

# HIRE-PURCHASE AGREEMENTS ORDINANCE 1936.<sup>(1)</sup>

## No. 3 of 1936.

### An Ordinance Relating to Hire-purchase Agreements.

**B**E it ordained by the Legislative Council for the Territory of New Guinea, in pursuance of the powers conferred by the *New Guinea Act 1920-1935*, as follows:—

1. This Ordinance may be cited as the *Hire-purchase Agreements Ordinance 1936.*<sup>(1)</sup> Short title.

2.—(1.) In this Ordinance, unless the contrary intention appears— Definitions.

“hirer” means the person who takes goods on hire under a hire-purchase agreement;

“hire-purchase agreement” includes any agreement not being a bill of sale whereby—

(a) any person agrees to hire any goods and obtains an option to purchase those goods; or

(b) any person agrees to pay for the hire of goods a sum or sums amounting in all to not less than three-quarters of the value of the goods when taken on hire;

“owner” means the owner for the time being of goods let on hire under a hire-purchase agreement.

(2.) For the purposes of this Ordinance, the unpaid balance of the moneys payable under a hire-purchase agreement shall be ascertained as follows:—

(a) Where the hire-purchase agreement provides that the hirer shall or may obtain the property in the goods

(1) Particulars of this Ordinance are as follows:—

Date of assent by Administrator.	Date notified in <i>N.G. Gaz.</i> as not disallowed by Governor-General in Council.	Date on which came into operation.
25.2.1936	31.8.1936	25.2.1936 ( <i>Laws of T.N.G.</i> , Vol. XIII., p. 372)

## COMMERCIAL LAW—

upon payment of amounts specified in the hire-purchase agreement, the unpaid balance shall mean the amounts still to be paid at the relevant time before the property in the goods will or may pass to the hirer; and

- (b) Where the hire-purchase agreement does not so provide, the unpaid balance shall mean the value of the goods at the commencement of the hiring, together with interest thereon at six per centum per annum for the period during which the goods have been held on hire, less any amounts paid by the hirer by way of deposit or rent.

### 3. This Ordinance shall bind the Administration.

Ordinance to  
bind  
Administration.

4.—(1.) If the hirer makes default in the payment of any money due under a hire-purchase agreement, or in the observance of any covenant or condition or term of the hire-purchase agreement, the owner, without any further consent or concurrence on the part of the hirer, and in addition to any of his rights and remedies under the hire-purchase agreement, may—

Power of owner  
on default by  
hirer.

- (a) enter upon any land (whether land of the owner or anyone else) where the goods comprised in the hire-purchase agreement are or where the owner or his agent reasonably suspects that they are;
- (b) for the purpose of the entry, open or remove any outer or inner gate, door, fastening, or obstruction;
- (c) seize and take possession of the goods;
- (d) remove the goods to any place for safety, convenience of sale or re-hiring, or any other purpose, or suffer them to remain where they are found;
- (e) sell or re-hire the goods either in one or more lots and at any time or times and at any place or places, and either by public auction or private contract, or partly by public auction and partly by private contract;
- (f) give credit to the purchaser for the whole or any part of the purchase price, and take or forego any security for payment of the unpaid purchase money;
- (g) make any reasonable terms and conditions of the sale or re-hiring;
- (h) buy in all or any of the goods at any sale by auction of them; and
- (i) execute any contract or other instrument necessary for the exercise of any of the powers given by this subsection.

*Hire-purchase Agreements Ordinance 1936.*

(2.) The owner shall apply the proceeds of any sale or re-hiring of any goods seized under this section as follows:—

- (a) Firstly, in payment of any expenses reasonably incurred for the purpose of making the goods saleable, and the costs of, and incidental to, the re-possession and the re-sale or re-hiring, including the costs of transportation of the goods to the premises of the owner, and of insuring the goods, and of the execution of any other powers given by the last preceding sub-section;
- (b) Secondly, in payment of the unpaid balance of the moneys payable under the hire-purchase agreement, together with interest thereon at eight per centum per annum from the date when the hire-purchase agreement would have expired, if it had been completely carried out by both parties, until the date of re-sale or re-hiring; and
- (c) Lastly, the balance shall be paid to the hirer of the goods.

(3.) If an owner who has re-possessed any goods comprised in a hire-purchase agreement does not sell or re-hire those goods within twelve months after re-possession of them, he shall be under the same liability to the hirer as if he had sold the goods immediately upon the expiration of the twelve months, and he shall be deemed to have received as proceeds of that sale the sum representing the price which the goods might reasonably be expected to have realized if they had been made saleable and sold at that time.

(4.) This section shall apply in respect of every default made after the commencement of this Ordinance under any hire-purchase agreement whether entered into before or after the commencement of this Ordinance.

**5.** Any agreement or term of an agreement whereby any person agrees that this Ordinance or any provision of this Ordinance shall not apply to any transaction shall be void for all purposes.

Contracting out.

**6.** No term of any agreement, whether entered into before or after the commencement of this Ordinance, shall prevent a hirer from claiming or being awarded damages or any other relief for fraud or misrepresentation of the owner or any person acting or purporting to act on behalf of the owner in connection with any transaction of hire-purchase.

Liability for fraud, &c.

**7.—(1.)** Any agreement or term of an agreement (whether a hire-purchase agreement or a separate agreement) whereby it is provided that any hire-purchase agreement shall terminate or may

Provisions for terminating agreement in insolvency void.

## COMMERCIAL LAW—

be terminated, or that the goods comprised therein shall or may be re-possessed, or that any right of the hirer shall terminate, if the hirer becomes insolvent or commits an act of insolvency or makes any arrangement or composition with his creditors under any law relating to insolvency (whether all or any of these events are named), shall, to the extent to which it so provides, be void.

(2.) If the hiring is expressed to continue until the happening of any such event as is referred to in the last preceding sub-section, it shall be deemed to be a hiring continuing for the period for which it would continue apart from the provisions of that sub-section.

Fraudulent disposition of goods.

**8.** Any person who conceals, sells, deals with, or disposes of any goods comprised in a hire-purchase agreement with an intent to deprive the owner thereof of his ownership or possession or right to possession, shall be guilty of an indictable offence.

Penalty: Imprisonment for twelve months.

Hire-purchase goods not to be fixtures.

**9.** Goods which are comprised in a hire-purchase agreement shall, while the hire-purchase agreement is in force, be incapable of becoming fixtures to realty.

Provisions as to financiers entering into agreements as owners.

**10.—(1.)** If, at the request of the owner of any goods, a person who lends money on the security of hire-purchase agreements (in this section referred to as "the lender") enters into a hire-purchase agreement in relation to those goods with a hirer, the lender shall be in the same position with respect to the hire-purchase agreement as if it had been made between the owner and the hirer and had been duly assigned to the lender by the owner.

(2.) Nothing in this section shall affect any right of the hirer against the owner or against the lender, either under the terms of the hire-purchase agreement, the provisions of this Ordinance, or otherwise.

Regulations.

**11.** The Administrator in Council may make regulations,<sup>(2)</sup> not inconsistent with this Ordinance, prescribing all matters which are necessary or convenient to be prescribed for carrying out or giving effect to this Ordinance, and in particular prescribing the imposition of penalties not exceeding Twenty pounds for breaches of regulations made under this section.

---

(2) No regulations have been made.