

**HIRE-PURCHASE ACT**

**Principal Act**

**Act. No. 1957-11**

*Commencement* 1.7.1958  
*Enactment* 24.12.1957

Amending  
enactments

Relevant current  
provisions

Commencement  
date

None

English source

Hire Purchase Act 1938 (1 & 2 Geo. 6 c.53)

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**SCHEDULE.**

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AN ACT TO AMEND THE LAW WITH RESPECT TO THE HIRE-PURCHASE AND SALE UPON CREDIT OF GOODS AND THE LAW OF DISTRESS IN ITS RELATION THERETO.

**Short title.**

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

**Interpretation.**

2. (1) In this Act, unless the context otherwise requires,—

“action,” “buyer,” “delivery,” “goods,” “property,” “sale,” “seller,” “warranty” have the meanings respectively assigned to them by the Sale of Goods Act;

“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, and 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 the agreements was made;

“credit-sale agreement” means an agreement for the sale of goods under which the purchase price is payable by five or more instalments;

“hire-purchase price” means the total sum payable by the hirer under a hire-purchase agreement including any sum payable by way of deposit or other initial payment or credited or to be credited to him under such an agreement on account of any such deposit or payment whether that sum 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, and any other sum payable in order to complete the purchase price to which the agreement relates, 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 assignment 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 assignment or by operation of law;

“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, 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;

“motor vehicle” has the same meaning as in the Traffic Act.

(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 6, 8, 13, 14, 15, 16, 17, 18 and 19, be deemed to be a payment of that part of the hire-purchase price.

#### **Application of Act.**

3. This Act shall 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 £300, and the expressions “hire-purchase agreement” and “credit-sale agreement” shall be construed accordingly.

#### **Requirements relating to hire-purchase agreements.**

4. (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 note or memorandum of 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 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 subsection (1) has been complied with, and—

- (a) a note or memorandum of the agreement is made and signed by the hirer and by or on behalf of all other parties to the agreement; and
- (b) the note or memorandum 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 note or memorandum contains a notice, which is at least as prominent as the rest of the contents of the note or memorandum, in the terms prescribed in the Schedule; and
- (d) a copy of the note or memorandum is delivered or sent to the hirer within seven days of the making of the agreement:

Provided that, if the court is satisfied in any action that a failure to comply with the requirement specified in subsection (1) or any requirement specified in paragraph (b), (c) or (d) 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.

### **Requirements relating to credit-sale agreements.**

5. (1) Before making any credit-sale agreement the seller shall state in writing to the prospective buyer, otherwise than in the note or memorandum of 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 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 subsection (1) has been complied with, and—

- (a) a note or memorandum of the agreement is made and signed by the buyer and by or on behalf of all other parties to the agreement; and
- (b) the note or memorandum 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 note or memorandum is delivered or sent to the buyer within seven days of the making of the agreement:

Provided that, if the court is satisfied in any action that a failure to comply with the requirement specified in subsection (1) or any requirement specified in paragraph (b) or (c) 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.

**Right of hirer to determine hire-purchase agreement.**

6. (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 authorized 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.

(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.**

7. Any provision in any agreement—

- (a) whereby an owner or any person acting on his behalf is authorized to enter upon any premises for the purpose of taking possession of goods which have been let under a hire-purchase agreement, or 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 or the bailment in any manner whatsoever, is subject to a liability which exceeds the liability to which he would have been subject if the agreement had been determined by him under this Act; 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 the 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.**

8. (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 sum of five pence for expenses, supply to the hirer or buyer a copy of any memorandum or note of the agreement, together 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 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, the owner shall not be entitled to enforce any right to recover the 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 is liable on summary conviction to a fine of £10.

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

9. (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.

(2) A hirer in possession of goods by virtue of a hire-purchase agreement who intends to remove such goods permanently from Gibraltar shall not later than fifteen days before removing the goods from Gibraltar notify the owner in writing of his intention so to do.

(3) If a hirer fails without reasonable cause to give the said information within fifteen days of the receipt of the request under subsection (1), or not later than fifteen days before he removes the goods from Gibraltar as the case may be, he is guilty of an offence and is liable on summary conviction to a fine of £10.

### **Conditions and warranties to be implied in hire-purchase agreements.**

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

- (a) an implied warranty that the hirer shall have and enjoy quiet possession of the goods;
- (b) an implied condition on the part of the owner that he shall have a right to sell the goods at the time when the property is to pass;
- (c) an implied 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;
- (d) except where the goods are let as second hand goods, and the note or memorandum of the agreement made in pursuance of section 4 contains a statement to that effect, an implied condition that the goods shall be of merchantable quality, so, however, that no such condition shall be implied by virtue of this paragraph as regards defects of which the owner could not reasonably have been aware at the time when the agreement was made, or, if the hirer has examined the goods or a sample thereof, as regards defects which the examination ought to have revealed;
- (e) an implied condition on the part of the hirer that he will not remove the goods from Gibraltar without the permission of the owner first had and obtained.

(2) Where the hirer expressly or by implication makes known the particular purpose for which the goods are required, there shall be an implied condition that the goods shall be reasonably fit for such purpose.

(3) The warranties and conditions set out in subsection (1) 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 condition set out in subsection (2) 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.

(4) Nothing in this section 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.

**Appropriation of payments made in respect of hire-purchase agreements.**

11. 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 the 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.

**Evidence of adverse detention in actions by owners to recover possession of the goods.**

12. Where, in an action by an owner of goods which have been let under a hire-purchase agreement to enforce a right to recover possession of the goods from the hirer, the owner proves that, before the commencement of the action and after the right to recover possession of the goods accrued, the owner made a request in writing to the hirer to surrender the goods, the hirer's possession of the goods shall, for the purpose of the owner's claim to recover possession thereof, be deemed to be adverse to the owner.

Nothing in this section shall affect a claim for damages for conversion.

**Restriction of owner's right to recover possession of goods otherwise than by action.**

13. (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 a judgment 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 the goods from the hirer otherwise than by action.

(2) If an owner recovers possession of goods in contravention of subsection (1), 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 in an action for money had and received 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 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.

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

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

14. (1) Where, in any case to which section 13 applies, an owner commences an action to enforce a right to recover possession of goods from a hirer after one-third of the hire-purchase price has been paid or tendered as aforesaid, the action shall be commenced in the Court of First Instance\*, and after the action has been commenced the owner shall not take any step to enforce payment of any sum due under the hire-purchase agreement or under any contract of guarantee relating thereto, except by claiming the sum in the said action.

(2) Subject to such exceptions as may be provided for by rules of court, all the 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,—

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\* *Court of first Instance Act repealed by the Administration of Justice Act 2004 (2004-11) s.3 as from 1.9.2004. All references to the Court of First Instance shall be read as if it were a reference to the Supreme Court (see Act 2004-11 s.7).*

- (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 subsection (4) 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 note or memorandum of 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) 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) 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 the recovery was effected in contravention of section 13, the provisions of this section shall not apply in relation to any action by the owner to recover the remainder of the goods.

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

15. (1) While the operation of an order for the specific delivery of goods to the owner is postponed under section 14, the hirer shall be deemed to be a bailee of the goods under and on the terms of the hire-purchase agreement:

Provided that—

- (a) 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; and
- (b) the court may make such further modification of the terms of the hire-purchase agreement and of any contract or guarantee relating thereto as the court considers necessary having regard to the variation of the terms of 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:

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.

(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;
- (c) make an order, in accordance with the provisions of section 14, 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.**

16. (1) Where a postponed order for the specific delivery of goods to the owner has been made under paragraph (b) of section 14(4) the powers of the court under paragraphs (a) and (c) of section 15(4) 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 section 14 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 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.

## **Determination of agreement when goods about to be taken from Gibraltar.**

17. (1) Where goods have been let under a hire-purchase agreement and the owner has reason to believe that the hirer intends to remove the goods from Gibraltar without the consent of the owner, the owner may apply to the Court of First Instance\* to determine the agreement.

(2) When an owner makes application to the court under this section the provisions of sections 14, 15 and 16 shall mutatis mutandis apply.

(3) Applications under this section shall be made in accordance with rules of court made by the Chief Justice.

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

18. (1) Where a hire-purchase agreement validly provides for the payment by the hirer on or after the determination of the agreement or the bailment 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 14 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.

(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 the goods in an action to which section 14 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.

## **Successive hire-purchase agreements between the same parties.**

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\* *Court of first Instance Act repealed by the Administration of Justice Act 2004 (2004-11) s.3 as from 1.9.2004. All references to the Court of First Instance shall be read as if it were a reference to the Supreme Court (see Act 2004-11 s.7).*

19. 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 comprising those goods, the provisions of sections 13 and 14 shall have effect in relation to that further agreement as from the commencement thereof.

**Provisions as to bankruptcy of hirer and distress on hirer's premises.**

20. (1) Where, under the powers conferred by this Act, the court has postponed the operation of an order for the specific delivery of goods to any person, the goods shall not, during the postponement, be treated as goods which are by the consent or permission of that person in the possession, order, or disposition of the hirer for the purposes of section 6 of the Landlord and Tenant (Distress for Rent) Act or of section 38 of the Bankruptcy Act.

(2) After the determination of a hire-purchase agreement, or after an owner, having a right to recover from a hirer goods which have been let under a hire-purchase agreement, has commenced an action to enforce that right, the goods which have been let under the agreement, or the goods claimed in the action, as the case may be, shall not (notwithstanding that the court in any such action postpones the operation of an order for the specific delivery of the goods to the owner) be treated as goods comprised in the hire-purchase agreement for the purposes of section 6 of the Landlord and Tenant (Distress for Rent) Act.

**Hirer's refusal to surrender goods not to be conversion in certain cases.**

21. If, whilst by virtue of this Act the enforcement by an owner of a right to recover possession of goods from a hirer is subject to any restriction, the hirer refuses to give up possession of the goods to the owner, the hirer shall not, by reason only of the refusal, be liable to the owner for conversion of the goods.

**Special provisions as to installation charges.**

22. (1) Where under any hire-purchase agreement made after the commencement of this Act the owner is required to carry out any installation, and the note or memorandum of the agreement specifies as part of the hire-purchase price the amount to be paid in respect of the installation, the references in section 6 to one-half of the hire-purchase price and in sections 13, 14 and 19 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.

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

- (a) 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
- (b) 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.

## **Application of Act in relation to existing agreements.**

23. (1) The following sections of this Act shall, to the extent hereinafter specified, apply in relation to all hire-purchase agreements whether made before or after the commencement of this Act, that is to say:—

- (a) section 11, so far as it relates to payments made after the commencement of this Act;
- (b) sections 13 and 19, so far as they relate to the recovery of possession of goods after the commencement of this Act;
- (c) sections 12, 14, 15, 16, 17, 18 and 19, so far as they relate to actions commenced after the commencement of this Act;
- (d) subsection (1) of section 20, so far as it relates to orders made after the commencement of this Act, and subsection (2) of the said section so far as it relates to agreements determined or actions commenced, as the case may be, after the commencement of this Act; and
- (e) section 21, so far as it relates to a refusal to give up possession of goods after the commencement of this Act.

(2) Where goods have been let under a hire-purchase agreement made before the commencement of this Act, and the owner has, as part of the consideration for the hire-purchase price, carried out in relation to those goods any installation within the meaning of section 22, then, if the owner has served upon the hirer a notice specifying a sum not exceeding the expense actually incurred by the owner in respect of the installation, sections 13, 14 and 19, so far as by virtue of subsection (1) of this section they apply in relation to that agreement, shall, as respects the recovery of possession of goods after the expiration of twenty-eight days from the service of the notice, and as respects actions commenced after the expiration of the said period, have effect as if for the references in the said sections to one-third of the hire-purchase price there were substituted references to the aggregate of the said sum and one-third of the amount which remains after deducting that sum from the hire-purchase price.

## SCHEDULE

Section 4

NOTICE TO BE INCLUDED IN NOTE OR MEMORANDUM OF  
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 6 and 22 of the Act)* he must also pay enough to make up that sum.
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. \*[After *(here insert an amount calculated in accordance with the provisions of sections 13 and 22 of the Act)* has been paid, then,] 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 the owner applies to the court for such an order, the court 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 19 of the Act, the words in square brackets should be omitted.*

*Note.* The hirer must not remove the goods from Gibraltar without the consent of the owner.