

# HIRE PURCHASE AND CREDIT SALE

Act 6 of 1964 – 2 May 1964

Amended 14/05; 2/07(P3/07)

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**1 Short title**

This Act may be cited as the Hire Purchase and Credit Sale Act.

**2 Interpretation**

In this Act –

“annual percentage rate” means the annual percentage rate prescribed by the Minister under section 3(3);

“authorised officer” means a public officer designated by the Minister for the purpose of ensuring compliance with this Act;

“bailment” means an agreement, other than a leasing contract, under which goods are rented to a bailee on a temporary basis in consideration for a monthly rental and property in the goods remains with the bailor;

“bailor” means a person who rents goods to a bailee under a bailment;

“buyer” means a purchaser of goods under a credit sale agreement;

“cash price” means the price at which goods are sold on a cash sale basis, where such price, after deduction of any discount, is paid at the time of the purchase;

“chargeable price” means the amount on which charges are imposed and which is equal to the difference between the cash price and the down payment;

“charges” means an amount, not exceeding the annual percentage rate or the monthly flat rate, on the chargeable price as may be prescribed by the Minister under section 3(3);

“contract of guarantee” means, in relation to a hire purchase or a 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 agreement and guarantor shall be construed accordingly;

“credit price” means the total sum, not being in excess of the sum of the cash price and charges accrued, payable by the buyer under a credit sale agreement in order to complete the purchase of goods to which the agreement relates;

“credit sale agreement” means an agreement for the sale of goods on credit and under which the dealership in the goods passes to the buyer upon the sale;

“dealer” means a person –

- (a) (i) who lets or has let goods to a hirer under a hire purchase agreement;
- (ii) who sells or has sold goods to a buyer under a credit sale agreement;
- (iii) to whom the dealer’s rights and liabilities under a hire purchase or credit sale agreement have passed by assignment or by operation of law;
- (b) includes a lending and financing agency;
- (c) does not include a bailor;

“downpayment” means an amount referred to in section 4(3)(a) and (4)(a);

“goods” –

- (a) means, subject to paragraph (b), the goods and services specified in the Fourth Schedule;
- (b) does not include, with respect to a hire purchase agreement, an air ticket;

“hire purchase agreement” -

- (a) means an agreement for the sale of goods under which the property in the goods shall pass to the hirer upon payment by instalments of the whole amount due; and
- (b) includes any credit or financing agreement with a lending and financing agency for the purchase of goods;

[Repealed and replaced 14/05]

“hire purchase price” means the total sum payable by the hirer under a hire purchase agreement in order to complete the purchase of goods to which the agreement relates, exclusive of any sum payable as a penalty or as compensation or damages for a breach of the agreement, and should not exceed the sum of the cash price and charges accrued;

“hirer” means a hire purchaser;

“leasing contract” means a leasing contract entered into by a company providing lease financing and which is approved as a tax incentive company under the First Schedule of the Income Tax Act ;

“lending and financing agency” means a body corporate whose business is that of money lending or financing of hire purchase and credit sale transactions or similar transactions;

“Minister” means the Minister to whom responsibility for the subject of trade is assigned;

“monthly flat rate” means the monthly flat rate prescribed by the Minister under section 3(3);

“repayment period” means the maximum number of months allowed by a dealer to a hirer or buyer under a hire purchase or credit sale agreement for the payment of the balance remaining due after the down payment has been effected;

“surcharge” means an amount payable for the late payment of an instalment and which shall not exceed such rate as may be prescribed by the Minister under section 3(3).

[Amended 15/88; 29/89; 1/95; 26/00]

### **3 Application of Act**

(1) (a) This Act shall apply to all hire purchase agreements and, wherever specified, to credit sale agreements.

(b) Any sale of goods or any transaction, other than a leasing contract, involving the transfer, or of any option or agreement for the transfer, of property in goods, where the term of payment is by instalment, shall be deemed to be a hire purchase or a credit sale under this Act.

(2) There shall be stipulated in every hire purchase or credit sale agreement the following –

- (a) the cash price of the goods;
- (b) the downpayment;
- (c) the total charges and the monthly charges;
- (d) the hire purchase price or the credit price as the case may be;
- (e) the payment of the balance due by way of monthly instalments over a period not exceeding the respective periods specified in the second column of Parts I and II of the First Schedule;
- (f) the annual percentage rate;
- (g) the monthly flat rate; and
- (h) any surcharge.

(3) The Minister may, by regulations, prescribe –

- (a) the charges specified in subsection (2)(c);
- (b) the annual percentage rate specified in subsection (2)(f);
- (c) the monthly flat rate specified in subsection (2)(g); and
- (d) the surcharge specified in subsection (2)(h).

(4) Where an agreement in respect of a bailment provides for the transfer, or any option or agreement for the transfer, of property in the goods, to the bailee, such agreement shall be deemed to be a hire purchase agreement under this Act.

[Amended 15/88; 1/95; 26/00]

### **4 Requirements for agreement**

(1) No hire purchase or credit sale agreement shall be entered into unless –

- (a) the dealer has affixed or displayed, with the goods a label stating the –
  - (i) cash price;
  - (ii) hire purchase or credit price;
  - (iii) downpayment;

- (iv) chargeable price;
  - (v) charges;
  - (vi) repayment period;
  - (vii) monthly instalment;
  - (viii) annual percentage rate; and
  - (ix) monthly flat rate;
- (b) the hirer or buyer has been allowed to inspect the goods;
  - (c) the hirer or buyer has effected the down payment; and
  - (d) the agreement is incorporated in a deed in the form, or in a form not inconsistent with the form, set out in the Second or Third Schedule, as the case may be.
- (2) Unless the requirements specified in subsections (1), (3) and (4) have been complied with –
- (a) no dealer shall be entitled to enforce a hire purchase or a credit sale agreement or any contract of guarantee relating to any of those agreements or, in the case of a hire purchase agreement 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 hire purchase or credit sale agreement or given by a guarantor in respect of money payable under a contract of guarantee shall be enforceable against the hirer or buyer or guarantor by any holder.
- (3) In any hire purchase agreement –
- (a) the downpayment shall be an amount of not less than the percentage of the cash price specified in the first column of Part I of the First Schedule; and
  - (b) the repayment period shall not exceed the period specified in the second column of Part I of the First Schedule.
- (4) In any credit sale agreement –
- (a) the downpayment shall be an amount of not less than the percentage of the cash price specified in the first column of Part II of the First Schedule; and
  - (b) the repayment period shall not exceed the period specified in the second column of Part II of the First Schedule.
- (5) A dealer shall not claim from the hirer or buyer any payment other than the hire purchase price or credit price.
- (6) For the avoidance of any doubt –
- (a) the hire purchase price or credit price under subsection (5) shall include the downpayment, chargeable price and the charges but shall not include any other costs, expenses, fees by whatsoever name called; and
  - (b) nothing in subsection (5) shall preclude the dealer from claiming any surcharge or legal costs prescribed under the Courts Act.

[Amended 1/95; 26/00]

## **5 Right of hirer to determine agreement**

(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 by registered post to the dealer.

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

(3) Where a hirer determines a hire purchase agreement and wrongfully retains possession of the goods, the dealer may bring an action to recover possession of the goods.

(4) In an action brought under subsection (3), the Court shall, unless it is satisfied that having regard to the circumstances it would not be just to do so, order the goods to be delivered to the dealer, without giving the hirer an option to pay the unpaid balance of the hire purchase price of the goods.

(5) Where a hirer, having determined a hire purchase agreement under this section, decides to retain possession of the goods, he shall pay the unpaid balance of the chargeable price, but shall not be liable to payment of any remaining charges.

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

[Amended 1/95; 26/00]

#### **5A Right of buyer to determine agreement**

(1) A buyer may, where he accepts to settle any unpaid balance due, determine a credit sale agreement by giving notice of termination, in writing, to the dealer.

(2) Where an agreement is determined as specified in subsection (1), the dealer shall –

- (a) be entitled to payment of the unpaid balance due; and
- (b) not be entitled to payment of any charges.

(3) Nothing in this section shall prejudice any right of a buyer to determine a credit sale agreement otherwise than by virtue of this section.

[Added 1/95]

#### **6 Avoidance of certain provisions**

Subject to section 11(1), any provision in a hire purchase or credit sale agreement whereby –

- (a) a dealer or any person acting on his behalf is authorised to enter upon any premises for the purposes of –
  - (i) claiming payment of an instalment; or
  - (ii) taking possession of goods which have been let under a hire purchase agreement or sold under a credit sale agreement;
- (b) a dealer or any person acting on his behalf is relieved from liability for any entry specified in subsection (1);
- (c) the right conferred on a hirer or a buyer by this Act to determine the hire purchase or credit sale agreement is excluded or restricted, or whereby any liability in addition to the liability imposed by this Act is imposed on a hirer or a buyer by reason of the termination of the hire purchase or credit sale agreement by him under this Act;
- (d) a hirer, after the determination of the hire purchase agreement or the bailment in any manner 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;
- (e) any person acting on behalf of a dealer 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 buyer; or
- (f) a dealer 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 or a credit sale agreement,

shall be void.

[Amended 1/95]

#### **7 Duty of dealers to inform**

(1) At any time before the final payment has been made under a hire purchase agreement, any person entitled to enforce the agreement against the hirer shall, within 14 days after he has received a request in writing from the hirer and the hirer has tendered to him the sum of one rupee for expenses, supply to the hirer a copy of any deed witnessing 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;
- (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) Where there is a failure without reasonable cause to comply with subsection (1), while that default continues –

- (a) no person shall be entitled to enforce the agreement against the hirer or to enforce any contract of guarantee relating to the agreement, and the dealer shall not be entitled to enforce any right to recover the goods from the hirer; and
- (b) no security given by the hirer 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 enforceable against the hirer or the guarantor by any holder of it,

and, where the default continues for a period of one month, the defaulter shall be liable, on conviction, to a fine not exceeding 100 rupees.

[Amended 1/95]

## **8 Duty of hirer to inform**

(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 dealer, inform the dealer 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) Where a hirer fails without reasonable cause to give the information requested under subsection (1) within 14 days of the receipt of the notice, he shall commit an offence and shall, on conviction, be liable to a fine not exceeding 1,000 rupees.

[Amended 1/95]

## **9 Implied conditions and warranties**

(1) In every hire purchase or credit sale 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 dealer that he shall have a right to sell the goods at the time when title to 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 title to the property is to pass; and
- (d) an implied condition that the goods shall be of merchantable quality, except where the hirer has examined the goods or a sample of them, as regards defects which the examination ought to have revealed.

(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 hire purchase or credit sale agreement to the contrary, and the dealer shall not be entitled to rely on any provision in the agreement or credit sale agreement excluding or modifying the condition set out in subsection (2) unless he proves that before the hire purchase or credit sale agreement was made the provision was brought to the notice of the hirer and its effect made clear to him.

(4) The warranties and conditions set out in subsection (1) shall be governed by the same principles as those governing warranties and conditions of similar nature provided for by the Code Napoléon in the matter of sales of movables.

(5) 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 or credit sale agreement.

[Amended 1/95]

## **10 Appropriation of payments**

Notwithstanding any other enactment, a hirer or buyer who is liable to make payments in respect of 2 or more hire purchase or credit sale agreements to the same dealer 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 the hirer or buyer in or towards the satisfaction of the sum due under any one of the agreements, or in or towards the satisfaction of the sums due under any 2 or more of the agreements in such proportions as the hirer or buyer thinks fit, and, if the hirer or buyer fails to make any such appropriation, the payment shall by virtue of this section be appropriated towards the satisfaction of the sums due under the

respective hire purchase or credit sale agreements in the proportions which those sums bear to one another.

[Amended 1/95; 26/00]

## **11 Right to recover possession and claim payment**

(1) Where goods have been let under a hire purchase agreement and one half 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 dealer shall not enforce any right to recover possession of the goods or to claim payment of an instalment from the hirer otherwise than by action.

(2) Where an dealer 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 dealer by action all sums paid by the hirer under the agreement or under any security given by him in respect of it; and
- (b) any guarantor shall be entitled to recover from the dealer by action all sums paid by him under the contract of guarantee or under any security given by him in respect of it.

(3) This section shall not apply where the hirer has determined the agreement or the bailment by virtue of any right vested in him.

(4) Notwithstanding subsection (1), a dealer shall not enter any action in respect of any instalment which is overdue unless he first claims payment of the instalment by notice in writing by registered post to the hirer.

[Amended 1/95; 26/00]

## **11A Payment of instalment under credit sale agreement**

(1) Subject to subsection (2), a dealer shall not claim payment of any instalment which is overdue under a credit sale agreement otherwise than by action.

(2) The dealer shall not enter an action under subsection (1) unless he first claims payment of the instalment which is overdue by notice in writing by registered post to the buyer.

[Added 1/95; 26/00]

## **12 Powers of Court in actions by dealers**

(1) Where, in any case to which section 11 applies, a dealer commences an action to enforce a right to recover possession of goods from a hirer after one half of the hire purchase price has been paid or tendered, the action shall, if brought before a District Court, be commenced in the Court for the district in which the hirer resides or carries on business or resided or carried on business at the date on which he last made a payment under the hire purchase agreement, and after the action has been commenced the dealer shall not take any step to enforce payment of any sum due under the hire purchase agreement or under any contract of guarantee relating to it, except by claiming the sum in the 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 dealer, 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, make an order for the specific delivery of –

- (a) all the goods to the dealer;
- (b) all the goods to the dealer 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) a part of the goods to the dealer and for the transfer to the hirer of the dealer's title to the remainder of the goods.

(5) No order shall be made under subsection (4)(b) 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 dealer'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 half of the unpaid balance of the hire purchase price.

(7) Where damages have been awarded against the dealer 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 of them as the Court thinks fit, and the damages shall accordingly be remitted either in the whole or in part.

(8) In this section –

“order for the specific delivery of the goods” means an order for the delivery of the goods to the dealer without giving the hirer an option to pay their value;

“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, where no such assignment is made, such part of the hire purchase price as the Court may determine.

(9) Where before the hearing of an action to which this section applies, the dealer 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 dealer has not recovered, and, where 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 subsection (4)(b) and (c) make such reduction of the hire purchase price and of the unpaid balance as the Court thinks just.

(10) Where a dealer has recovered a part of the goods let under a hire purchase agreement, and the recovery was effected in contravention of section 11, this section shall not apply in relation to any action by the dealer to recover the remainder of the goods.

[Amended 1/95]

### **13 Postponement of order for delivery**

(1) (a) Subject to paragraph (b), while the operation of an order for the specific delivery of goods to the dealer is postponed under section 12, the hirer shall be deemed to be a bailee of the goods under and on the terms of the hire purchase agreement.

(b) 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 the Court may make such further modification of the terms of the hire purchase agreement and of any contract of guarantee relating to it as the Court considers necessary, having regard to the variation of the terms of payment.

(2) (a) Where while the operation of an order for the specific delivery of the goods to the dealer 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 dealer shall not take any civil proceedings against the hirer or guarantor otherwise than by making an application to the Court by which the order was made.

(b) Where there is 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 dealer to apply to the Court for leave to execute the order unless the Court has so directed.

(3) Where the unpaid balance of the hire purchase price has been paid in accordance with the order, the dealer'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 –

- (a) vary the conditions of the postponement, and make such further modification of the hire purchase agreement and of any contract of guarantee relating to it as the Court considers necessary, having regard to the variation of the conditions of the postponement;
- (b) revoke the postponement; or
- (c) make an order, in accordance with section 12, for the specific delivery of a part of the goods to the dealer and for the transfer to the hirer of the dealer's title to the remainder of the goods.

[Amended 1/95]

#### **14 Postponed orders**

(1) Where a postponed order for the specific delivery of goods of the dealer has been made under section 12(4)(b), the powers of the Court under section 13(4)(a) and (c) 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 dealer in accordance with a warrant issued in pursuance of the order, and where such a warrant has been issued the Court shall –

- (a) where the Court varies the conditions of the postponement under section 13(4)(a), suspend the warrant on the like conditions;
- (b) where the Court makes an order under section 13(4)(c) for the specific delivery of a part of the goods to the dealer and for the transfer to the hirer of the dealer's title to the remaining part, 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 dealer in accordance with a warrant issued under subsection (1), the warrant may, so far as it provides for the delivery of the goods, be discharged by the payment to the dealer by the hirer or any guarantor of the whole of the unpaid balance of the hire purchase price, and in any such case the dealer's title to the goods shall vest in the hirer.

(3) (a) Subject to paragraph (b), where in an action to which section 12 applies an offer as to conditions for the postponement of the operation of an order under subsection (4)(b) of that section is made by the hirer and accepted by the dealer in accordance with Rules of Court, an order under that subsection may be made by the Court in accordance with the offer without hearing evidence as to matters specified in section 12(4)(b) or (5).

(b) 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.

[Amended 1/95]

#### **15 Powers of Court to deal with payments**

(1) Where a hire purchase or credit sale agreement validly provides for the payment by the hirer or buyer 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 12 applies, then –

- (a) where the Court makes an order for the specific delivery of a part of the goods to the dealer and the transfer to the hirer of the dealer's title to the remainder of the goods, the claim shall be disallowed;
- (b) where the Court postpones the operation of an order for the specific delivery of the goods to the dealer, 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, and the dealer subsequently seeks to recover the goods in an action to which section 12 applies, the Court may treat the sum as a sum paid or payable, as the case may be, in respect of the hire purchase price.

[Amended 1/95]

#### **16 Successive hire purchase agreements**

Where goods have been let under a hire purchase agreement and at any time after one half of the hire purchase price has been paid or tendered, the dealer makes a further hire purchase agreement with

the hirer comprising those goods, section 12 shall have effect in relation to that further agreement as from its commencement.

[Amended 1/95]

## **17 Bankruptcy of hirer**

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 post-ponement, 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 47 of the Bankruptcy Act.

## **18 Hirer's refusal to surrender goods**

Where, while by virtue of this Act the enforcement by a dealer 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 dealer, the hirer shall not, by reason only of the refusal, be liable to the dealer for wrongful retention of the goods.

[Amended 1/95]

## **19 Installation charges**

(1) Where any agreement is reached between the dealer and a hirer or buyer in respect of any installation, the installation charges, if any, shall not be included in the hire purchase price or credit price.

(2) In this section –

“electric line” means a wire, conductor or other means used for the purpose of conveying, transmitting, or distributing electricity with any casing, coating, covering, tube, pipe or insulator enclosing, surrounding or supporting the same, or any part thereof, or any apparatus connected with it for the purpose of conveying, transmitting, or distributing electricity or electric current;

“installation” means –

- (a) the installation of any electric line or any gas or water pipe; or
- (b) the fixing of goods to which the agreement relates to the premises where they are to be used, and the alteration of premises to enable any such goods to be used there, and 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.

[Amended 1/95]

## **20 Embezzlement**

For the purposes of section 333 of the Criminal Code, a hire purchase agreement or a bailment made under this Act shall be deemed to be a contract of lease or hiring ('louage').

[Amended 15/88]

## **20A. Advertisements**

(1) No person shall, in any manner whatsoever, publish, broadcast or cause to be published or broadcast, an advertisement relating to the hire purchase or credit sale of any goods which -

- (a) is, or is likely to be, misleading to readers, viewers or listeners;
- (b) indicates, or tends to indicate, that a hire purchase or credit sale agreement may be entered into in contravention of this Act; or
- (c) does not indicate that no hire purchase or credit sale agreement shall be entered into with a person where it causes him to be over-indebted.

(2) Any person who contravenes sub-section (1) shall commit an offence and shall, on conviction, be liable to a fine not exceeding 50,000 rupees.

[Added 2/07(P3/07)]

## **21 Exemption from registration**

Notwithstanding any other enactment, a deed witnessing a hire purchase agreement or a credit sale agreement under this Act shall be exempt from registration under the Registration Duty Act and the

Registration and Transcription of Deeds and Inscription of Mortgages, Privileges and Charges (Rodrigues) Act.

[Amended 15/88; 1/95; 38/99; 26/00]

22 –

23 Regulations

(1) The Minister may make regulations for carrying this Act into effect and, in particular, but without prejudice to the generality of his power he may make regulations –

- (a) to amend the Schedules;
- (b) to provide for the control on the disposal and possession of goods under hire purchase agreements and for that purpose to regulate, in particular, the prices at which such goods may be disposed of and any charges that may be imposed upon the hirer by the dealer;
- (c) to regulate the trade of goods the payment of which is made by instalments;
- (d) to regulate the trade of goods the payment of which is made other than on a cash sale basis.

(2) Regulations made under subsection (1) may provide that any person who contravenes them shall commit an offence and shall, on conviction, be liable to a fine not exceeding 50,000 rupees, and in the case of a continuing offence, a further fine not exceeding 200 rupees for each day during which the offence continues after conviction, and for the payment of costs.

[Amended 15/88; 29/89; 1/95; 26/00]

24 Offences

(1) No dealer who disposes of any goods under a hire purchase or a credit sale agreement shall impose charges at a rate in excess of such percentage as is prescribed.

(2) No dealer who disposes of goods under a credit sale agreement shall –

- (a) sell the goods subject to any condition to the effect that the purchaser shall not dispose of the article before payment of any instalment or sum remaining due or any part thereof;
- (b) notwithstanding that a sale has been effected subject to the condition specified in paragraph (a), recover possession of the goods or interfere with the buyer's enjoyment of the quiet possession of the goods.

(3) Every person who contravenes this section shall commit an offence and shall, on conviction, be liable to a fine not exceeding 50,000 rupees, and in the case of a second or subsequent conviction, a fine not exceeding 100,000 rupees together with a term of imprisonment not exceeding 2 years.

[Amended 29/89; 1/95]

25 Authorised officers

(1) The Minister may designate any public officer to be an authorised officer for the purpose of ensuring compliance with this Act.

(2) –

[Amended 1/95]

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**FIRST SCHEDULE**

(sections 2, 3 and 4)

PART I

**Hire Purchase Agreement**

Minimum downpayment  
0 % of cash price

Maximum repayment period  
30 months

PART II

**Credit Sale Agreement**

Minimum downpayment  
50% of cash price

Maximum repayment period  
12 months

**SECOND SCHEDULE**

(section 4)

**Form of Deed of Hire Purchase Agreement**

Part I

**DECLARATION AND AGREEMENT**

Hire Purchase Agreement made in triplicate this.....day of.....

Between:

.....whose registered office is situated at.....[the "dealer" which expression shall include their successors and assigns]

and.....of.....

.....[the "hirer"].

Whereby

- (i) The dealer agrees to let and grant hire purchase facilities to the hirer in respect of the goods specified in Part II of the present Agreement.
- (ii) The hirer shall have and enjoy quiet possession of the goods.
- (iii) The dealer shall pass the property of the goods to the hirer upon payment of the last instalment or upon payment of any balance of the chargeable price due before the last instalment.
- (iv) The hirer, having inspected the goods and being satisfied that a label has been displayed with the goods showing the particulars of Part II of the present Agreement, undertakes to effect the down payment and pay the monthly instalment as specified in Part II of the present Agreement.
- (v) The dealer confirms that:
  - (a) the price of the goods specified in Part II of the Agreement is the cash price of the goods at the time the Agreement is signed by the hirer; and
  - (b) the figures mentioned in Part II of the Agreement are true and correct and their computation have been carried out in accordance with the provisions of the Act.

Further, the dealer and the hirer declare and agree that any right acquired by both parties under sections 5, 9 and 11 of the Act shall be safeguarded.

**PART II**

**COMPUTATION OF CHARGES AND HIRE PURCHASE PRICE**

- (a) Particulars of goods .....
- (b) Quantity .....
- (c) Cash price per unit Rs.....
- (d) Total cash price Rs .....
- (e) Less down payment Rs.....
- (f) Chargeable Price Rs .....
- (g) Percentage of charges .....
- (i) Annual Percentage Rate.....
- (ii) Monthly Flat Rate .....
- (h) Total Charges .....
- (i) Hire purchase price Rs.....
- [(d) +(h)]
- (j) Less down payment .....
- [as at (e)]
- (k) Balance due Rs.....
- (l) No. of instalments .....
- [payable over period not exceeding 30 months]
- (m) Monthly instalment Rs.....

**PART III**

**CONTRACT OF GUARANTEE**

HERETO INTERVENES

Mr.....

[the "Guarantor"]

who, having taken cognisance of the foregoing, hereby guarantees jointly and *in solido*, ('conjointement et solidairement') with the eventual hirer, under renunciation of 'bénéfices de division et de discussion' as though he was personally liable, the execution, performance and observance by the eventual hirer of all the terms and conditions embodied in the present agreement.

Signature of Guarantor..... I.D. No.....  
Home Address..... Tel. No .....  
Occupation.. Tel. No .....  
Office Address..... Tel No .....

**PART IV**

**RATIFICATION**

I,.....hereby certify that before entering into this Agreement, I have been allowed to inspect the goods and I am satisfied that a label, in accordance with section 4(1)(a) of the Act was displayed with the goods.

I understand the contents of this Agreement and agree that the dealer has handed over to me an original of same.

Signature of hirer.....

Drawn up by consent of parties in 3 originals at.....

(address of dealer)

this.....day of.....

Signature of dealer.....

Signature of buyer.....

Signature of guarantor.....

**THIRD SCHEDULE**

(section 4)

**Form of Deed of Credit Sale Agreement**

**PART I**

**DECLARATION AND AGREEMENT**

Credit Sale Agreement made in triplicate this.....day of.....

Between:

.....whose registered office is

situated at.....

[the "Dealer" which expression shall include their successors and assigns]

and.....of.....[the "Buyer"].

Whereby:

- (i) the dealer agrees to grant credit facilities to the buyer in respect of the goods specified in Part II of the Agreement;
- (ii) the buyer having inspected the goods undertakes to effect the down payment and pay the monthly instalment as specified in Part II of the present Agreement;
- (iii) ownership of the goods shall pass to the buyer upon settlement of the down payment;
- (iv) the dealer confirms that –
  - (a) the price of the goods quoted in Part II of the Agreement is the cash price of the goods prior to the signing of the present Agreement; and
  - (b) the figures mentioned in Part II of the Agreement are true and correct and their computation have been carried out in accordance with the provisions of the Act.

Further, the dealer and the buyer declare and agree that any right acquired by both parties under sections 5A, 9 and 11A of the Act shall be safeguarded and that the implied conditions specified in section 9 (1) (d) and (2) apply to this Agreement.

**PART II**

**COMPUTATION OF CHARGES AND CREDIT PRICE**

- (a) Particulars of goods.....
- (b) Quantity .....
- (c) Cash price per unit Rs .....
- (d) Total cash price Rs.....
- (e) Less down payment Rs.....  
[Min. 50% of cash price]
- (f) Chargeable price Rs.....
- (g) Percentage of charges.....
  - (i) Annual percentage rate .....
  - (ii) Monthly flat rate .....
- (h) Total Charges.....
- (i) Credit price Rs .....
- [(d) +(h)]
- (j) Less down payment Rs.....  
[as at (e)]
- (k) Balance due Rs .....
- (l) No of instalments.....  
[payable over period not exceeding 12 months]
- (m) Monthly instalment Rs .....
- [Amended 26/00; GN 111/00]

**PART III**

**CONTRACT OF GUARANTEE**

HERETO INTERVENES

Mr.....  
[the "Guarantor"]

who, having taken cognizance of the foregoing, hereby guarantees jointly and *in solido*, ('conjointement et solidairement') with the eventual buyer, under renunciation of "benefices de division et de discussion" as though he was personally liable, the execution, performance and observance by the eventual buyer, of all the terms and conditions embodied in the present agreement.

Signature of Guarantor..... ID No .. ..  
 Home Address..... Tel No.. ..  
 Occupation.. .. Tel No.. ..  
 Office Address..... Tel No.. ..

**PART IV**

**RATIFICATION**

I,.....hereby certify that before entering into this Agreement, I have been allowed to inspect the goods and I am satisfied that a label, in accordance with section 4 (1)(a) of the Act was displayed with the goods.

I understand the contents of this Agreement and agree that the dealer has handed over to me an original of same.

Signature of buyer

Drawn up by the consent of parties in 3 originals at.....

.....  
 (address of dealer)  
 this.....day of.....

.....  
 Signature of dealer .....

Signature of buyer .....

Signature of guarantor .....  
[Amended 1/95]

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## FOURTH SCHEDULE

(section 2)

### Goods and services

- 1 Air conditioners and parts and accessories thereof
  - 2 Air tickets
  - 3 Appliances and apparatus [whether electrical or not] of a kind designed exclusively for domestic use and parts and accessories thereof
  - 4 Articles and equipment for general physical exercises, gymnastics, athletics and other sports
  - 5 Audio Cassette/Hifi –  
Recorder/player  
Player
  - 6 Bicycles and tricycles
  - 7 Ceramic tiles
  - 8 Chandelier and other electric ceiling and wall lighting fittings and parts and accessories thereof
  - 9 Clocks and watches
  - 10 Compact disc players
  - 11 Computers and parts and accessories thereof
  - 12 Decoding units providing television services
  - 13 Electrical tools and parts and accessories thereof
  - 14 Encyclopaedias and dictionaries
  - 15 Floor coverings
  - 16 Furniture [including mattresses] and parts and accessories thereof
  - 17 Generators and parts and accessories thereof
  - 18 Glasswares and porcelaine wares
  - 19 Jewellery [gold and silver]
  - 20 Kitchen wares and articles of cutlery
  - 21 Lawn mowers
  - 22 Muscial instruments and parts and accessories thereof
  - 23 Outboard motors and marine engines
  - 24 Photocopying apparatus and parts and accessories thereof
  - 25 Photographic cameras and parts and accessories thereof
  - 26 Pool tables and accessories thereof
  - 27 Radio receiving and transmitting sets
  - 28 Record palyers
  - 29 Sanitary wares and fittings [including sink units and bathroom fittings]
  - 30 Sewing and embroidery machines [whether electrical or not] and parts and accessories thereof
  - 31 Television receiving sets; Television aerials and parts and accessories thereof;
  - 32 Telephone sets (including cellular phones and cordless telephones), facsimile apparatus and parts and accessories thereof
  - 33 Travelling bags, suitcases, executive-cases and briefcases
  - 34 Typewriters, calculating and accounting machines
  - 35 Video apparatus
  - 36 Video camera
  - 37 Video games of a kind used with a television receiver
  - 38 Water storage tanks
  - 39 Wheeled toys [including tricycles, scooters and cars whether propelled by pedals or batteries]
- [Amended 26/00]

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6. The Hire Purchase and Credit Sale (Charges) Regulations 2000.

*Government Notices 2004*

**THE HIRE PURCHASE AND CREDIT SALE ACT**

**Regulations made by the Minister under sections 3 and 23 of the  
Hire Purchase and Credit Sale Act**

1. These regulations may be cited as the Hire Purchase and Credit Sale (Charges) Regulations 2000.
2. In these regulations-
  - “Act” means the Hire Purchase and Credit Sale Act;
  - “annual percentage rate (APR)” means the annual percentage rate of charges referred to in regulation 4;
  - “late payment” means payment of an instalment or part thereof after the due date;
  - “monthly charges” means the charges for any given month within the repayment period;
  - “total charges” means the total charges payable over the whole of the repayment period.
3. In every hire purchase or credit sale agreement the payment of the chargeable price together with the total charges shall be made by monthly equal instalments.
4. (1) For the purpose of section 3 of the Act, the annual percentage rate shall not be more than 24.8 per cent of the chargeable price.
  - (2) No dealer shall claim charges at a rate, which exceeds the annual percentage rate specified in paragraph (1).
5. (1) Subject to paragraphs (2) and (3), for the purposes of determining the monthly charges or the total charges for the repayment period, the dealer shall apply the annual percentage rate on the chargeable price on a diminishing balance method.

- (2) The total charges shall be computed in accordance with the formula set out in Part I of the First Schedule.

### *Government Notices 2004*

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- (3) The monthly charges shall be computed in accordance within the formula set out in Part II of the First Schedule.
- (4) No dealer shall claim total charges or monthly charges as the case may be, which exceed the appropriate amounts reached after computation of the respective charges in accordance with paragraphs (2) and (3).
6. Every dealer shall provide a hirer or buyer, together with the hire purchase agreement or the credit sale agreement, as the case may be, with a schedule of payment in the form specified in the Second Schedule, in respect of the goods subject matter of the agreement.
7. The maximum surcharge that a dealer may claim for the late payment of an instalment shall not exceed an amount representing a rate of 8 per cent per annum above the annual percentage rate, of the amount overdue.
8. (1) Every dealer shall affix with the goods or display at conspicuous place on his licensed premises, a label stating the annual percentage rate.  
  
(2) No dealer shall , in respect of the goods subject matter of the hire purchase or credit sale agreement, claim charges at a rate which exceeds the annual percentage rate stated on the label affixed with the goods or displayed at his licensed premises.
9. Any person who contravenes these regulations shall commit an offence and shall, on conviction, be liable to a fine not exceeding 50,000 rupees, and in the case of a continuing offence, to a further fine not exceeding 200 rupees for each day which the offence continues after conviction.
10. The Hire Purchase and Credit Sale (Charges) Regulations 1994 are repealed.
11. These regulations shall come into operation on 21 August 2000.

Made by the Minister on 21 August 2000.

*Government Notices 2004*

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**FIRST SCHEDULE**

(regulation 5)

**Part I**

**Formula for the calculation of total charges**

Total charges: 
$$TC = N \times \left( \frac{P \times R (1+R)^N}{(1+R)^N - 1} \right) - P$$

Where

N = Number of instalments  
P = Chargeable price  
R = Monthly rate of the annual percentage rate

(APR)

=  $\frac{\text{APR}}{12}$

12

Part II

**Formula for the calculation of monthly charges**

$$\text{Charges (C) for first month } C_1 = \frac{\text{APR}}{12} \times P$$

$$\text{Charges (C) for month m } C_m = \frac{\text{APR}}{12} \times [P-S]$$

$$\text{Chargeable price component (capital)} = I - C$$

$$\text{Instalment } I = \frac{P + \text{TC}}{N}$$

Where

- APR = Annual percentage rate
- I = Amount of an instalment
- M = Any given amount of the repayment period
- N = Number of instalments
- P = Chargeable Price
- S = Sum of chargeable price component (capital) from first month to month m
- TC = Total Charges

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**SECOND SCHEDULE**

**(regulation 6)**

**SCHEDULE OF PAYMENT**

Name of dealer : .....

Name of hirer/buyer : .....

Particulars of goods : .....

Annual percentage rate : .....

No. of instalments : .....months

Repayment period :

