

INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 252.

Hire-purchase.

GENERAL ANNOTATION.

ADMINISTRATION.

As at 13 February 1976 (the date of gazettal of the most comprehensive allocation of responsibilities to Ministers and Departments at about the effective date), the administration of this Chapter was vested in the Minister for Justice.

Accordingly, as at that date, unless some other intention is clearly indicated, by note or in the text, references in or in relation to this Chapter to—

“the Minister”—should be read as references to the Minister for Justice;

“the Departmental Head”—should be read as references to the Secretary for Justice¹;

“the Department”—should be read as references to the Department of Justice².

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¹ Previously the Secretary, Department of Law.
² Previously the Department of Law.

INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 252.

Hire-purchase Act.

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INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 252.

Hire-purchase Act.

Being an Act relating to hire-purchase agreements, and for related purposes.

PART I.—PRELIMINARY.

1. Interpretation.

(1) In this Act, unless the contrary intention appears—

“the balance originally payable under the agreement”, in relation to a hire-purchase agreement, means the total, under the agreement, of the amounts payable under Section 7(1)(e)(vii) and (viii);

“banker” means a person or corporation authorized by a law to carry on banking business in Papua New Guinea;

“cash price”, in relation to a hire-purchase agreement, means the price at which, at the time of signing the agreement, the hirer might have purchased, for cash, the goods the subject of the agreement;

“dealer”, in relation to a hire-purchase agreement, means a person, not being the hirer, the owner or a servant of the owner, by whom or on whose behalf—

(a) negotiations leading to the making of the agreement with the owner were carried out; or

(b) the transaction leading to the agreement with the owner was arranged;

“declared State” has the meaning given to it by Subsection (4);

“declared Territory” has the meaning given to it by Subsection (4);

“deposit”, in relation to a hire-purchase agreement, means the amount paid or provided by way of deposit under the agreement;

“goods” include all chattels personal other than money or things in action;

“guarantor”, in relation to a hire-purchase agreement, means a person who has guaranteed the performance by the hirer of all or any of his obligations under the agreement, but does not include—

(a) the dealer; or

(b) a person engaged, at the time of the giving of the guarantee, in the trade or business of selling goods of the same nature or description as the goods comprised in the agreement;

“hire-purchase agreement” includes—

(a) a letting of goods with an option to purchase; and

(b) an agreement for the purchase of goods by instalments (whether the agreement describes the instalments as rent or hire or otherwise),

but does not include an agreement—

(c) where the property in the goods comprised in the agreement passes—

(i) at the time of the agreement; or

(ii) on or at any time before delivery of the goods; or

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(d) under which the person by whom the goods are being hired or purchased is a person who is engaged in the trade or business of selling goods of the same nature or description as the goods comprised in the agreement;

"hirer", in relation to a hire-purchase agreement, means—

- (a) the person to whom goods are let, hired or agreed to be sold under the agreement; or
- (b) a person to whom the hirer's rights or liabilities under the agreement have passed by assignment or by operation of law;

"insurance", in relation to a hire-purchase agreement, means any amount included in the total amount payable under the agreement to cover insurance, other than third-party insurance;

"maintenance", in relation to a hire-purchase agreement, means any amount included in the total amount payable under the agreement to cover maintenance of the goods the subject of the agreement;

"owner", in relation to a hire-purchase agreement, means—

- (a) the person letting, hiring or agreeing to sell goods under the agreement; or
- (b) a person to whom—
 - (i) the owner's property in the goods; or
 - (ii) any of the owner's rights or liabilities under the agreement, have passed by assignment or by operation of law;

"the period of the agreement", in relation to a hire-purchase agreement, means the period between the commencement of the hiring under the agreement and the time laid down by the agreement for the payment of the last instalment;

"the statutory rebate"—

- (a) in relation to terms charges under a hire-purchase agreement—
 - (i) means, subject to Subparagraph (ii), the amount derived by—
 - (A) multiplying the terms charges by the sum of all the whole numbers from one to the number that is the number of complete months in the unexpired period of the agreement; and
 - (B) dividing the product so obtained by the sum of all the whole numbers from one to the number that is the total number of complete months in the period of the agreement; or
 - (ii) where it is agreed in the agreement that the terms charges have been calculated on a simple interest basis at a rate specified in the agreement on the amount outstanding from month to month—means the amount of interest that is attributable to the unexpired period of complete months under the agreement; and

(b) in relation to insurance under a hire-purchase agreement, means the sum of—

- (i) the total amount of premium for insurance paid in respect of any annual period not yet commenced; and
- (ii) 90% of the proportion of the amount of the premium for insurance paid in respect of the current annual period that is attributable to the unexpired portion of that period consisting of whole months; and

(c) in relation to maintenance under a hire-purchase agreement, means the amount derived by—

- (i) multiplying the amount charged for maintenance by the number of complete months in the unexpired period of the agreement; and
- (ii) dividing the product so obtained by the number of complete months in the period of the agreement;

“terms charges”, in relation to a hire-purchase agreement, means the amount of any charges payable under the agreement, other than charges referred to in Section 7(1)(e)(i)-(vii);

“third-party insurance” means any insurance in relation to liability in respect of death or bodily injury caused by or arising out of the use of a motor vehicle, that is insurance required by the law of the place where the vehicle is registered or is being registered, as the case requires;

“the total amount payable”, in relation to a hire-purchase agreement, means the total amount to be paid or provided, whether by way of cash or other consideration, by or on behalf of the hirer under the agreement;

“vehicle registration fees” means any amount to be provided under a hire-purchase agreement by the owner for payment by or on behalf of the hirer under the law of Papua New Guinea or of a State or Territory of Australia in connexion with the registration and use of a motor vehicle including any amount payable for third party insurance.

(2) A reference in this Act to the taking of possession by the owner of goods comprised in a hire-purchase agreement includes—

- (a) a reference to the taking of possession of goods by the owner under an order of a court; and
- (b) a reference to the return of goods to the owner after notice has been served on the hirer under Section 19(1),

but does not include a reference to the taking of possession by the owner as a result of the voluntary return of the goods by the hirer.

(3) Where, by virtue of two or more agreements (none of which by itself constitutes a hire-purchase agreement)—

- (a) there is a bailment of goods; and
- (b) either the—
 - (i) bailee may buy the goods; or

(ii) the property in the goods will or may pass to the bailee,
the agreements shall, for the purposes of this Act, be treated as a single hire-purchase agreement made at the time when the last agreement was made.

(4) A reference in a section of this Act to a declared State or to a declared Territory shall be read as a reference to a State or a Territory of Australia, as the case may be, that is declared by the Minister, by notice in the National Gazette, to be a State or Territory of Australia in relation to which the section applies.

2. Application.

This Act applies to and in relation to hire-purchase agreements, and agreements relating to hire-purchase agreements, entered into—

- (a) in Papua New Guinea; and
- (b) except where the contrary intention appears, in a State or Territory of Australia,

after 1 January 1969 (being the date of commencement of the pre-Independence *Hire-purchase Act 1966*).

3. Application of Transactions with Natives Act.

This Act does not affect the operation of the *Transactions with Natives Act 1958* (Adopted).

4. Exemptions.

The regulations made under this Act may provide exemptions, wholly or in part, from all or any of the provisions of this Act, subject to such conditions (if any) as are prescribed—

- (a) in relation to a person or class of persons; or
- (b) in relation to a transaction or class of transactions.

PART II.—FORMATION AND CONTENTS OF HIRE-PURCHASE AGREEMENTS.

5. Provision to would-be hirers of statements as to liability, etc.

(1) A person must not enter into a hire-purchase agreement in the country as owner or on behalf of the owner unless, not less than 24 hours before—

- (a) the agreement is entered into; or
- (b) where the agreement is entered into by way of acceptance by or on behalf of the owner of a written offer signed by or on behalf of the hirer—the written offer was signed,

the hirer was given, or the owner has reasonable grounds for believing that the hirer was given, a written statement, duly completed, in Form 1.

(2) A person other than the proposed owner who prepares, in whole or in part, an offer to enter into a hire-purchase agreement for signature by or on behalf of the proposed hirer must not submit the offer to the proposed hirer, or to a person acting on behalf of the proposed hirer, for signature by or on behalf of the proposed hirer unless, not less than 24 hours earlier, the proposed hirer has been given a written statement, duly completed, in Form 1.

(3) A person other than the proposed owner must not accept from the proposed hirer, or a person acting on behalf of the proposed hirer, for transmission to the proposed owner,

a written offer to enter into a hire-purchase agreement signed by or on behalf of the proposed hirer unless, not less than 24 hours earlier, the proposed hirer was given a written statement duly completed, in Form 1.

(4) A reference in Subsection (1), (2) or (3) to a written statement in Form 1 shall, if the owner or the dealer in relation to the hire-purchase agreement resides or carries on business in a declared State or in a declared Territory, be read as including a reference to a written statement in accordance with a form corresponding with the form that is specified in the law of that State or Territory, as the case may be, that corresponds with this Act.

6. Hire-purchase agreements as to household equipment, etc.

(1) A hire-purchase agreement that—

- (a) relates to household furniture or effects used or intended to be used by the hirer in his home; and
- (b) is made with a married hirer,

is not enforceable unless—

- (c) the agreement contains a written statement signed, at or before the time when the agreement was entered into, by the spouse of the hirer, signifying the consent of the spouse to the agreement; or
- (d) at or before the time when the agreement was entered into, the hirer produced and delivered to the owner or his agent an authority, or a copy, verified as prescribed, of an authority, signed by the spouse of the hirer, to pledge the credit of the hirer and the spouse, or either of them, in an amount not less than the total of the amount payable under the agreement and any other amount owing or payable by the hirer and the spouse, or either of them, as the case may be, to the owner; or
- (e) at or before the time when the agreement was entered into the hirer produced and delivered to the owner or his agent a declaration made in the prescribed manner to the effect that the spouse of the hirer was under such a legal disability as to make the spouse unable to sign the statement required by Paragraph (c).

(2) Subsection (1) does not apply where—

- (a) at the time when the hire-purchase agreement was entered into the owner or his agent, as the case may be, had reasonable grounds for believing, and did in fact believe, that—
 - (i) the hirer was living separate and apart, permanently or indefinitely, from his spouse; or
 - (ii) the spouse of the hirer was outside the country; or
- (b) at or before the time when the hire-purchase agreement was entered into, the hirer produced and delivered to the owner or his agent a declaration made in the prescribed manner, stating that he was not married at the time of the delivery of the declaration, unless the owner or his agent had reasonable grounds for believing that the declaration was false.

(3) A person who knowingly makes a false statement in a declaration under Subsection (1) or (2) is guilty of an offence.

Penalty: A fine not exceeding K100.00.

- (4) Where in a hire-purchase agreement of the kind referred to in Subsection (1)—
- (a) the total amount payable under the agreement does not exceed K20.00; and
 - (b) the owner serves (by personal delivery) on the spouse of the hirer, within seven days of the making of the agreement, a written notice that the agreement has been made; and
 - (c) the spouse of the hirer does not, within seven days of the service of the notice, serve on the owner a written notice that he objects to the making of the agreement,

the agreement is not unenforceable by reason only of Subsection (1).

(5) Where a spouse serves a notice of objection on an owner under Subsection (4), the hire-purchase agreement ceases to be binding on the parties and the owner—

- (a) must refund—
 - (i) all moneys paid; and
 - (ii) the value of any consideration provided by the hirer; and
- (b) is entitled to recover possession of the goods comprised in the agreement.

(6) An owner to whom or on whom an authority, declaration or notice has been served or delivered in accordance with this section must preserve the authority, declaration or notice, as the case may be, until the expiration of the period of 12 months after the transaction, in respect of which the authority, declaration or notice was given, is finally concluded.

7. Requirements as to local hire-purchase agreements.

- (1) A hire-purchase agreement entered into in Papua New Guinea—
- (a) must be written; and
 - (b) must be signed by or on behalf of the hirer and all other parties to the agreement; and
 - (c) must—
 - (i) specify a date on which the hiring is to commence or shall be deemed to have commenced; and
 - (ii) specify the number of instalments to be paid under the agreement by the hirer; and
 - (iii) specify the amount of each instalment and the person to whom, and the place at which, payments of instalments are to be made; and
 - (iv) specify the time for the payment of each instalment; and
 - (v) contain a description of the goods sufficient to identify them; and
 - (d) where any part of the consideration is or is to be provided otherwise than in money—must contain a description of that part of the consideration; and
 - (e) must set out in tabular form—
 - (i) the cash price, to be so described in the agreement; and
 - (ii) the deposit, to be so described in the agreement, showing separately amounts—
 - (A) paid in money; and
 - (B) provided by a consideration other than money; and
 - (iii) any maintenance, to be so described in the agreement; and

- (iv) any amount (to be described in the agreement as "freight") included in the total amount payable to cover the expenses of delivering the goods or any of them to or to the order of the hirer; and
- (v) any amount (to be described in the agreement as "vehicle registration fees") included in the total amount payable to cover vehicle registration fees in respect of the goods; and
- (vi) any insurance, to be so described, in the agreement; and
- (vii) the total of the amounts referred to in Subparagraphs (i), (iii), (iv), (v) and (vi), less the amount of the deposit; and
- (viii) the terms charges, to be so described in the agreement; and
- (ix) the balance originally payable under the agreement; and
- (x) the total amount payable.

(2) An owner who, in Papua New Guinea, enters into a hire-purchase agreement that does not comply with Subsection (1) is guilty of an offence.

(3) A hire purchase agreement that is not written is not enforceable by the owner.

8. Reduction of liability for non-compliance with Section 5 or 7.

(1) Without affecting the liability of a person to be convicted of an offence, where a provision of Section 5(1), (2) or (3) or 7(1) (other than 7(1)(a)) has not been complied with, the liability of the hirer is reduced by the amount included in the hire-purchase agreement for terms charges.

(2) Where the liability of the hirer is reduced by virtue of Subsection (1), the amount of the reduction may be set off by the hirer against any amount that would otherwise be due or become due to the owner under the agreement and, to the extent to which it is not set off, may be recovered by the hirer from the owner as a debt.

9. Second-hand goods.

(1) Where the goods comprised in a hire-purchase agreement are, at the time when the agreement is entered into, second-hand goods, then unless—

- (a) the goods are described in the agreement as second-hand goods; or
- (b) in any proceedings taken by the owner to enforce the agreement, the court is satisfied that—
 - (i) the hirer was aware at the time when he or his agent signed the agreement that the goods comprised or to be comprised in the agreement were second-hand goods; or
 - (ii) the owner was not aware at the time when the agreement was entered into that the goods comprised in the agreement were second-hand goods,

the liability of the hirer under the agreement is reduced by the amount included in the agreement for terms charges.

(2) Where the liability of the hirer is reduced by virtue of Subsection (1), the amount of the reduction may be set off by the hirer against the amount that would otherwise be due or become due to the owner under the agreement, and to the extent to which it is not set off, may be recovered by the hirer from the owner as a debt.

10. Documents to be served on hirer.

(1) Within 21 days after the making, in Papua New Guinea, of a hire-purchase agreement, the owner must serve, or cause to be served, on the hirer—

- (a) a written copy of the agreement; and
- (b) a written notice in Form 2; and
- (c) where any part of the total amount payable under the agreement consists of an amount paid or to be paid under a policy of insurance (not being a policy of third party insurance)—a copy of the policy or a written statement of the terms, conditions and exclusions of the policy that affect or concern the rights of the hirer.

(2) The notice referred to in Subsection (1)(b) may be endorsed on the copy of the hire-purchase agreement served on the hirer in accordance with Subsection (1)(a).

(3) Failure to comply with this section in relation to a hire-purchase agreement does not avoid the agreement.

PART III.—PROTECTION OF HIRERS.*Division 1.—Warranties and Conditions.***11. Implied warranties and conditions.**

(1) There is implied in every hire-purchase agreement—

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

(2) There is implied in every hire-purchase agreement a condition that the goods will be of merchantable quality, but such a condition is not implied—

- (a) as regards defects of which the owner could not reasonably have been aware or, if there is a dealer, of which neither the owner nor the dealer could reasonably have been aware, at the time the agreement was made; or
- (b) where the hirer has examined the goods or a sample of the goods—as regards defects which the examination ought to have revealed; or
- (c) subject to Section 12, if the goods are second-hand goods and the agreement contains a statement to the effect that—
 - (i) the goods are second-hand; and
 - (ii) all conditions and warranties as to quality are expressly negated,and the owner proves that the hirer has acknowledged in writing that the statement was brought to his notice.

(3) Where the hirer expressly or by implication makes known—

- (a) to the owner or to the dealer; or

(b) to a servant or agent of the owner or the dealer,
the particular purpose for which the goods are required, there is implied in the hire-purchase agreement a condition that the goods will be reasonably fit for that purpose, but, subject to Section 12, such a condition is not implied if the goods are second-hand goods and the agreement contains a statement to the effect—

- (c) that the goods are second-hand; and
- (d) that all conditions and warranties of fitness and suitability are expressly negatived,

and the owner proves that the hirer has acknowledged in writing that that statement was brought to his notice.

(4) Without prejudice to any other rights or remedies to which an owner is entitled, where the hirer has made known expressly or by implication—

- (a) to the dealer; or
- (b) to a servant or agent of the dealer,

the particular purpose for which the goods are required, the owner is entitled to be indemnified by the dealer against any damage suffered by the owner through the operation of Subsection (3).

(5) This section is in addition to, and not in derogation of, any other law by which a condition or warranty is implied in a hire-purchase agreement.

12. Liability of owner, etc., for misrepresentation.

(1) A representation, warranty or statement made, orally or in writing, to the hirer or prospective hirer by—

- (a) the owner or dealer; or
- (b) a person acting on behalf of the owner or dealer,

in connexion with or in the course of negotiations leading to the entering into of a hire-purchase agreement, confers on the hirer—

- (c) as against the owner—the same right to rescind the agreement as the hirer would have had if the representation, warranty or statement had been made by an agent of the owner; and
- (d) as against the person who made the representation, warranty or statement, and any person on whose behalf that person was acting in making it—the same right of action in damages as the hirer would have had against them or either of them if the hirer had purchased the goods from the first-mentioned person or the person on whose behalf that person was acting, as the case may be, as a result of the negotiations.

(2) Where a court is satisfied that a hire-purchase agreement was in fact entered into wholly or partly on the basis of a representation, warranty or statement referred to in Subsection (1), it is not precluded from dealing with the matter in accordance with that subsection because of a statement contained in the hire-purchase agreement or in any other document if the justice of the case so requires.

(3) A covenant, condition or term in a hire-purchase agreement or other document purporting—

- (a) to exclude, limit or modify the operation of this section; or

- (b) to preclude any right or action or any defence based on or arising out of a representation, warranty or statement referred to in Subsection (1),

is of no effect.

(4) Without prejudice to any other rights or remedies to which an owner may be entitled, an owner is entitled to be indemnified—

- (a) by the person who made the representation, warranty or statement; and
- (b) by a person on whose behalf the representation, warranty or statement was made,

against any damage suffered by the owner through the operation of this section.

Division 2.—Statutory Rights of Hirers.

13. Right to copy of agreement, etc.

(1) Where—

- (a) before the final payment has been made under a hire-purchase agreement, the owner receives from the hirer a written request to send to the hirer a copy of the agreement and a statement of his position under the agreement; and
- (b) the owner has not sent to the hirer a copy of the agreement and a statement under this subsection within a period of three months immediately preceding the receipt of the request,

the owner must, within 21 days after receiving the request, send to the hirer—

- (c) a copy of the agreement; and
- (d) a written statement signed by the owner or his agent showing—
 - (i) the amount that has been paid to the owner by or on behalf of the hirer; and
 - (ii) the amount that has become due under the agreement but remains unpaid; and
 - (iii) the amount that is to become payable under the agreement.

Penalty: A fine not exceeding K100.00.

(2) Where an owner contravenes Subsection (1), or a law of a declared State or of a declared Territory that corresponds with that subsection, by failing to comply with a request made by a hirer, then until the default is remedied and notwithstanding any penalty that is imposed on the owner in respect of the default—

- (a) the owner is not entitled to enforce—
 - (i) the agreement against the hirer; or
 - (ii) any right to recover from the hirer the goods comprised in the agreement; or
 - (iii) any contract or guarantee relating to the agreement; and
- (b) any security given—
 - (i) by the hirer in respect of moneys payable under the agreement; or
 - (ii) by a guarantor,

is not enforceable against the hirer or the guarantor by a holder of the security.

14. Appropriation of payments where more than one agreement.

(1) Subsections (2) and (3) apply notwithstanding any agreement to the contrary.

(2) A hirer who is liable to make payments in respect of two or more hire-purchase agreements to the same owner is entitled, on making a payment in respect of the agreements that is not sufficient to discharge the total amount then due under all the agreements, to require the owner to appropriate the payment—

(a) in or towards the satisfaction of the sum due under any one of the agreements; or

(b) in or towards the satisfaction of the sums due under any two or more of the agreements in such proportions as he thinks fit.

(3) If the hirer fails to require the owner to make an appropriation referred to in Subsection (2), the owner shall appropriate the payment in or towards the satisfaction of the sums due under the respective agreements in the order in which the agreements were entered into.

15. Assignment of rights under agreements.

(1) The right, title and interest of a hirer under a hire-purchase agreement may be assigned with the consent of the owner or, if his consent is unreasonably withheld, without his consent.

(2) Subject to this section, a payment or other consideration shall not be required by an owner for his consent to an assignment referred to in Subsection (1), and where an owner requires such a payment or other consideration for his consent the consent shall be deemed to be unreasonably withheld.

(3) Where—

(a) a hire-purchase agreement has been entered into in Papua New Guinea; or

(b) the hirer under a hire-purchase agreement is, and was at the time when the agreement was entered into, a resident of Papua New Guinea and any negotiation or transaction, or other act, deed or thing—

(i) leading to or otherwise relating to the agreement; or

(ii) relating to a matter preliminary to the making of the agreement,

was carried out, entered into or done in Papua New Guinea,

and the owner fails or refuses to give his consent to the assignment by a hirer of the right, title or interest of the hirer under the agreement, the hirer may apply to a court of summary jurisdiction for an order declaring that the consent of the owner to the assignment has been unreasonably withheld, and where such an order is made the consent shall be deemed to be unreasonably withheld.

(4) Where a court of a declared State or of a declared Territory makes an order by virtue of a law of that State or Territory that corresponds with Subsection (3), the order has, for the purposes of this section, the same force and effect as if it were an order made by a District Court under that subsection.

(5) As a condition of granting consent to an assignment of the right, title and interest of the hirer under a hire-purchase agreement, the owner may stipulate that all defaults under the agreement shall be made good, and may require the hirer and assignee—

(a) to execute and deliver to the owner an assignment agreement in a form approved by the owner by which—

(i) without prejudicing or affecting the continuing personal liability of the hirer in those respects, the assignee agrees with the owner to be personally liable to pay the instalments of hire remaining unpaid and to perform and observe all other stipulations and conditions of the hire-purchase agreement during the residue of the term of the agreement; and

(ii) the assignee indemnifies the hirer in respect of those liabilities; and

(b) to pay the reasonable costs (if any) incurred by the owner in registering the assignment or counterparts.

(6) The right, title and interest of a hirer under a hire-purchase agreement may pass by operation of law to the personal representative of the hirer and, if the hirer is a company, the liquidator may exercise the same rights under the agreement as the company, but this subsection does not relieve a personal representative or liquidator from compliance with the agreement.

16. Removal of goods with approval of court.

(1) Where—

(a) it is the duty of a hirer—

(i) to keep the goods comprised in a hire-purchase agreement in his possession or control in a particular place; or

(ii) not to remove the goods from a particular place; and

(b) either—

(i) the agreement was entered into in Papua New Guinea; or

(ii) the hirer is, and was at the time when the agreement was entered into, a resident of Papua New Guinea and any negotiation or transaction, or other act, deed or thing—

(A) leading to or otherwise relating to the agreement; or

(B) relating to a matter preliminary to the making of the agreement,

was carried out, entered into or done in Papua New Guinea,

a court of summary jurisdiction may, on the application of the hirer, make an order approving the removal of the goods to some other place specified in the order, and for the purposes of the agreement that place shall be substituted for the place referred to in Paragraph (a).

(2) Where a court of a declared State or of a declared Territory makes an order under a law of that State or Territory that corresponds with Subsection (1), the order has the same force and effect as if it were an order made by a District Court under that subsection.

Division 3.—Early Completion of Agreements.

17. Right of hirer to complete transaction.

(1) In this section, "the net balance due", in relation to a hire-purchase agreement, means the balance originally payable under the agreement less—

- (a) any amounts (other than the deposit) paid or provided, whether in cash or by any other consideration, by or on behalf of the hirer under the agreement; and
- (b) the statutory rebate for terms charges; and
- (c) if the hirer requires a contract for insurance to be cancelled—the statutory rebate for insurance; and
- (d) if the hirer requires a contract for maintenance to be cancelled—the statutory rebate for maintenance.

(2) If he has given written notice to the owner of his intention to do so the hirer under a hire-purchase agreement may, on or before the day specified for that purpose in the notice, or the first such day, complete the purchase of the goods by paying or tendering to the owner the net balance due to the owner under the agreement.

(3) The rights conferred on a hirer under a hire-purchase agreement by this section may be exercised by him—

- (a) at any time during the continuance of the agreement; or
- (b) where the owner has taken possession of the goods, on paying or tendering to the owner (before, or within 21 days after, the owner has served on the hirer a notice in Form 4), in addition to the net balance due—
 - (i) the reasonable costs incurred by the owner of and incidental to his taking possession of the goods; and
 - (ii) any amount properly expended by the owner on the storage, repair or maintenance of the goods.

Division 4.—Voluntary Return of Goods.

18. Determination by hirer of hiring.

(1) The hirer of any goods comprised in a hire-purchase agreement may terminate the hiring by returning the goods—

- (a) to the owner during ordinary business hours at a place at which the owner ordinarily carries on business; or
- (b) to the place specified for the purpose in the agreement,

and such a return of the goods terminates the hiring.

(2) Where the nature of the goods comprised in a hire-purchase agreement is, or the facilities available at the place or places of business of the owner or at the place specified in the agreement are, such that it would be impracticable to return the goods to the place, the hirer may terminate the hiring by returning the goods—

- (a) to such other place as is agreed to by the parties to the agreement; or
- (b) if the parties fail to agree on another place, to a place that is reasonable, having regard to all the circumstances surrounding the transaction.

(3) Where—

- (a) a hire-purchase agreement has been entered into in Papua New Guinea; or
- (b) the hirer under a hire-purchase agreement is, and was at the time when the agreement was entered into, a resident of Papua New Guinea and any negotiation or transaction, or other act, deed or thing—
 - (i) leading to or otherwise relating to the agreement; or
 - (ii) relating to a matter preliminary to the making of the agreement, was carried out, entered into or done in Papua New Guinea,

the hirer may apply to a court of summary jurisdiction for an order fixing the place to which the goods may be returned under Subsection (2)(b).

(4) Where a court of a declared State or of a declared Territory makes an order by virtue of a law of that State or Territory that corresponds with Subsection (3), the order has, for the purposes of this section, the same force and effect as if it were an order made by a District Court under that subsection.

(5) In an order made under this section, the court may order that, subject to the goods being returned to the owner, the hiring be determined on the date specified in the order, being a date not earlier than the date on which the hirer required the owner to nominate a reasonable place for the return of the goods.

(6) Notice of an application under this section shall be given to the owner by the hirer.

(7) Where a hire-purchase agreement is determined under this section, the owner is entitled to recover from the hirer—

- (a) the amount (if any) required to be paid in those circumstances under the agreement; or
- (b) the amount (if any) that the owner would have been entitled to recover if he had taken possession of the goods at the date of termination of the hiring,

whichever is the less.

Division 5.—Repossession.

19. Notice to hirer of repossession.

(1) Subject to this section and to Section 38, an owner or a person acting on behalf of an owner shall not exercise any power of taking possession of goods comprised in a hire-purchase agreement arising out of a breach of the agreement relating to the payment of instalments until—

- (a) a written notice in Form 3 has been served on the hirer; and
- (b) the period fixed by the notice, being a period that does not expire before the expiration of 21 days after the service of the notice, has expired.

(2) An owner or a person acting on his behalf is not required to comply with Subsection (1) if there are reasonable grounds for believing that the goods comprised in the hire-purchase agreement will be removed or concealed by the hirer contrary to the agreement, but the onus of proving those grounds is on the owner or the person acting on behalf of the owner, as the case may be.

(3) Within 30 days after an owner or a person acting on his behalf has taken possession of goods comprised in a hire-purchase agreement, the owner shall serve on the hirer and every guarantor of the hirer a written notice in Form 4.

(4) If a notice required by Subsection (3), or by a corresponding law of a declared State or of a declared Territory, is not served, the rights of the owner under the hire-purchase agreement concerned cease, but if the hirer exercises his rights under this Act, or under a corresponding law of a declared State or of a declared Territory, to recover the goods taken possession of, the agreement has the same force and effect in relation to the rights and liabilities of the owner and the hirer as it would have had if the notice had been duly given.

(5) If the owner, or the person acting on behalf of the owner, resides or carries on business in a declared State or in a declared Territory, a reference in this section to a written notice in Form 3 or 4 shall be read as including a reference to a written notice in the corresponding form specified in the law of the State or Territory that corresponds with this Act.

20. Disposal of repossessed goods.

An owner who has taken possession of any goods comprised in a hire-purchase agreement, must not sell or dispose of, or part with possession of, the goods without the written consent of the hirer, until—

- (a) the expiration of 21 days after the date of the service on the hirer of the notice required by Section 19(3); or
- (b) if notice under section 21(2)(a)(i) has been given to the owner—the expiration of 14 days after the giving of the notice,

whichever is the later.

21. Rights and immunities of hirer in case of repossession.

(1) For the purposes of this section—

- (a) "the net amount payable", in relation to a hire-purchase agreement, means the total amount payable less the statutory rebates for terms charges, insurance and maintenance as at the time when the owner takes possession of the goods; and
- (b) the value of any goods at the time when the owner took possession of the goods is—
 - (i) the best price that could reasonably be obtained by the owner at that time; or
 - (ii) if the hirer has introduced a person who has purchased the goods for cash—the amount paid by that person,

less—

- (iii) the reasonable costs incurred by the owner of and incidental to his taking possession of the goods; and
- (iv) any amount properly expended by the owner on the storage, repair or maintenance of the goods; and
- (v) whether or not the goods have subsequently been sold or disposed of by the owner—the reasonable expenses of selling or otherwise disposing of the goods.

(2) Where the owner takes possession of goods comprised in a hire-purchase agreement—

(a) the hirer may, before or within 21 days after the date of service on him of the notice required by Section 19(3), give to the owner a written notice signed by the hirer or his agent—

(i) requiring the owner to re-deliver to or to the order of the hirer (subject to compliance by the hirer with Section 22) the goods that have been repossessed; or

(ii) requiring the owner to sell the goods to a person introduced by the hirer who is prepared to purchase the goods for cash at a price not less than the estimated value of the goods set out in the notice required by Section 19(3); and

(b) the hirer may, except where the goods are re-delivered to or to the order of the hirer, recover from the owner—

(i) if the value of the goods at the time when the owner took possession of the goods is less than the net amount payable but the total of that value and the amount paid or provided, whether in cash or by any other consideration, by or on behalf of the hirer under the agreement exceeds the net amount payable—the difference between that total and the net amount payable; or

(ii) if the value of the goods at the time when the owner takes possession of the goods is equal to or greater than the net amount payable—the total of that value and the amount paid or provided, whether in cash or by any other consideration, by or on behalf of the hirer under the agreement, less the net amount payable,

but the owner is not entitled to recover any sum (whether under a judgement or order or otherwise) that, together with—

(iii) the value of the goods at the time when the owner took possession of the goods; and

(iv) the amount paid or provided, whether in cash or by any other consideration, by or on behalf of the hirer under the agreement,

would amount to more than the net amount payable in respect of the goods.

(3) Where the owner has sold goods of which he has taken possession, the burden of proving that the price obtained by him for the goods was the best price that could be reasonably obtained by him at the time when he took possession of the goods is on him.

(4) Except where a notice as required by Section 19(3) has not been served on the hirer, no amount is recoverable by the hirer under this section unless—

(a) the hirer, within 21 days after the owner has served such a notice, gives to the owner written notice—

(i) setting out the amount claimed under this section and the amount that is claimed by the hirer to be the value of the goods at the time when the owner took possession of the goods; and

(ii) signed by the hirer or his agent; and

(b) proceedings for the recovery of the amount claimed under this section are commenced not earlier than seven days and, except where the goods have

been sold at the request of the hirer to a person introduced by the hirer, not later than three months after the giving by the hirer to the owner of the notice referred to in Paragraph (a).

(5) Subject to Subsection (6), if, before the proceedings referred to in Subsection (4) are commenced by the hirer, the owner serves a written offer on the hirer to pay an amount in satisfaction of the claim by the hirer under this section, the owner is entitled to pay into court the amount offered and, on so doing, is entitled to the same rights as he would have had if that amount had been tendered to the hirer before the proceedings were commenced.

(6) The right conferred by Subsection (5), is not available to the owner in any proceedings by the hirer to recover the amount offered or any lesser amount if the hirer, before commencing the proceedings, notifies the owner in writing of the acceptance by the hirer of the amount offered.

22. Regaining by hirer of goods.

(1) If, within 14 days after giving notice to the owner in accordance with Section 21(2)(a)(i), the hirer—

- (a) pays or tenders to the owner any amount due by the hirer under the hire-purchase agreement in respect of the period of hiring up to the date of the payment or tender; and
- (b) either—
 - (i) remedies any breach of the agreement; or
 - (ii) if he is unable to remedy a breach because the owner has taken possession of the goods—pays or tenders to the owner the cost and expenses reasonably and actually incurred by the owner in doing any act, matter or thing necessary to remedy the breach; and
- (c) pays or tenders to the owner the reasonable costs and expenses of the owner of and incidental to his taking possession of the goods and of his returning them to or to the order of the hirer,

the owner shall return the goods to the hirer without delay.

(2) Any goods returned under Subsection (1) shall be received and held by the hirer in accordance with the terms of the hire-purchase agreement as if the breach had not occurred and the owner had not taken possession of the goods.

(3) For the purposes of Subsection (1)(a), the hiring under the agreement shall be deemed to have continued up to the time of the payment or tender by the hirer.

(4) Where goods are returned to the hirer under Subsection (1) and any breach of the hire-purchase agreement has not been remedied, the owner has no right arising out of the breach to take possession of the goods unless—

- (a) by written notice given to the hirer at the time of the return of the goods, he specifies the breach and requires it to be remedied; and
- (b) the hirer fails within 14 days or within the time specified in the notice (whichever is the longer) after receiving the notice to remedy the breach.

23. Variation of judgements, etc., where goods repossessed.

In any legal proceedings in relation to a hire-purchase agreement, after the owner has taken possession of the goods, the court before which the proceedings are brought may

vary or discharge any judgement or order of a court against the hirer for the recovery of money so far as is necessary to give effect to Section 21.

PART IV—GUARANTEES.

24. Liabilities, etc., of guarantors.

(1) Except as provided in this Act, a guarantor is not discharged by reason of the operation of this Act, from liability under his guarantee.

(2) The liability of a guarantor continues notwithstanding that the owner has, in accordance with the provisions of a hire-purchase agreement, taken possession of the goods comprised in the agreement, whether or not the goods have been re-delivered to or to the order of the hirer in accordance with this Act or a law of a State or Territory of Australia corresponding with this Act.

(3) Subsection (2) does not operate to preserve the liability of a guarantor where the owner and the hirer have entered into a new agreement in respect of the goods comprised in a hire-purchase agreement.

(4) A guarantor is not liable to any further or other extent than the hirer the performance of whose obligations he has guaranteed, but, subject to Section 25, this Act does not affect any agreement by the guarantor binding him to the performance of an obligation that is not an obligation imposed on the hirer under the hire-purchase agreement in respect of which the guarantee is given.

(5) Subject to Subsection (7), where—

(a) goods have been delivered to or to the order of the hirer in accordance with a hire-purchase agreement; and

(b) the owner subsequently takes possession of the goods,

a guarantor who has paid any money to the owner in accordance with his guarantee has the same right to recover money as he would have had if he had been the hirer of the goods, and may recover them in the same manner as if he had been the hirer.

(6) In the calculation for the purposes of Subsection (5), of the amount received by the owner all money paid and the value of any other consideration (not already allowed for in cash) provided by or on behalf of the hirer shall be deemed to have been paid or provided by the guarantor.

(7) No money shall be recovered by the guarantor in excess of the money actually paid by him.

25. Avoidance of certain agreements.

(1) Where a guarantor enters into an agreement binding the guarantor—

(a) to pay to the owner under a hire-purchase agreement an aggregate sum that is larger than the balance originally payable under the hire-purchase agreement; or

(b) to perform an obligation in respect of goods other than the goods comprised in a hire-purchase agreement; or

(c) to permit the owner under a hire-purchase agreement, or a person acting on behalf of the owner, to enter on any premises for the purpose of taking possession of, or inspecting, goods subject to the hire-purchase agreement; or

(d) to relieve the owner under a hire-purchase agreement, or a person acting on behalf of the owner, from liability for any such entry, the first-mentioned agreement is void, and the owner under the hire-purchase agreement concerned is guilty of an offence, unless—

(e) the agreement is executed by the guarantor in the presence of a District Officer or a lawyer instructed and employed independently of the owner; and

(f) the District Officer or the lawyer, as the case may be, certifies in writing on the agreement that—

(i) he is satisfied that the guarantor understands the true purport and effect of the agreement; and

(ii) the guarantor has executed the agreement in his presence.

(2) A District Officer or a lawyer must not give a certificate in respect of an agreement under Subsection (1) unless—

(a) he has read over and explained the agreement to the guarantor, or has caused the agreement to be read over and explained to the guarantor in his presence; and

(b) he has examined the guarantor touching his knowledge of the agreement; and

(c) he is satisfied that the guarantor understands the true purport and effect of the agreement; and

(d) the guarantor has freely and voluntarily executed the agreement in his presence.

(3) Failure by a District Officer or by a lawyer to comply with Subsection (2) in respect of a certificate does not invalidate the certificate.

PART V.—INSURANCE.

26. Application of Part V.

(1) This Part has effect notwithstanding anything in any other Act.

(2) Sections 28 and 29 apply only to or in respect of a contract of insurance of goods (whether or not the contract includes any other class of insurance) where—

(a) the premium or other sum payable for the cover given by the contract of insurance; or

(b) any part of the premium or sum,

was included as part of the total amount payable for the goods comprised in a hire-purchase agreement.

27. Insurance of goods.

(1) An owner may require any goods comprised in a hire-purchase agreement to be insured, for the period of the agreement, at the expense of the hirer and in the names of the owner and the hirer, against any risk that the owner thinks fit.

(2) An owner shall not require a hirer to insure any such risk with a particular insurer.

(3) An owner shall not refuse to enter into a hire-purchase agreement with a person who effects insurance of the goods—

(a) for the period of the agreement; and

- (b) against such risks, and subject to such terms, conditions and exceptions, as are required by the owner; and
- (c) in the names of the owner and the hirer; and
- (d) with a reputable insurer,

if the owner has no other ground on which he could reasonably refuse to enter into the agreement.

(4) An owner shall not require a hirer to obtain insurance against any risks, or subject to any terms, conditions and exceptions, that the owner does not require if he arranges the insurance.

(5) Where in respect of the insurance of goods comprised in a hire-purchase agreement the insurer allows a no-claim rebate or a rebate of a similar nature, the hirer under the agreement is entitled to the benefit of the rebate.

(6) A person who knowingly pays or allows any rebate under Subsection (5) to an owner is guilty of an offence.

28. Failures to observe conditions of insurance contracts.

(1) If in any proceedings taken in a court in respect of a difference or dispute arising out of a contract of insurance it appears to the court that a failure by the insured or the hirer to observe or perform a term or condition of the contract of insurance may reasonably be excused on the ground that the insurer was not prejudiced by the failure, the court may, unless an order excusing the failure has already been made under Subsection (3), order that the failure be excused.

(2) Where a difference or dispute has arisen out of a contract of insurance, the insured or the hirer, or a guarantor in respect of the hire-purchase agreement to which the contract of insurance relates, may, unless an order excusing the failure concerned has already been made under Subsection (1), apply to a court of summary jurisdiction for an order that the failure to observe or perform a term or condition of the contract of insurance be excused.

(3) If on an application under Subsection (2) it appears to the court that the failure may reasonably be excused on the ground that the insurer was not prejudiced by the failure the court may order that the failure be excused.

(4) Where an order has been made under Subsection (1) or (3), the rights and liabilities of all persons in respect of the contract of insurance concerned shall be determined as if the failure the subject of the order had not occurred.

29. Requirements of insurance contracts, etc.

(1) A contract of insurance or a statement served on a hirer under Section 10 must—

- (a) identify the goods or the part of the goods insured or to be insured; and
- (b) contain a statement of the amount and period for which the goods are insured or are to be insured; and
- (c) if the amount for which the goods are or are to be insured will vary during the period of the agreement—contain a statement showing the varying amounts.

(2) Subject to Subsection (3), a hirer is not bound by a provision in an agreement or other document—

- (a) requiring differences or disputes arising out of a contract of insurance to be referred to arbitration; or

- (b) providing that no action or suit is maintainable on such a contract or against the insurer in respect of a claim under, or a difference or dispute arising out of, such a contract unless the claim, difference or dispute has been referred to arbitration or an award in arbitration proceedings had been first obtained; or
 - (c) providing that arbitration or an award in arbitration proceedings is a condition precedent to any right of action or suit on such a contract; or
 - (d) imposing by reference to arbitration or to an award made in arbitration proceedings any limitation on the right of a person to bring or maintain an action or suit on such a contract.
- (3) An agreement made by the parties to a contract of insurance after a difference or dispute has arisen out of the contract of insurance to submit the difference or dispute to arbitration has effect as if Subsection (2) had not been enacted.

PART VI.—LIMITATION ON TERMS CHARGES.

30. Regularity of payments under agreements.

(1) This section applies to every hire-purchase agreement other than a hire-purchase agreement that—

(a) provides that—

- (i) the instalments necessary to pay the difference between the total amount payable and the deposit are to be made over a period exceeding one year; and
- (ii) they are to be made less than nine times in any period of 12 months that forms part of the period referred to in Subparagraph (i); or

(b) provides that—

- (i) the instalments necessary to pay the difference between the total amount payable and the deposit are to be made only over a period of one year or less; and
- (ii) they are to be made less than nine times during the period.

(2) Subject to Section 17, a hire-purchase agreement to which this section applies must provide that the instalments necessary under the agreement to pay the difference between the total amount payable and the deposit shall—

- (a) be made at regular weekly, fortnightly or monthly intervals and at no other intervals; and
- (b) be of equal or approximately equal amounts.

(3) For the purposes of Subsection (2), where an instalment differs from any other instalment by a sum in excess of K1.00, the instalments shall, for the purposes of Subsection (2), be taken not to be of approximately equal amounts.

(4) Where a hire-purchase agreement to which this section applies does not comply with Subsection (2), the liability of the hirer is reduced by the amount included in the agreement for terms charges.

(5) In a case to which Subsection (4) applies, the amount of the reduction of liability provided for by that subsection—

- (a) may be set off by the hirer against the amount that would otherwise be due or become due under the agreement; and

- (b) to the extent to which it is not set off—may be recovered by the hirer from the owner as a debt.

31. Limitation on terms charges.

(1) The terms charges in relation to a hire-purchase agreement to which Section 30 applies must not, when calculated as a rate per centum per annum in accordance with the formula set out in Subsection (3), exceed—

(a) where the goods comprised in the agreement are—

- (i) industrial machinery; or
- (ii) farm equipment; or
- (iii) a motor vehicle (other than a motor cycle),

and—

- (iv) the goods are not second-hand—8% per annum; or
- (v) where goods are second-hand—9% per annum; or

(b) where the goods comprised in the agreement are a motor cycle—9% per annum; or

(c) in any other case—10% per annum.

(2) Where the goods comprised in the agreement include goods of any of the descriptions set out in Subsection (1), the rate applicable for the purposes of that subsection is the lower or lowest of the amounts per centum prescribed by Subsection (1)(a), (b) or (c).

(3) The rate specified in Subsections (1) and (2) shall be calculated in accordance with the formula—

$$R = \frac{100 \times C}{T \times P},$$

where—

(a) R represents the terms charges calculated as a rate per centum per annum; and

(b) C represents the amount of terms charges expressed in kinas; and

(c) T represents the time (expressed in years and fractions of years) that elapses between the time fixed by or under the agreement for the making of the first instalment and for the making of the last instalment, plus—

- (i) one week where the instalments are payable under the agreement at regular weekly intervals; and
- (ii) two weeks where the instalments are payable under the agreement at regular fortnightly intervals; and
- (iii) one month where the instalments are payable under the agreement at regular monthly intervals; and

(d) P represents the difference between the cash price of the goods comprised in the agreement and the amount of the deposit, together with—

- (i) the amount of the freight (if any); and
- (ii) the amount of the vehicle registration fees (if any); and
- (iii) where the owner is not bound by the *Stamp Duties Act* and the total amount payable includes an amount representing the whole or any part

of the stamp duty chargeable on the agreement under that Act—the last-mentioned amount; and

(iv) the amount of the insurance (if any),

expressed in kinas.

(4) A hire-purchase agreement to which Section 30 does not apply shall contain, immediately above the place provided for the signature of the hirer or his agent or the place at which the hirer or his agent signs the agreement, a statement in writing as follows—

“The terms charges under this agreement are not controlled by the *Hire-purchase Act*”.

(5) Without prejudice to the generality of Section 51, in Subsection (4) “writing” includes printing only if it is in capital letters.

(6) Where a hire-purchase agreement to which Section 30 applies is entered into in contravention of Subsection (1) or (2) the hirer may, by written notice to the owner signed by the hirer or the hirer’s agent elect—

(a) to treat the agreement as void; or

(b) to have his liability reduced by the amount included in the agreement for terms charges.

(7) An election under Subsection (6) is irrevocable.

(8) Where the hirer elects under Subsection (6) to treat the hire-purchase agreement as void, the agreement is void, and the amount paid or provided, whether in cash or by any other consideration, by or on behalf of the hirer under the agreement is recoverable as a debt due to him by the owner.

(9) Where the hirer elects under Subsection (6) to have his liability reduced by the amount included in the agreement for terms charges, his liability is reduced by that amount and—

(a) it may be set off by the hirer against the amount that would otherwise be due under the agreement; and

(b) to the extent to which it is not set off, it may be recovered by the hirer as a debt.

(10) A hire-purchase agreement—

(a) to which Section 30 does not apply; and

(b) that is entered into in contravention of Subsection (1) or (2),

is void, and the amount paid or provided, whether in cash or by any other consideration, by or on behalf of the hirer under the agreement is recoverable as a debt due to him by the owner.

PART VII.—MINIMUM DEPOSITS.

32. Interpretation of Part VII.

In this Part—

“hire-purchase agreement” does not include an agreement or arrangement that is entered into solely for the purpose of giving effect to an assignment or transfer of the rights and liabilities under an existing hire-purchase agreement from the hirer to another person;

"loan" includes—

- (a) an advance, discount or money paid for, on account of, on behalf of or at the request of, any person; and
- (b) a contract, in whatever terms or form, that is in substance or effect a loan of money.

33. Minimum deposits.

An owner who enters into a hire-purchase agreement without having first obtained from the proposed hirer a deposit—

- (a) in cash or in goods; or
- (b) partly in cash and partly in goods,

to a value not less than—

- (c) where the minimum amount of the deposit is not prescribed for the purposes of Paragraph (d)—25% of the cash price of the goods comprised in the agreement; or
- (d) where the minimum amount of the deposit is prescribed for the purposes of this paragraph—such amount as is prescribed,

is guilty of an offence.

34. Application of certain payments for purposes of Section 33.

(1) No deposit—

- (a) to the extent that it is in cash and that it is made out of moneys borrowed directly or indirectly—
 - (i) from or through the owner (if the owner is not a banker); or
 - (ii) from or through the dealer; or
 - (iii) from or through a person whose business or part of whose business it is, by agreement with the owner or dealer or a person acting on behalf of the owner or dealer, to advance money in order to enable deposits to be paid in respect of hire-purchase agreements with the owner; or
- (b) to the extent that, where it is in goods or partly in goods and the amount allowed in respect of the goods is substantially greater than the value of the goods, the amount allowed exceeds that value; or
- (c) to the extent that it is made out of an amount allowed or credited in respect of, or by reference to, amounts paid by the hirer as rent or hire under a bailment of the goods before the making of a hire-purchase agreement in respect of the goods; or
- (d) to the extent that it is provided by goods that were, to the knowledge of the owner or dealer, acquired by the hirer for the purpose of being used by the hirer to provide the deposit under the agreement,

shall be taken into account for the purpose of determining whether Section 33 has been complied with.

(2) This Part shall be deemed to have been complied with by the owner if a deposit in accordance with this Part has been obtained by the dealer.

(3) Where a dealer buys goods from a proposed hirer and the price, or part of the price, of the goods is applied as or towards a deposit under a hire-purchase agreement, then in relation to the agreement—

- (a) the goods shall, for the purposes of this Act, be deemed to have been obtained by the dealer as a deposit; and
- (b) the price, or the part of the price, as the case may be, so applied shall, for the purposes of this Act be deemed to be the amount allowed by the dealer in respect of the goods.

(4) In relation to the deposit obtained by a dealer under a proposed hire-purchase agreement, he shall certify in writing—

- (a) where the deposit was paid or provided solely in cash—that the deposit was paid or provided solely in cash; and
- (b) where the deposit was provided solely in goods—the nature and description of, and the amount allowed by the dealer in respect of, the goods; and
- (c) where the deposit was paid or provided partly in cash and partly in goods—the amount of the deposit that was paid or provided in cash and the nature and description of, and the amount allowed by the dealer in respect of, the goods.

(5) A dealer who—

- (a) certifies under Subsection (4), as the amount allowed by him in respect of goods, an amount that is not a reasonable estimate of the value of the goods; or
- (b) gives a certificate under that subsection that is false in any other material particular,

is guilty of an offence.

(6) Notwithstanding this Part, where—

- (a) an owner entering into a hire-purchase agreement acts on the faith of a certificate given under Subsection (4) by the dealer; and
- (b) the amount certified in the certificate as being the amount allowed in respect of the goods whose nature and description are certified in the certificate is substantially greater than the value of those goods,

the agreement has the same effect as if the amount so certified were the value of the goods.

(7) Subsection (6) does not affect the liability of a person to be convicted of an offence against this section.

(8) A person who knowingly enters into, or procures, arranges or otherwise assists or participates in, a transaction that contravenes this section is guilty of an offence.

35. Non-compliance with Section 33.

(1) Where a hire-purchase agreement is entered into in contravention of Section 33, the hirer may, by written notice to the owner signed by the hirer or the hirer's agent elect—

- (a) to treat the agreement as void; or
- (b) to have his liability reduced by the amount included in the agreement for terms charges.

(2) An election under Subsection (1) is irrevocable.

(3) Where the hirer elects under Subsection (1) to treat the hire-purchase agreement as void, the agreement is void, and the amount paid or provided, whether in cash or by any other consideration, by or on behalf of the hirer under the agreement is recoverable as a debt due to him by the owner.

(4) Where the hirer elects under Subsection (1) to have his liability reduced by the amount included in the agreement for terms charges, his liability is reduced by that amount and—

- (a) it may be set off by the hirer against the amount that would otherwise be due under the agreement; and
- (b) to the extent to which it is not set off, it may be recovered by the hirer as a debt.

(5) This section does not affect the liability of a person to be convicted of an offence against Section 33.

36. Offences in relation to deposits.

(1) A person, other than a banker, who (whether or not he carries on any other business) carries on the business of lending or making loans to other persons for the purposes of enabling those persons to pay the deposits required by or under Section 33 is guilty of an offence.

(2) A person who accepts as a deposit under a hire-purchase agreement any money or other consideration that he has reasonable cause to believe or suspect was lent to the hirer by any person (other than a banker) who carries on the business referred to in Subsection (1) is guilty of an offence.

PART VIII.—MISCELLANEOUS.

37. Re-opening of certain transactions.

(1) Where, in any proceedings—

- (a) under this Act; or
- (b) arising out of a hire-purchase agreement; or
- (c) instituted under Subsection (4),

it appears to the court before which the proceedings are being heard that the transaction—

- (d) is harsh and unconscionable; or
- (e) is otherwise such that the National Court would give relief on an equitable ground,

the court may re-open the transaction and take an account between the parties to the transaction.

(2) A court by which a transaction is re-opened under this section may, notwithstanding any statement or settlement of accounts or any agreement purporting to close previous dealings and create a new obligation—

- (a) re-open any account already taken between the parties; and
- (b) relieve the hirer and any guarantor from payment of any sum in excess of such sum in respect of the cash price, terms charges and other charges as the court determines is fairly and reasonably payable; and
- (c) set aside wholly or in part, or revise or alter, any agreement made or security given in connexion with the transaction; and

- (d) give judgement for any party for such amount as, having regard to the relief (if any) that the court thinks fit to grant, is justly due to that party under the agreement; and
- (e) if it thinks fit—give judgement against any party for delivery of any of the goods if they are in his possession.

(3) Where it appears to the court by which a transaction is re-opened under this section that a person other than the owner has shared in the profits of, or has any beneficial interest prospectively or otherwise in, the transaction that the court holds to be harsh and unconscionable, the court may—

- (a) add the person as a party to the case; and
- (b) give judgement against the person—
 - (i) for such amount as it thinks fit; or
 - (ii) for the delivery of the goods if they are in his possession; and
- (c) make such other order in respect of the person as it thinks fit.

(4) Where—

- (a) a hire-purchase agreement has been entered into in Papua New Guinea; or
- (b) the hirer under a hire-purchase agreement is and was at the time when the agreement was entered into, a resident of Papua New Guinea and any negotiation or transaction, or other act, deed or thing—
 - (i) leading to or otherwise relating to the agreement; or
 - (ii) relating to a matter preliminary to the making of the agreement,was carried out, entered into or done in Papua New Guinea,

proceedings may be instituted in a District Court by the hirer, or by a guarantor under the agreement, for the purpose of obtaining relief under this section in relation to the agreement.

(5) In any proceedings referred to in Subsection (1), the court before which the proceedings are being heard has and may exercise all or any of the powers conferred by that subsection, or by Subsections (2) and (3), notwithstanding that the time for the payment of any of the amounts payable under the agreement has not arrived.

(6) A hirer or guarantor under a hire-purchase agreement is not entitled to institute proceedings under this section—

- (a) in a case where the owner has taken possession of the goods comprised in the agreement—after the expiration of a period of four months after the time when the owner serves the notice required by Section 19(3); or
- (b) in any other case—after the expiration of a period of four months after the time when the transaction is closed.

(7) Where a court of a declared State or of a declared Territory makes an order under a law of that State or Territory that corresponds with this section, the order has the same force and effect as if it were an order made under this section.

38. Repossession of goods from farmer.

(1) In this section, "farmer" means a person engaged in agriculture, pasturage, horticulture, viticulture, apiculture, poultry farming, dairy farming or any other business consisting of the cultivation of soil, the gathering in of cultivated crops or the rearing of livestock.

(2) This section applies to a hire-purchase agreement where—

- (a) goods consisting of an agricultural implement or a motor truck are comprised in the agreement; and
- (b) the hirer is a farmer.

(3) Section 19 applies in relation to a hire-purchase agreement to which this section applies as if the reference in Section 19(1)(b) to the period of 21 days were a reference to a period of 30 days.

(4) Where—

- (a) a hire-purchase agreement to which this section applies has been entered into in Papua New Guinea; or
- (b) the hirer under a hire-purchase agreement to which this section applies is, and was at the time when the agreement was entered into, a resident of Papua New Guinea and any negotiation or transaction, or other act, deed or thing—
 - (i) leading to or otherwise relating to the agreement; or
 - (ii) relating to a matter preliminary to the making of the agreement, was carried out, entered into or done in Papua New Guinea; or
- (c) the goods comprised in a hire-purchase agreement to which this section applies are in Papua New Guinea but are not in Papua New Guinea contrary to the agreement,

and a notice is served on the hirer under Section 19(1), the hirer may, within the period fixed by the notice, apply to a District Court for an order restraining the owner from taking possession of the goods.

(5) If the District Court is satisfied that, within 12 months from the date of the application, the farmer will have a reasonable prospect of being able to pay all instalments due and owing on that date, it may make an order restraining the owner from taking possession of the goods for such period, not exceeding 12 months, as the Court fixes.

(6) An order under Subsection (5) may include such terms and conditions, including conditions as to payment of instalments, as the Court thinks proper.

(7) Where—

- (a) the goods comprised in a hire-purchase agreement to which this section applies are in Papua New Guinea; and
- (b) a court of a declared State or of a declared Territory makes an order under a law of that State or Territory that corresponds with this section in relation to the goods,

the order has the same force and effect as if it were an order made by a District Court under this section.

39. Liens.

(1) Subject to Subsection (2), where a worker does work on goods comprised in a hire-purchase agreement in such circumstances that, if the goods were the property of the hirer, the worker would be entitled to a lien on the goods for the value of his work, he is entitled to a lien notwithstanding that the goods are not the property of the hirer.

- (2) The lien is not enforceable against the owner if—
 - (a) the hire-purchase agreement contains a provision prohibiting the creation of a lien by the hirer; and
 - (b) the worker had notice of the provision before doing the work on the goods.

40. Fixtures.

(1) Goods comprised in a hire-purchase agreement that, at the time of the making of the agreement, were not fixtures to land shall not, in respect of the period during which the agreement remains in force, be treated as fixtures to land.

(2) Notwithstanding Subsection (1), the owner is not entitled to repossess goods that have been affixed to a dwelling-house or residence if, after the goods have become affixed, a person other than the hirer has bona fide acquired for valuable consideration, an interest in the land without notice of the rights of the owner of the goods.

41. Avoidance of certain provisions.

- (1) A provision in an agreement or other document by which—
 - (a) a right conferred on the hirer by this Act to determine a hire-purchase agreement is excluded or restricted; or
 - (b) a liability beyond the liability imposed by this Act is imposed on the hirer under a hire-purchase agreement by reason of the determination of the hire-purchase agreement in accordance with this Act; or
 - (c) a right is conferred on the owner under a hire-purchase agreement to recover any amount in respect of costs incurred in recovering moneys under the hire-purchase agreement; or
 - (d) the hirer under a hire-purchase agreement is subject to a greater liability on the determination of the hire-purchase agreement or of the bailment under the agreement than the liability to which he would be subject if the hire-purchase agreement were determined in accordance with this Act; or
 - (e) the hirer under a hire-purchase agreement is required to pay a sum (whether or not it is described in the agreement as interest), in respect of an amount due under the hire-purchase agreement but not paid, exceeding a sum equal to the simple interest on that amount calculated at the rate of 8% per annum on a daily basis for the period for which it was due and not paid; or
 - (f) a person acting on behalf of the owner under a hire-purchase agreement in connexion with or in the course of negotiations leading to the entering into the hire-purchase agreement is to be treated as, or declared to be, the agent of the hirer; or
 - (g) the owner under a hire-purchase agreement is relieved from liability from the acts or defaults of a person acting in connexion with or in the course of the negotiations leading to the entering into the hire-purchase agreement; or
 - (h) the owner under a hire-purchase agreement or a person acting on his behalf is—
 - (i) authorized to enter on any premises for the purpose of taking possession of goods comprised in the hire-purchase agreement; or
 - (ii) relieved from liability for any such entry; or
 - (i) the operation of a hire-purchase agreement is determined or modified, or a person is authorized to repossess goods comprised in a hire-purchase

agreement, if the hirer becomes bankrupt or commits an act of bankruptcy or executes a deed of assignment or deed or arrangement (whether all or any of these events are named); or

- (j) except as expressly provided by this Act, the operation of a provision of this Act is excluded, modified or restricted,

is void.

(2) Where an agreement or other document contains a provision that is void under Subsection (1), the owner under the hire-purchase agreement concerned is guilty of an offence.

42. Payments to owners by financiers.

(1) Where a person (in this section referred to as "the dealer") arranges that some other person (in this section referred to as "the financier") shall—

- (a) enter into a hire-purchase agreement in relation to any goods with a hirer; or
- (b) accept an assignment of the dealer's property in any goods comprised in, or of the dealer's rights under, a hire-purchase agreement; or
- (c) advance or pay money to the dealer or to some person on his behalf in respect of a hire-purchase agreement in relation to any goods,

the dealer shall not seek, accept, demand or receive from the financier, and the financier shall not pay, offer or grant to the dealer, directly or indirectly, any money or other valuable consideration that, together with—

- (d) the money (if any) paid or payable by or on behalf of the hirer to the dealer; and
- (e) the value of any other consideration (if any) furnished or to be furnished by or on behalf of the hirer to the dealer,

would exceed the cash price of the goods.

(2) Notwithstanding Subsection (1)—

- (a) where the dealer has entered into a contract guaranteeing the performance of the hire-purchase agreement by the hirer, a commission not exceeding 10% of the total terms charges payable under the hire-purchase agreement; and
- (b) where the dealer has agreed with the hirer to maintain or to provide any service for the goods during the currency of the hire-purchase agreement, an amount payable under the agreement in respect of the maintenance or service,

may be paid by the financier to the dealer.

43. Prohibition of certain transactions.

A person (in this section referred to as "the owner") who knowingly—

- (a) enters into an agreement for the bailment of goods to a person (in this section referred to as "the hirer"), that does not by itself constitute a hire-purchase agreement; or

- (b) takes from a person (in this section referred to as "the hirer") a written offer that, if accepted, would constitute an agreement for the bailment of goods but does not by itself constitute a hire-purchase agreement,

in association directly or indirectly with the making, by the hirer to the owner or to a person associated directly or indirectly in business with the owner, of a written offer to purchase the goods the subject of—

- (c) the agreement referred to in Paragraph (a); or
- (d) the offer referred to in Paragraph (b),

on terms and conditions that, if the written offer to purchase the goods is accepted, would constitute a hire-purchase agreement is guilty of an offence.

44. Securities collateral to agreements.

Where—

- (a) a bill of exchange or promissory note has been given by a hirer or guarantor under a hire-purchase agreement to the owner in respect of an amount payable under the agreement; and
- (b) the payment in due course of the bill of exchange or promissory note would, by virtue of the operation of this Act or otherwise, result in payment of an amount in excess of the liability of the hirer under the agreement,

the owner is liable to indemnify the hirer or guarantor, as the case may be, in respect of the amount of the excess.

45. False statements by dealers.

Where—

- (a) a dealer prepares or causes to be prepared—
 - (i) a hire-purchase agreement; or
 - (ii) a written offer that, if accepted, would constitute a hire-purchase agreement,with the intention of bringing about a contractual relationship between an owner and a hirer; and
- (b) the agreement or offer contains to the knowledge of the dealer a false statement or a representation that is false in a material particular,

the dealer is guilty of an offence.

Penalty: A fine not exceeding K400.00 or imprisonment for a term not exceeding three months.

46. Disclosure of location of goods.

(1) The owner of any goods comprised in a hire-purchase agreement may, by written notice served on the hirer, require him to state in writing—

- (a) where the goods are; or
- (b) if the goods are not in his possession—to whom he delivered the goods or the circumstances under which he lost possession of the goods.

(2) A hirer—

- (a) who does not within 14 days after receipt of a notice under Subsection (1) give to the owner a statement as required under that subsection; or

(b) who gives a statement required under that subsection containing information that to his knowledge is false,
is guilty of an offence.

47. Fraudulent sale, etc., of goods by hirer.

A person who, by—

- (a) the disposal or sale of any goods comprised in a hire-purchase agreement; or
- (b) the removal of the goods; or
- (c) abandoning the goods,

or by any other means, defrauds or attempts to defraud the owner is guilty of an offence.

Penalty: A fine not exceeding K400.00 or imprisonment for a term not exceeding three months.

48. Order for delivery of goods unlawfully detained.

(1) On complaint made by an owner who is entitled to take possession of any goods that are—

- (a) comprised in a hire-purchase agreement; and
- (b) in Papua New Guinea,

or by a person acting on behalf of an owner, that the hirer or a person acting on behalf of the hirer has refused or failed to deliver up possession of the goods on the service of a notice of demand made by the owner or by an agent of the owner authorized for the purpose, a Magistrate of a District Court may summon the person complained of to appear before a District Court.

(2) If it appears to the District Court that the goods are being detained without just cause, it may order the goods to be delivered up to the owner at or before a time, and at a place, specified in the order.

(3) A person who neglects or refuses to comply with an order made under this section is guilty of an offence.

49. Extension of times.

Any time prescribed by this Act for the service or giving of a notice or other document, or for the commencement of proceedings, may, on an application made to a court of summary jurisdiction (either before or after the expiration of the time but after notice to the other party to the hire-purchase agreement), be extended by the court for such further period, and on such conditions, as the court thinks proper.

50. Service of notices.

(1) A notice or document required or authorized to be served on, or given or sent to, an owner or hirer under this Act may be served, given or sent—

- (a) by delivering it to him personally; or
- (b) by leaving it at his place of abode or business with some other person apparently an inmate of, or employed at, that place and apparently of or over the age of 16 years; or
- (c) by posting it addressed to him at his last-known place of abode or business.

(2) The affidavit or oral evidence of an owner or the servant or agent of an owner as to the delivery or posting of a notice or document required to be served, given or sent by

this Act is prima facie evidence of the due service of the notice or document if the deponent swears to the facts necessary to prove due service from his own knowledge or to his information and belief based on and verified by the records of the owner.

51. Legibility of certain documents.

(1) In this section, "prescribed document" means—

- (a) a hire-purchase agreement; or
- (b) a statement under Section 5(1), (2) or (3); or
- (c) a copy of an agreement, notice or statement required by Section 10 to be served on a hirer; or
- (d) a statement required by Section 13(1) to be sent to a hirer; or
- (e) a notice under Section 19(1) or (3).

(2) A prescribed document or part of a prescribed document—

- (a) that is in handwriting that is not clear and legible; or
- (b) that is printed in type of a size smaller than the type known as ten-point Times,

shall be deemed not to be in writing.

52. Translation of prescribed documents.

(1) In this section, "prescribed document" means—

- (a) a hire-purchase agreement; or
- (b) a statement under Section 5(1), (2) or (3); or
- (c) a copy of an agreement, notice or statement required by Section 10 to be served on a hirer; or
- (d) a statement required by Section 13(1) to be sent to a hirer; or
- (e) a notice under Section 19(1) or (3).

(2) Where a prescribed document is required by or under this Act to be given to or served on a person and that person requests, as soon as practicable and on reasonable grounds, that the document or part of the document be translated, in writing or orally, into a prescribed language, the person giving or serving the document shall, as soon as practicable, provide that first-mentioned person with—

- (a) a translation as requested; and
- (b) in the case of an oral translation, also a written translation.

(3) Where a written translation of a prescribed document is provided under Subsection (2), the translation shall be verified by declaration by the person making it.

(4) A person making a translation of a prescribed document who—

- (a) makes a false translation; or
- (b) makes a false declaration under Subsection (3),

is guilty of an offence.

(5) Where a person has made a request under Subsection (2) for the translation of a hire-purchase agreement or a statement under Section 5(1), (2) or (3), the agreement is not enforceable against that person until this section has been complied with.

(6) Failure to comply, in accordance with this section, with a request under Subsection (2) for a translation of a copy of an agreement, notice or statement required by Section 13

Hire-purchase

to be served on a hirer, shall be deemed also to be failure to comply with a request under Section 13.

(7) Failure to comply, in accordance with this section, with a request under Subsection (2) for a translation of a notice under Section 19(1) or (2) shall be deemed also to be a failure to serve the notice in accordance with Section 19.

53. General penalty.

A person who contravenes or fails to comply with a provision of this Act is guilty of an offence, and where no other penalty is provided is punishable by a fine not exceeding K400.00.

54. Jurisdiction of Local Courts.

Except—

- (a) in criminal proceedings; or
- (b) as is otherwise provided by this Act,

a Local Court has no jurisdiction in relation to, or to matters arising under, a hire-purchase agreement.

55. Regulations.

The Head of State, acting on advice, may make regulations, not inconsistent with this Act, prescribing all matters that by this Act are required or permitted to be prescribed, or that are necessary or convenient to be prescribed for carrying out or giving effect to this Act.

SCHEDULE.

PAPUA NEW GUINEA.

Hire-purchase Act.

Sec. 5.

Form 1.

SUMMARY OF YOUR FINANCIAL OBLIGATIONS UNDER PROPOSED HIRE-PURCHASE AGREEMENT RELATING TO *(insert short description of goods)*.

The cash price of the goods is	K
The terms charges are	K
Other charges are	
For insurance for years	K
For maintenance	K
For freight, vehicle registration, etc.	K
The total amount that you will have to pay (including deposit of K) is	K

The difference between the cash price of the goods and the total amount that you will have to pay is therefore K

Your instalments under the proposed agreement are *(insert number, amount and intervals of instalments)*.

Hire-purchase

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PAPUA NEW GUINEA.

Hire-purchase Act.

Sec. 10.

Form 2.

ADVICE TO HIRERS ON MAKING AGREEMENT.

Under the *Hire-purchase Act*—

- (a) you are entitled to a copy of the agreement and a statement of the amount that you owe if you make a written request to the owner for them, but you may not request a copy or a statement more than once in three months; and
- (b) with the written consent of the owner you can assign your rights under the hire-purchase agreement and he may not unreasonably refuse his consent (for details of the procedure of assignment, see Section 15 of the *Hire-purchase Act*); and
- (c) you have the right to complete the agreement at any time and, if you do, you will be entitled to a rebate of some of the charges payable under the agreement (for details, see Section 17 of the *Hire-purchase Act*); and
- (d) if you are unable to pay your instalments, you are entitled to return the goods to the owner at your own expense, but, if you do, you are liable to pay an amount sufficient to cover the loss suffered by the owner (for details of the amount that you have to pay, see Section 18 of the *Hire-purchase Act*).

PAPUA NEW GUINEA.

Hire-purchase Act.

Sec. 19.

Form 3.

NOTICE OF INTENTION TO REPOSSESS.

I _____, the owner of (*insert description of goods*) hired by you under an agreement dated _____ 19____ intend to retake possession of the goods after the expiration of (*insert number of days, not being less than 21 or, where the hirer is a farmer and Section 38 of the Hire Purchase Act applies, not being less than 30*) days from the service of this notice unless the arrears of instalments that now amount to K _____ are paid to _____ at _____ on or before 19____.

Total amount payable	K
----------------------	---

Amount paid or provided by hirer to	
19 .	K

Arrears under agreement to	19 . K
----------------------------	--------

ADVICE TO HIRERS ON REPOSSESSION.

Now that the goods you hired have been repossessed, you are entitled to get them back—

- (a) if, within 21 days, you require the owner, by written notice signed by you or your agent, to re-deliver the goods to you and if, within 14 days after giving the notice, you reinstate the agreement by paying the arrears and remedy the following breaches of the agreement (or pay the owner's expenses in remedying them)—

(insert details of breaches).

The owner's estimate of the amount you must pay to reinstate the agreement is:

Arrears of instalments	K
Cost of storage, repair or maintenance	K
Cost of repossession	K
Cost of re-delivery	K
Total	K

or

- (b) if, within 21 days, you give notice of your intention to finalize the agreement and pay the balance due under the agreement and costs of the repossession—

The owner's estimate of the amount required to finalize the agreement is:

Total amount payable under the agreement	K
Less deposit and instalments paid	K
Balance due under agreement	K
Less statutory rebates	K
Add costs of repossession	K
Storage, repair or maintenance	K
Total	K

IF YOU DO NOT REINSTATE OR FINALIZE THE AGREEMENT you are liable for the owner's loss unless the value of the goods repossessed is sufficient to cover your liability.

If the value of the goods is more than sufficient to cover your liability you are entitled to a refund—

The owner's estimate of the value of the goods repossessed is	K
On the basis of that estimate you are—	
entitled to a refund of*	K
liable to pay the owner*	K

NOTE.—You may give a written notice to the owner requiring the owner to sell the goods to any cash buyer whom you can introduce who is willing to pay the owner's estimate of the value (insert owner's estimate of value).

*Strike out whichever is inapplicable.

DO NOT DELAY.

Action to enforce your rights should be taken at once. You will lose your rights 21 days after the service or posting of this notice if you do not take action.

If you think you have any rights under the *Hire-purchase Act* you should seek advice at once.

NOTE.—Where this notice is sent to a guarantor it must be endorsed as follows:—

This notice is sent to you as guarantor of

As guarantor you have certain rights under the *Hire-purchase Act*, and you should seek advice at once.

INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 252

Hire-purchase Regulation.

ARRANGEMENT OF SECTIONS.

1. Verification of authority by spouse.
2. Declaration as to legal disability of spouse.
3. Declaration by unmarried hirer.
4. Prescribed languages.
5. Declaration by translator.
6. Advice as to right to Translation.

SCHEDULE.

- FORM 1.—Verification of Copy of Authority to Pledge Credit of Hirer and Spouse.
- FORM 2.—Declaration by Hirer as to Legal Disability of Spouse.
- FORM 3.—Declaration by Unmarried Hirer.
- FORM 4.—Declaration by Translator of Prescribed Documents.
- FORM 5.—Notice to Persons About to Enter Hire-purchase Agreements.

INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 252.

Hire-purchase Regulation.

MADE under the *Hire-purchase Act*.

1. Verification of authority by spouse.

A copy of an authority by the spouse of a hirer given for the purposes of Section 6(1)(d) of the Act shall be verified in writing, on the authority, in Form 1.

2. Declaration as to legal disability of spouse.

A declaration by a hirer as to the legal disability of his spouse, for the purposes of Section 6(1)(e) of the Act, shall be made in writing in Form 2 before a Justice or a Commissioner for Declarations.

3. Declaration by unmarried hirer.

A declaration by a hirer as to his not being married, for the purposes of Section 6(2)(b) of the Act, shall be in Form 3.

4. Prescribed languages.

Pisin and *Hiri* are prescribed languages for the purposes of Section 52(2) of the Act.

5. Declaration by translator.

A declaration by the translator of a document under Section 52(3) of the Act shall be in Form 4.

6. Advice as to right to translation.

(1) A person who enters or holds himself out to be ready to enter into or negotiate, as an owner or as a dealer, hire-purchase agreements, as the whole or part of his ordinary business shall display in a conspicuous position on his business premises where he enters or holds himself out to be ready to enter or negotiate hire-purchase agreements a notice in Form 5—

(a) in clear and legible handwriting; or

(b) in printing in type of a size not smaller than the type known as ten-point Times.

(2) Before a written statement is given to a hirer under Section 5(1) of the Act, the person giving the statement shall—

(a) read to the hirer the provisions of Form 5; or

(b) hand to him a written notice in Form 5.

Hire-purchase

SCHEDULE.

PAPUA NEW GUINEA.

Hire-purchase Act.

Act, Sec., 6(1)(d).

Reg., Sec. 1.

Form 1.

VERIFICATION OF COPY OF AUTHORITY TO PLEDGE CREDIT OF HIRER AND SPOUSE.

I, *(insert full name of hirer)* do solemnly and sincerely declare that—

1. The document to which this declaration is attached is a copy of an authority given by *(insert full name of person giving authority)* to *(insert full name of person to whom authority is given)*.
2. *(Insert full name of person giving authority)* is the husband/wife* of *(insert full name of person to whom authority is given)*.
3. I have compared the attached document with the original and have found it to be a true copy.

(Signature of Hirer.)

Signed in my presence

19 .

(Signature of Justice of the Peace or Commissioner for Declarations.)

* Strike out whichever is inapplicable.

PAPUA NEW GUINEA.

Hire-purchase Act.

Act, Sec., 6(1)(e).

Reg., Sec. 2.

Form 2.

DECLARATION BY HIRER AS TO LEGAL DISABILITY OF SPOUSE.

I, *(insert full name of hirer)* solemnly and sincerely declare that my husband/wife* is unable to sign a statement consenting to a hire-purchase agreement relating to household furniture or effects used or intended to be used in my home by reason of his/her* being under the following legal disability—

(insert particulars of legal disability.)

(Signature of Hirer.)

Signed in my presence

19 .

(Signature of Justice of the Peace or Commissioner for Declarations.)

* Strike out whichever is inapplicable.

PAPUA NEW GUINEA.

Hire-purchase Act.

Act, Sec., 6(2)(b).

Reg., Sec., 3.

Form 3.

DECLARATION BY UNMARRIED HIRER.

I, *(insert full name of hirer)* do solemnly and sincerely declare that I am not married.

Declared at , 19 .

(Signature of Hirer.)

Hire-purchase

Ch. No. 252

PAPUA NEW GUINEA.

Hire-purchase Act.

Act, Sec. 52(3).

Form 4.

Reg., Sec. 5.

DECLARATION BY TRANSLATOR OF PRESCRIBED DOCUMENTS.

I, (*insert full name of translator*) do solemnly and sincerely declare that on 19 ,
I translated into the *Pisin/Hiri Motu** language for (*insert name of person for whom translation was
requested*) the following documents—

(*insert names of documents or parts of documents translated*).

I translated these documents accurately. I did not fail to translate anything in the documents and
I did not insert in my translation anything that was not in the documents.

(*Insert name of person for whom translation was requested*) appeared to understand everything that was
translated for him.

Declared , 19 .

(*Signature of Translator.*)

* Strike out whichever is in applicable.

PAPUA NEW GUINEA.

Hire-purchase Act.

Reg., Sec. 6(2).

Form 5.

NOTICE TO PERSONS ABOUT TO ENTER HIRE-PURCHASE AGREEMENTS.

The law says that you have the right to request that any documents relating to a hire-purchase
agreement that is given to you be translated into *Pisin* or *Hiri Motu* if you do not understand English
well.

TOK SAVE HIA LONG HUSET I-REDI LONG MEKIN PEPA LONG HIRE-PURCHASE
KONTRAK.

Lo i tok sapos yu no save pinis tok Ingglis, yu ken askim huset i wokim hire-purchase pepa long
tanim tok long tok *Pisin*, na lo i tok em i mas tanim olsem.

HIRE-PURCHASE TARAVATU IA HEREVA.

Bema English gado oi diba namo lasi, inai taravatu be oiemu noinoi ia durua henanadaia neganai.
Hire-purchase pepa karaia tauna oi henanadaia pepa ena hereva ia hegeregerena *Hiri Motu* gado
dekenai.

INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 252.

Hire-purchase.

SUBSIDIARY LEGISLATION.

1. Act, Section 1(4)—Declared States and Territories.

All States and Territories of Australia, in relation to each section of the Act relating to declared States or declared Territories.

INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 252.

Hire-purchase.

APPENDIXES.

APPENDIX 1.

SOURCE OF THE HIRE-PURCHASE ACT.

Part A.—Previous Legislation.

Hire-purchase Act 1966 (No. 42 of 1966)

as amended by—

Hire-purchase (Amendment) Act 1971 (No. 39 of 1971).

Part B.—Cross References.

Section, etc., in Revised Edition.	Previous Reference. ¹	Section, etc., in Revised Edition.	Previous Reference. ¹
1	6	26	31
2	5	27	28
3	57	28	29
4	58	29	30
5	7	30	32
6	8	31	33
7	9	32	34
8	11	33	35
9	10	34	36
10	12	35	37
11	13	36	38
12	14	37	39
13	15	38	40
14	16	39	41
15	17	40	42
16	18	41	43
17	19	42	44
18	20	43	45
19	21	44	46
20	22	45	47
21	23	46	48
22	24	47	49
23	25	48	51
24	26	49	50
25	27	50	52

¹ Unless otherwise indicated, references are to the Act set out in Part A.

*Hire-purchase*Part B.—Cross References—*continued.*

Section, etc., in Revised Edition.	Previous Reference.	Section, etc., in Revised Edition.	Previous Reference.
51	53	Schedule—	
52	54	Form 1.	First Schedule.
53	55	Form 2.	Second Schedule.
54	56	Form 3.	Third Schedule.
55	59	Form 4.	Fourth Schedule.

APPENDIX 2.

SOURCE OF THE HIRE-PURCHASE REGULATION.

Part A.—Previous Legislation.

Hire-purchase Regulations 1968 (Statutory Instrument No. 26 of 1968).

Part B.—Cross References.

Section, etc., of Revised Edition	Previous Reference. ¹
1	3
2	4
3	5
4	6
5	7
6	8
Schedule—	
Form 1	Form 1
Form 2	Form 2
Form 3	Form 3
Form 4	Form 4
Form 5	Form 5

¹ Unless otherwise indicated, references are to the Regulations set out in Part A.