hire-purchase agreements or agreeing to resell them under conditional sale agreements; and

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

(2) For the purposes of this Part, 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 a conditional sale agreement if, at the time of the disposition made to him, he has no actual notice that the vehicle was the subject of any such agreement.

(3) A reference in this Part to the title of the owner or seller of 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 was vested, immediately before that disposition, in the person who was then the owner in relation to the hire-purchase agreement, or the seller in relation to the conditional sale agreement, as the case may be.

#### **PART IV RECOVERY OF POSSESSION AND OTHER REMEDIES**

**32.** (1) For the purposes of this Part goods are “protected goods” if for the time being the following conditions are fulfilled, that is to say that —

Meaning of  
“protected  
goods”.

- (a) the goods have been let under a hire-purchase agreement, or agreed to be sold under a conditional sale agreement;
- (b) one-half of the hire-purchase price or total purchase price has been paid or tendered by or on behalf of the hirer or buyer or a guarantor;
- (c) the hirer or buyer has not terminated the hire-purchase agreement or conditional sale agreement, or in the case of a hire-purchase agreement, the bailment of the goods, by virtue of any right vested in him to do so.

(2) In this Part “the agreement” in relation to any protected goods means the agreement in respect of which those conditions are fulfilled.

Restriction on  
right to recover  
possession of  
protected goods.

**33.** (1) The owner or seller shall not enforce any right to recover possession of protected goods from the hirer or buyer otherwise than by action in the courts of The Bahamas.

(2) If the owner or seller recovers possession of protected goods in contravention of subsection (1), the agreement, if not already terminated, shall terminate, and —

- (a) the hirer or buyer shall be released from all liability under the agreement and shall be entitled to recover from the owner or seller, in an action for money had and received, all sums paid by the hirer or buyer 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 or seller in an action for money had and received, all sums paid by him under the contract of guarantee or under any security given by him in respect thereof.

Action by owner  
to recover  
possession of  
protected goods.

**34.** (1) This section applies to any action brought by the owner to enforce a right to recover possession of protected goods from the hirer where the owner has not previously, in contravention of section 32, recovered possession of any part of the goods let under the agreement.

Ch. 53.

(2) Subject to such exceptions as may be provided for by rules made under section 76 of the Supreme Court Act, 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, on the application of the owner, to make such orders as the court thinks fit for the purpose of protecting the goods from damage or depreciation, including orders restricting or prohibiting the use of the goods or giving directions as to their custody.

(4) Subject to the following provisions of this Part on the hearing of the action the court may, without prejudice to any other power —

- (a) make an order for the specific delivery of the goods to the owner; or
- (b) make an order for the specific delivery of 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 on the part of the hirer or 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) In this Part any reference to an order for the specific delivery of goods to the owner is a reference to an order for the delivery of those goods to him without giving the hirer an option to pay their value.

(6) In the following sections of this Part, “postponed” means postponed in pursuance of paragraph (b) of subsection (4) and any reference to postponement shall be construed accordingly.

**35.** The operation of an order for specific delivery of goods to the owner shall not be postponed unless the hirer satisfies the court that the goods are in his possession or under his control at the time when the order is made.

When a postponed order may be made.

**36.** (1) The court shall not exercise any power under this Part to make an order for the transfer to the hirer of the owner's title to part of the goods to which an agreement relates, unless the court 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.

Restriction on order transferring owner's title.

(2) In this section “price” in relation to any part of the goods to which the agreement relates means such part of the hire-purchase price as is assigned to that part of the goods by the agreement, or, if no such assignment is made, it means such part of the hire-purchase price as the court may determine.

**37.** (1) While the operation of an order for the specific delivery of goods to the owner is postponed, the hirer shall, subject to the following provisions of this section be deemed to be a bailee of the goods under and upon the terms of the agreement.

Effect of postponed order.

(2) No further sum shall be or become payable by the hirer or a guarantor on account of the unpaid balance of the hire-purchase price, except in accordance with the terms of the order.

(3) The court may make such further modification of the terms of the agreement as the court considers necessary having regard to the variation of the terms of payment.

(4) If, while the operation of the order is postponed, the hirer or guarantor fails to comply with any condition of the postponement or with any terms of the agreement as varied by the court, or wrongfully disposes of the goods, the owner shall not take any court proceedings against the hirer or guarantor otherwise than by making any 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 the order unless the court has so directed.

(5) 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.

Supplementary powers of court as to postponed order.

**38.** At any time while the operation of an order for the specific delivery of goods to the owner is postponed, the court —

- (a) may vary the conditions of postponement and make such further modification of the agreement as the court considers to be necessary in consequence of such variation; or
- (b) may revoke the postponement; or
- (c) subject to section 36, may make an order for the specific delivery of a part of the goods to the owner and for the transfer of the owner's title to the remainder of the goods to the hirer.

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

**39.** (1) Where the owner has brought an action to enforce a right to recover possession of protected goods from the hirer and —

- (a) the court has made an order under subsection (4) of section 34 or paragraph (c) of section 38 (in this section referred to as “the previous order”); and

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- (b) the previous order has not been complied with, or, in a case where the operation of that order was postponed, the hirer or any guarantor has failed to comply with any condition of the postponement or with any term of the 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) Every application under this section shall be made to the court by which the previous order was made and 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, to revoke the previous order and to make an order for payment of a sum determined in accordance with subsection (4).

(4) Subject to any reduction under subsection (5), the sum referred to in subsection (3) 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 the said subsection (3) is made.

(5) Where the court makes an order under subsection (3), the court shall deduct from the balance referred to in subsection (4) 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 agreement.

(6) The making of an order under subsection (3) shall operate to vest the owner's title to the unrecovered goods in the person against whom the order is made.

(7) In this section, "price" has the meaning assigned to it by subsection (2) of section 36 and any reference to the balance of the price of any goods remaining outstanding shall be construed accordingly.

**40.** (1) The provisions of this section shall have effect where a hire-purchase agreement validly provides for the payment by the hirer, on or after the termination of the agreement or bailment, of such sums, as, when added to

Claim under minimum payment provision.

the sums paid and the sums due in respect of the hire-purchase price before termination, is equal to a fixed amount.

- (2) If, in an action to which section 34 applies —
  - (a) a claim is made in respect of a sum for which the agreement provides as mentioned in subsection (1); and
  - (b) the court makes an order for specific delivery of 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 in respect of that sum shall be disallowed.
- (3) If in any such action —
  - (a) a claim is made in respect of a sum for which the agreement provides as mentioned in subsection (1); and
  - (b) the court makes an order for the specific delivery of the goods to the owner and postpones the operation of that order,

then, except as provided by section 41, the court shall not entertain the claim in respect of that sum unless and until the postponement is revoked, and shall then deal with the claim as if the agreement had just been terminated.

**41.** (1) Where the owner has brought an action to which section 34 applies, and the court has made an order under either paragraph (a) or (b) of subsection (4) of that section (in this section referred to as “the previous order”), then if —

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

the owner may make or 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 has accrued due under the agreement before the action was brought; or

Money claim  
after order for  
specific delivery  
of goods.

- (b) for the payment of any sum for which the agreement makes provision as is mentioned in subsection (1) of section 40 and which had become payable before the action was brought.

(3) In determining a claim to which this subsection applies the court may treat any sum paid in pursuance of an order under paragraph (b) of subsection (4) of section 34 as a payment made, wholly or partly, in respect of any sum or instalment to which the claim relates.

**42.** The provisions of sections 34 to 41 of this Act shall apply in relation to protected goods where the agreement is a conditional sale agreement *mutatis mutandis* and subject also to the modifications following, that is to say —

Application of sections 34 and 41 to conditional sale agreements.

- (a) any reference to the hirer shall be taken as a reference to the buyer;
- (b) any reference to the owner shall be taken as a reference to the seller;
- (c) any reference to the hire-purchase price shall be taken as a reference to the total purchase price.

**43.** (1) Where goods have been let under a hire-purchase agreement or have been agreed to be sold under a conditional sale agreement and the owner or seller —

Evidence of adverse detention of goods.

- (a) brings an action to enforce a right to recover possession of the goods from the hirer or buyer; and
- (b) proves in that action that, after the right to recover possession of the goods accrued but before the action was begun, he made a request in writing to the hirer or buyer to surrender the goods,

then, for the purposes of the claim of the owner or seller to recover possession of the goods, the possession of them by the hirer or buyer shall be deemed to be adverse to the owner or seller.

(2) Nothing in this section contained shall affect a claim for damages for conversion.

**44.** Notwithstanding anything to the contrary contained in a hire-purchase agreement or a conditional sale agreement, where any instalment payable under the agreement is paid not less than one month before the date on which it is due, a rebate in the price of the goods shall

Rebate in purchase price on early payment of instalments.

be allowed at the rate of five per centum per annum or such rate in lieu thereof as may be prescribed, calculated on the amount of such instalment for the period in respect of which it was prepaid.

**PART V**  
**MISCELLANEOUS AND SUPPLEMENTARY**

Appropriation of payments.

**45.** (1) Where a hirer or buyer is liable to make payments to the same owner or seller in respect of two or more hire-purchase agreements, two or more conditional sale agreements, or one or more hire-purchase agreements and one or more conditional sale agreements, he shall be entitled on making any payment in respect of those agreements which is not sufficient to discharge the total amount then due under all of them, to appropriate the sum so paid by him either —

- (a) in or towards satisfaction of the sum due under any one of the agreements; or
- (b) in or towards satisfaction of the sum due under any two or more of the agreements in such proportions as he thinks fit.

(2) If the hirer or buyer fails to make any such appropriation, the payment shall by virtue of this subsection be appropriated towards the satisfaction of the sums due under the several agreements respectively in the proportions which those sums bear to one another.

(3) The preceding provisions of this section shall have effect notwithstanding anything to the contrary contained in any agreement.

Refusal to surrender goods not to be conversion in certain cases.

**46.** If, at any time when by virtue of this Act the enforcement by the owner under a hire-purchase agreement, or by the seller under a conditional sale agreement, of a right to recover possession of goods from the hirer or buyer is subject to any restriction, the hirer or buyer refuses to give up possession of the goods to the owner or seller, the hirer or buyer shall not by reason only of the refusal, be liable to the owner or seller for conversion of the goods.

Jurisdiction restricted to certain magistrates.

**47.** Notwithstanding the provisions of any other Act, no magistrate other than the Chief Magistrate or a stipendiary and circuit magistrate shall have jurisdiction

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to hear or determine any action or claim arising out of or in connection with a hire purchase agreement or a conditional sale agreement or to make any order or give any directions in pursuance of any power vested in a court by the provisions of this Act.

**48.** The Minister may make regulations regulating the advertisement of goods made available for disposal by way of hire-purchase, credit sale or conditional sale.

Regulations as to advertisements re hire-purchase, credit sale or conditional sale.

### **FIRST SCHEDULE (Section 6)**

#### **NOTICE TO BE INCLUDED IN HIRE-PURCHASE AGREEMENT**

##### **IMPORTANT**

##### *Right of Hirer to Terminate Agreement*

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

2. He must pay any instalments which are in arrears when he gives notice. If, when he has paid those instalments, the total amount that he has paid under the agreement is less than (here insert the minimum amount which the hirer is required to pay under subsection (1) of section 25) he must also pay enough to make up that sum, unless the court determines otherwise.

3. If the goods have been damaged because the hirer has failed to take reasonable care of them, the owner may sue him for the amount of damage.

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

##### *Restriction of Owner's Right to Recover Goods*

5. After (here insert an amount calculated in accordance with section 32) has been paid then, unless the hirer has himself put an end to this agreement, the owner of the goods can not take them back from him without his consent unless the court makes an order for them to be returned.

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6. If the owner asks the court for an order, the court may, if it thinks just, allow the hirer to keep either —

- (a) the whole of the goods, provided that he pays the balance of the price as the court directs; or
- (b) a fair part of the goods according to how much the hirer has already paid.

### **SECOND SCHEDULE (Section 6)**

#### **NOTICE TO BE INCLUDED IN CONDITIONAL SALE AGREEMENT**

##### **IMPORTANT**

##### *Right of Buyer to Terminate Agreement*

1. The buyer may put an end to this agreement by giving notice to do so to any person entitled to collect or receive instalments of the purchase price.

2. He must then pay any instalments which are in arrears when he gives the notice. If, when he has paid those instalments the total amount that he has paid under the agreement is less than (here insert the minimum amount which the buyer is required to pay under subsection (1) of section 25) he must also pay enough to make up that sum unless the court determines otherwise.

3. If the goods have been damaged because the buyer has failed to take reasonable care of them, the seller may sue him for the amount of the damage.

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

##### *Restriction on Seller's Right to Recover Goods*

5. After (here insert an amount calculated in accordance with section 32) has been paid then unless the buyer has himself put an end to this agreement, the seller of the goods cannot take them back from him without his consent, unless the court makes an order for them to be returned.

6. If the seller asks the court for an order, the court may, if it thinks just, allow the buyer to keep either —

- (a) the whole of the goods, provided that he pays the balance of the price as the court directs; or
- (b) a fair part of the goods according to how much the buyer has already paid.