

HIRE-PURCHASE ACT, 1974 (NRCD 292)

As amended by

HIRE-PURCHASE (AMENDMENT) DECREE, 1978 (SMCD 155).1

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IN pursuance of the National Redemption Council (Establishment) Proclamation, 1972, this Decree is hereby made:

PART I—REQUIREMENTS OF AGREEMENT

Section 1—Enforcement Conditional.

(1) Where goods are let under a hire-purchase agreement, or are sold under a conditional sale agreement, the owner or seller shall not be entitled to enforce the agreement unless—

(a) the agreement is in writing and signed by the hirer or buyer and by or on behalf of all other parties to the agreement; and

(b) the requirements of sections 2 to 4 are complied with.

(2) Where the owner or seller is not entitled to enforce an agreement—

(a) he shall not be entitled to enforce any contract of guarantee relating to that agreement;

(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 a contract of guarantee relating to the agreement, shall be enforceable against the hirer or buyer, or against the guarantor, as the case may be, by the holder of such a security; and

(c) the owner or seller shall not be entitled to enforce any right to recover the goods from the hirer or buyer.

Section 2—Requirements before Agreement.

Before any agreement is made the seller or owner shall state orally and in writing to the prospective buyer or hirer (otherwise than in the agreement referred to in section 1) the price at which the goods may be purchased by him for cash (in this Decree referred to as the "cash price") and the hire-purchase price or total purchase price, as the case may be.

Section 3—Requirements of Agreement.

(1) Every agreement shall contain—

(a) a statement of the cash price and the hire-purchase price or total purchase price, as the case may be, of the goods;

(b) the amount of each instalment by which the price is to be paid and the date or the mode of determining the date upon which each instalment is payable;

(c) a description or list of the goods to which the agreement relates sufficient to identify them;

(d) a notice, which is at least as prominent as the rest of the contents of the agreement, in the terms set out in the First or Second Schedule to this Decree.

(2) A copy of the agreement shall be delivered or sent to the hirer or buyer within 14 days after the making of the agreement.

(3) If the court is satisfied in any action that a failure to comply with any of the requirements specified in paragraphs (b) and (c) of subsection (1) and subsection (2) has not prejudiced the buyer or 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 purpose of the action.

Section 4—Avoidance of Certain Provisions.

Any provision in a hire-purchase or conditional sale agreement shall be void to the extent that it provides that—

(a) an owner or seller or any person acting on his behalf is authorized to enter upon any private land or premises for the purpose of taking possession of goods which have been let under a hire-purchase agreement or sold under a conditional sale agreement or is relieved from liability for such an entry; or

(b) the right conferred on a hirer by section 5 to terminate the hire-purchase agreement is excluded or restricted, or any liability beyond that imposed by section 6 is imposed on a hirer by reason of the termination of the hire-purchase agreement by him or under that section; or

(c) a hirer, after the termination 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 terminated by him under this Decree; or

(d) any person acting on behalf of an owner or seller in connection with a hire-purchase or conditional sale agreement is treated as or deemed to be the agent of the hirer or buyer; or

(e) 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 or conditional sale agreement.

PART II—TERMINATION AND COMPLETION

Section 5—Right to Terminate.

(1) At any time before the final payment under a hire-purchase agreement or conditional sale agreement falls due, the hirer or buyer shall, subject to subsection (2), but notwithstanding anything in the agreement, be entitled to terminate the agreement by giving written notice of termination to any person entitled to receive payments under the agreement.

(2) In the case of a conditional sale agreement, where the property in the goods has become vested in the buyer before final payment is made, and the buyer has transferred the goods to a third person, the buyer shall not thereafter be entitled to terminate the agreement under this section.

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

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

Section 6—Liability of Hirer or Buyer after Notice of Termination.

(1) Where the hirer or the buyer terminates the agreement by virtue of section 5, 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 to pay the difference between the total of the sums paid and one half of the hire-purchase or total purchase price, or if the agreement specifies a lesser amount, he shall be liable to pay the amount so specified.

(2) Where an agreement has been terminated under section 5 the hirer or buyer shall return the goods at his own expense to the premises from which they were originally supplied to him or to such other place as the owner or seller may direct, provided that the owner or seller shall at his own expense provide for any additional expense incurred in returning the goods to premises other than those from which they were originally supplied.

(3) Where an agreement has been terminated under section 5 the hirer or buyer, if he has failed to take reasonable care of the goods shall be liable to compensate the owner or seller for any loss or damage caused by such failure.

(4) Where a hirer or buyer, having terminated an agreement under section 5, 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 having regard to the circumstances it would not be just and equitable to do so, shall order the goods to be delivered to the owner or seller without giving the hirer or buyer an option to pay for the goods.

Section 7—Hirer or Buyer may Complete Agreement.

(1) The hirer under a hire-purchase agreement or the buyer under a conditional sale agreement may give notice in writing to the owner or seller of his intention to complete the purchase of the goods by paying or tendering to the owner or seller on a specified day the net balance due under the agreement, and having given such notice may complete the purchase accordingly on the day specified.

(2) For the purposes of subsection (1) of this section, the net balance due is the hire-purchase price or the total purchase price, as the case may be, originally payable under the agreement less any amounts paid or provided, whether by cash or by other consideration, by or on behalf of the hirer or buyer under the agreement.

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

(a) at any time during the continuance of the agreement; or

(b) within twenty-eight days after the owner has taken possession of the goods (during which period the owner shall not be entitled to dispose of the goods) upon paying or tendering to the owner in addition to the net balance due—

(i) the reasonable costs incurred by the owner in and incidental to taking possession of the goods; and

(ii) any amount properly expended by the owner on the storage, repair or maintenance of the goods.

PART III—PROTECTED GOODS

Section 8—Restriction on Right to Recover Protected Goods.

(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.

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

(3) Notwithstanding subsection (2) of this section, the court may, upon application by the hirer or buyer, make an order for the return of the goods to the hirer or buyer and for the re-scheduling of payments due under the agreement.

(4) "Protected goods" are goods in relation to which the following conditions are fulfilled—

(a) that the goods have been let under a hire-purchase agreement or sold under a conditional sale agreement;

(b) that one-half of the hire-purchase price or total purchase price has been paid (whether in pursuance of a judgment or otherwise) or tendered by or on behalf of the hirer or buyer or a guarantor; and

(c) that 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, by virtue of any right vested in him.

Section 9—Action to Recover Protected Goods.

(1) Where an owner or seller brings an action to recover possession of protected goods, the following provisions shall apply:—

(a) pending the hearing of the action, the court may, upon its own motion or upon application, make such orders as it thinks just for the purpose of protecting the goods from damage or depreciation;

(b) subject to sections 10 and 11, on the hearing of the action, the court may without prejudice to any other power—

(i) make an order for the specific delivery of all the goods to the owner or seller subject if necessary to the condition that the owner or seller refunds to the hirer or buyer such part of the sums paid as the court may direct; or

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

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

(2) In this Part any reference to an order for the specific delivery of goods is a reference to an order for the delivery of those goods without giving the hirer or buyer an option to pay their value.

(3) Nothing in this section affects the liability of the hirer or buyer to the owner or seller for harm done to the goods intentionally or negligently.

Section 10—Circumstances in which Postponed.

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

(2) If in an action to which section 9 applies, an offer as to conditions for the postponement of the operation of an order is made by the hirer or buyer, and accepted by the owner or seller, the court may thereupon make the order, and postpone its operation, in accordance with the offer without hearing evidence as to any of the matters mentioned in section 9 (1) (b) (ii) and in subsection (1) of this section.

Section 11—Effect of Postponed Order.

(1) While the operation of an order for the specific delivery of goods to the owner or seller is postponed, the hirer or buyer shall, subject to the following provisions of this section, be deemed to be a bailee of the goods in accordance with the terms of the agreement.

(2) No further sum shall be or become payable by the hirer or buyer 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 agreement, and of any contract of guarantee relating thereto, 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 buyer or a guarantor fails to comply with any condition of postponement, or with any term of the agreement as varied by the court, or wrongfully disposes of the goods, the owner or seller shall not initiate an action in any court against the hirer or buyer or guarantor otherwise than by making an application to the court by which the order was made for a modification of the order or of its postponement.

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

(6) The court may, on the application of the hirer or buyer or the owner or seller, at any time during the postponement of the operation of such an order as aforesaid, revoke, or vary the order, and may make any other order under section 9.

PART IV—REPRESENTATIONS AND TERMS

Section 12—Dealer to be Agent.

(1) Notwithstanding anything in the agreement to the contrary, where a person lets goods under a hire-purchase agreement, or sells goods under a conditional sale agreement, any representations with respect to the goods to which the agreement relates which were made, either orally or in writing, to the hirer or buyer by a dealer or salesman of the goods in the course of any antecedent negotiations conducted by that dealer or salesman shall be deemed to have been made by him as agent of the owner or seller.

(2) Nothing in this section shall exonerate any person from any liability to which he would be subject but for this section.

(3) In this section "representations" include any statement or undertaking, whether constituting a condition or a warranty or not.

Section 13—Implied Terms.

(1) Notwithstanding any agreement to the contrary, in every hire-purchase or conditional sale agreement there shall be implied—

(a) a term that the hirer or buyer shall have and enjoy quiet possession of the goods;

(b) a term 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;

(c) a term that the owner or seller will have a right to sell the goods at the time when the property is to pass.

(2) Where the hirer or buyer, whether expressly or by necessary 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 person by whom those negotiations were conducted, or to a servant or agent of such a person,

there shall, subject to the provisions of section 14, be implied a term that the goods will be reasonably fit for that purpose.

(3) A breach of a term specified in this section by the owner or seller shall give the hirer or buyer a right to damages in respect of such breach, or to such other remedy as the court may think appropriate.

Section 14—Implied Term as to Merchantability.

(1) Subject to the provisions of this section, in every hire-purchase or conditional sale agreement there shall be implied a term that the goods will be of merchantable quality at the time of delivery.

(2) Where the hirer or buyer has examined the goods or a sample of them before delivery, the term referred to in subsection (1) shall not be implied in respect of defects which the examination ought to have revealed.

(3) Where the goods are let or sold as second-hand goods, and the agreement contains a statement to that effect and a provision that the term referred to in subsection (1) is excluded in relation to those goods, then subject to subsection (5) of this section that term shall not be implied in relation to those goods.

(4) Where the goods are let or sold as being subject to any defect specified in the agreement (whether referred to in the agreement as a defect or by another description to the like effect), and the agreement contains a provision that the term referred to in subsection (1) is excluded in relation to those goods in respect of that defect, then subject to subsection (5) of this section that term shall not be implied in respect of that defect.

(5) The owner or seller shall not be entitled to rely on any provision in a hire-purchase or conditional sale agreement excluding or modifying the term referred to in subsection (1) unless he proves that before the agreement was made—

(a) he had brought that provision to the notice of the hirer or buyer and made its effect clear to him; and

(b) where the exclusion or modification is in relation to any defect, he had brought that defect to the notice of the hirer or buyer.

(6) A breach of any provision of this section by the owner or seller shall give the hirer or buyer a right to rescind the agreement.

Section 15—Further Implied Terms in Special Cases.

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

(a) a term that the bulk will correspond exactly with the sample;

(b) a term 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 sold under a conditional sale agreement, and are so let or sold by description, there shall be implied in the agreement a term that the goods will correspond exactly with the description.

(3) If the goods are let or sold under the agreement by reference to a sample as well as by description, there shall be implied in the agreement a term that the goods will correspond both with the sample and the description.

(4) A breach of a term specified in this section by the owner or seller shall give the hirer or buyer the right to rescind the agreement.

PART V—MISCELLANEOUS

Section 16—Third Parties.

(1) Where a hirer or buyer under a hire-purchase or conditional sale agreement—

(a) resells, pledges or otherwise disposes of the goods for value to a third party under such circumstances that the sale, pledge or other disposition would not, but for this section, transfer any title to the goods to the third party, and

(b) does anything which gives the owner or seller a right to terminate the agreement and recover the goods under sections 8 to 11,

the third party may retain possession of the goods for the period of sixty days specified in subsection (6), or, if they have been repossessed by the owner or seller, the third party shall be

entitled to recover possession of the goods upon a request in writing to the owner or seller and may thereafter retain the goods for the period of sixty days specified in subsection (6).

(2) If within sixty days the third party pays or tenders to the owner or seller either—

(a) all amounts due and unpaid from the hirer or buyer to the owner or seller; or

(b) the total due under any three instalments due and unpaid from the hirer or buyer to the owner or seller,

whichever is less, the rights and obligations of the hirer or buyer shall be transferred to the third party who thereafter shall be treated as the hirer or buyer for the purposes of the agreement and this Decree.

(3) Where the third party pays or tenders the total due under any three instalments under subsection (2)(b)—

(a) the third party shall not be liable to the owner or seller for any amount then outstanding in excess of the said three instalments;

(b) the third party shall be entitled to recover from the hirer or buyer the amount of the said three instalments which he has paid to the owner or seller;

(c) the owner or seller shall recover from the hirer or buyer all amounts then outstanding in excess of the said three instalments;

(d) the contract between the third party and the hirer or buyer shall terminate except with regard to the payment of all amounts then outstanding.

(4) Where a third party has paid nothing to the hirer or buyer or is in arrears of payment to the hirer or buyer, he shall pay to the owner or seller not only the said three instalments but also what he owes to the hirer or buyer:

Provided that the total amount so payable shall not exceed the total of all amounts due and unpaid from the hirer or buyer to the owner or seller, and that the owner or seller shall credit to the third party in respect of immediate future payments payable to him by the third party all amounts so paid to him by the third party in excess of the said three instalments.

(5) Nothing in this section—

(a) derogates from the powers of a hirer or buyer in whom the property in goods has vested;

(b) affects the liability of the hirer or buyer for any wrongful sale, pledge or other disposition for value of the goods or documents of title;

(c) derogates from any liability of the hirer or buyer to a third party or to the owner or seller.

(6) For the purposes of this section, the sixty-day period shall commence—

(a) when the third party recovers possession of goods from the owner or seller, if the owner or seller has repossessed the goods; or

(b) when the seller or owner notifies the third party in writing of his right to repossess the goods or of his right to bring an action to repossess the goods pursuant to sections 8 to 11 of this Decree.

(7) This section shall apply to all goods which have been let under a hire-purchase agreement or sold under a conditional sale agreement, and which are subsequently transferred under any sale, pledge, or other disposition for value to any person receiving them in good faith and without notice of the hirer's or buyer's lack of title, notwithstanding any other provision in this Decree.

Section 17—Limitation on Enforcement of Agreement.

An owner or seller shall not be entitled by reason of the hirer or buyer's failure to carry out any obligation under a hire-purchase agreement or conditional sale agreement, to enforce any provision in the agreement for the payment of an amount of damages, or forfeiture or penalty, or for the acceleration of the payment of an instalment, or for termination of the agreement, or for repossession, unless he has made written demand to the hirer or buyer to carry out the obligation in question within a specified period of not less than fourteen days beginning with the date of service of the demand, and the hirer or buyer has failed to comply with the demand in the specified period.

Section 18—Hirer or Buyer to Give Information to Seller.

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

(2) If a hirer or buyer fails without reasonable cause to give that information within fourteen days of the receipt of notice, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding ₵50.00.

Section 19—Removal of Goods from Ghana.

(1) The hirer or buyer of goods under a hire-purchase or conditional sale agreement shall not remove the goods from Ghana without the written consent of the owner or seller.

(2) If the hirer or buyer contravenes subsection (1) he shall, unless he satisfies the court that he did not intend to deprive the owner or seller of his ownership or to defeat the rights of the owner or seller to obtain any payment due to him, be guilty of an offence and liable on conviction to a fine not exceeding ₵2,000.00 or to imprisonment for a term not exceeding one year or to both.

(3) If the owner or seller believes that the goods have been removed or are being removed or are about to be removed from Ghana without his written consent, and with intent to deprive him of his ownership or to defeat his rights to obtain any payment due to him under the agreement, he may institute an action for the return of the goods.

(4) Before instituting an action in pursuance of subsection (3) of this section, or while the action is pending, the owner may apply to the court for an order for the attachment of the goods.

(5) A court which makes an order for the attachment of goods under subsection (4) of this section may require the applicant to give security for damage resulting from the order.

(6) An order for the attachment of goods under this section—

(a) may be discharged or varied by the court for good cause shown by any person affected by the order and on such terms as to costs as the court thinks fit; and

(b) shall be discharged upon the hirer or buyer giving security as the court may think proper taking into account the value of the goods, the amount due to the owner or seller under the agreement, and the costs of the owner or seller.

Section 20—Duty to Supply Documents and Information.

(1) At any time before the final payment has been made under a hire-purchase or conditional sale agreement, the owner or seller shall, within seven 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 fifty pesewas for expenses, supply to the hirer or buyer a copy of the agreement, together with a statement signed by the seller or owner or his agent showing—

(a) the amount paid by or on behalf of the hirer or buyer;

(b) the amount which is due under the contract 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 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) the owner or seller shall not be entitled to enforce the agreement against the buyer or hirer or to enforce any contract of guarantee relating to the contract, or to enforce any right to recover the goods from the buyer or hirer; and

(b) the security given by the buyer or hirer, in respect of money payable under the contract or given by a guarantor in respect of money payable under such a contract of guarantee shall not be enforceable against the buyer or hirer or the guarantor by any holder thereof; and,

(c) if the default continues for a period of 30 days, the defaulter shall be guilty of an offence under this section and shall be liable on conviction to a fine not exceeding ₦50.00.

Section 21—Successive Agreements.

Where goods have been let under a hire-purchase agreement or are sold under a conditional sale agreement and—

(a) any part of the hire-purchase price or the total purchase price has been paid or tendered, and

(b) the owner or seller makes a subsequent hire-purchase agreement or conditional sale agreement in respect of the same goods,

the provisions of sections 8 to 11 shall have effect in relation to any further agreement as from the time when one half of the hire-purchase price or total purchase price specified in the first agreement has been paid or tendered.

Section 22—Regulations.

(1) The Commissioner responsible for Trade may by legislative instrument make regulations providing for the regulation and control of the letting of goods under hire-purchase agreements and the sale of goods under conditional sale agreements.

(2) Without prejudice to the generality of subsection (1), regulations may provide for—

(a) the form of the agreement;

(b) limiting the rate of interest and other charges;

(c) the minimum deposit to be paid by a buyer;

(d) the maximum period of payment, and the amount and frequency of instalments or rentals;

(e) the appropriation of payments as between two or more agreements between the seller or owner and the buyer or hirer;

(f) the information to be given in advertisement or announcement published or made in any form or manner whatsoever relating to goods to be disposed of by hire-purchase or conditional sale agreement regarding the terms upon which the goods will be sold;

(g) the inclusion in any such advertisement or announcement of a statement of the price at which the goods will be sold for cash.

(3) Regulations under this section may also provide that a person who lets or sells goods to which the regulations apply shall not be entitled to enforce any agreement for such sale or right to recover the goods unless specified provisions of the regulations are complied with.

(4) Regulations under this section may also prescribe, whether for goods generally or for any class or description of goods, a minimum amount for the purposes of sections 8 to 11 in lieu of one half of the hire purchase price or total purchase price.

Section 23—Variation of Rights, Duties and Liabilities.

Subject to the provisions of this Decree, the rights, duties and liabilities of the parties to a hire-purchase agreement or a conditional sale agreement as laid down in this Decree may, as between the parties themselves, be varied by express agreement, or by the course of dealing between the parties, or by a custom (whether a rule of customary law or not) which the parties may be taken to have agreed to be applicable to the agreement.

Section 24—Interpretation.

(1) In this Decree, unless the content otherwise requires—

"action" includes every judicial proceeding instituted in any court in Ghana;

"buyer", in relation to a conditional sale agreement, means the person who agrees to purchase goods under the agreement and includes a person under the agreement to whom the rights or liabilities of that person under the agreement have passed by assignment or by 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, the property in the goods is to remain in the seller notwithstanding that the buyer is to be in possession of the goods and under which certain conditions specified in the agreement are to be fulfilled by the buyer;

"contract of guarantee" means a contract, either to guarantee the performance of the hirer's or buyer's obligations under the hire-purchase or conditional sale agreement, or to indemnify the owner or seller against any loss which he may incur in respect of that agreement;

"dealer" means a person in the business of buying or selling goods;

"guarantor" means a person who enters into a contract either to guarantee the performance of the hirer's or buyer's obligations under the hire-purchase or conditional sale agreement, or to indemnify the owner or seller against any loss which he may incur in respect of that 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; 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 in them will or may pass to the bailee the agreements shall be treated for the purpose of this Decree as a single hire-purchase agreement made at the time when the last of the agreements was made;

"hire-purchase price" (subject to subsection (2) of this section) means the total sum payable by the hirer under a hire-purchase agreement in order to complete the purchase of goods to which the agreement relates, exclusive of any sum payable as a penalty or as compensation or damages for a breach of the agreement.

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

"owner" means the person who lets or has let goods to a hirer under a hire-purchase agreement and includes a person to whom the owner's property in the goods or any of the owner's rights or liabilities under the agreement have passed by assignment or by operation of law and includes a person (other than the buyer) to whom the person's property in the goods or any of that person's rights or liabilities under the agreement have passed by assignment or by operation of law;

"postponed" means postponed in pursuance of section 9 (1) (b) (ii);

"property" means the general property in the goods and not merely a special property;

"protected goods" has the meaning assigned to it in section 8 (4);

"representations" has the meaning assigned to it in section 12(3);

"salesman" means a person whose occupation is to sell goods;

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

"total purchase price" (subject to subsection (2) of this section) means the total sum payable by the buyer under a conditional sale agreement, exclusive of any sum payable as a penalty or as compensation or damages for a breach of the agreement.

(2) For the purposes of this Decree, 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 any person or is to be or has been discharged by a payment of money or by the transfer or delivery of goods or by any other means, shall form part of the hire-purchase price or total purchase price, as the case may be.

(3) In this Decree "antecedent negotiations", in relation to a hire-purchase 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 Decree to the person by whom any antecedent negotiations were conducted is a reference to the person by whom the negotiations or arrangements in question were conducted or made in the course of a business carried on by him.

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

Section 25—Application.

(1) This Decree applies to every hire-purchase and conditional sale agreement, regardless of the hire-purchase price, cash price, or total purchase price of the goods.

(2) This Decree applies to agreements entered into by or on behalf of the Republic as it applies to other agreements.

(3) The Commissioner responsible for Finance may, with the approval of the Supreme Military Council by legislative instrument disapply all or any of the provisions of this Decree to any organization or body if it appears to him in the public interest so to do.

(4) For the avoidance of doubts, an instrument made under subsection (3) of this section may be made with retrospective effect up to the commencement of this Decree or any later date and any

instrument so made shall operate in respect of all hire-purchase or conditional sale agreements entered into by the organization or body to which the instrument relates from the date of commencement of that instrument. [As inserted by the Hire-Purchase (Amendment) Decree, 1978 (SMCD 155).]

Section 26—Repeal.

Sections 66 to 75 of the Sale of Goods Act, 1962 (Act 137) and also the definitions of "hire-purchase contract" and "hire-purchase price" in section 81 thereof are hereby repealed but shall continue to apply to agreements made before the commencement of this Decree.

Section 27—Commencement.

This Decree shall come into force on the 1st day of November, 1974.

SCHEDULES

FIRST SCHEDULE

(section 3(1)(d))

NOTICE TO BE INCLUDED IN HIRE-PURCHASE AGREEMENT

NOTICE

RIGHT OF HIRER TO TERMINATE AGREEMENT

1. The hirer may put an end to this agreement either by giving notice of termination in writing to any person who is entitled to collect or receive the hire-rent or in accordance with the terms of the agreement where they are more favourable to him.
2. He must then pay any instalments which are in arrears 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 sections 5 and 6 of the Hire-Purchase Decree, 1974) he must also pay enough to make up that sum.
3. If the hirer fails to take reasonable care of the goods he may be liable to compensate the owner for any loss or damage caused by such failure.

RESTRICTION OF OWNER'S RIGHT TO RECOVER GOODS

4. *[After (here insert an amount calculated in accordance with provisions of sections 8 and 9 of this Decree) has been paid, then] unless the hirer has himself put an end to the agreement, the owner of the goods shall not be entitled to take them back from the hirer without a court order or the consent of the hirer.
5. 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 subsequent agreement to which section 21 of this Decree applies, the words in square brackets should be omitted.

SECOND SCHEDULE

(section 3(1)(d))

NOTICE TO BE INCLUDED IN CONDITIONAL SALE AGREEMENT

NOTICE

RIGHT OF BUYER TO TERMINATE AGREEMENT

1. The buyer may put an end to this agreement either by giving notice of termination in writing to any person who is entitled to collect or receive the instalments of the purchase price or in accordance with the terms of the agreement where they are more favourable to him.

2. He must then pay any instalments which are in arrears 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 buyer is required to pay in accordance with section 5 and 6 of the Hire-Purchase Decree 1974) he must also pay enough to make up that sum.

3. If the buyer fails to take reasonable care of the goods he may be liable to compensate the seller for any loss or damage caused by such failure.

RESTRICTION OF SELLER'S RIGHT TO RECOVER GOODS

4. *[After (here insert an amount calculated in accordance with the provisions of sections 8 and 9 of this Decree) has been paid, then] unless the buyer has himself put an end to the agreement, the seller of the goods shall not be entitled to take them back from the buyer without a court order or the consent of the hirer.

5. If the seller applies to the court for such an order, the court may, if the court thinks it just to do so, allow the buyer to keep either—

(a) the whole of the goods, on condition that the buyer pays the balance of the price in the manner ordered by court; or

(b) a fair proportion of the goods having regards to what the buyer has already paid.

*If the agreement is a subsequent agreement to which section 21 of this Decree applies, the words in square brackets should be omitted.

Made this 4th day of October, 1974.

COLONEL I. K. ACHEAMPONG

Chairman of the National Redemption Council

Date of Gazette Notification: 11th October, 1974.