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SCHEDULES

SCHEDULE 4

MINOR AND CONSEQUENTIAL AMENDMENTS

PART I

UNITED KINGDOM

Bills of Sale Act (1878) Amendment Act 1882

1 The following section shall be inserted after section 7—

“7A Defaults under consumer credit agreements.

- (1) Paragraph (1) of section 7 of this Act does not apply to a default relating to a bill of sale given by way of security for the payment of money under a regulated agreement to which section 87(1) of the Consumer Credit Act 1974 applies—
- (a) unless the restriction imposed by section 88(2) of that Act has ceased to apply to the bill of sale; or
 - (b) if, by virtue of section 89 of that Act, the default is to be treated as not having occurred.
- (2) Where paragraph (1) of section 7 of this Act does apply in relation to a bill of sale such as is mentioned in subsection (1) of this section, the proviso to that section shall have effect with the substitution of " county court " for " High Court ".”

Factors Act 1889

2 At the end of section 9 insert—

“For the purposes of this section—

- (i) the buyer under a conditional sale agreement shall be deemed not to be a person who has bought or agreed to buy goods, and
- (ii) " conditional sale agreement" means an agreement for the sale of goods which is a consumer credit agreement within the meaning of the Consumer Credit Act 1974 under which the purchase price or part of it is payable by instalments, and the property in the goods is to remain in the seller (notwithstanding that the buyer is to be in possession of the goods) until such conditions as to the payment of instalments or otherwise as may be specified in the agreement are fulfilled.”

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Sale of Goods Act 1893

3 In section 14 (as substituted by section 3 of the Supply of Goods (Implied Terms) Act 1973) for subsection (3) substitute—

“(3) Where the seller sells goods in the course of a business and the buyer, expressly or by implication, makes known—

- (a) to the seller, or
- (b) where the purchase price or part of it is payable by instalments and the goods were previously sold by a credit-broker to the seller, to that credit-broker,

any particular purpose for which the goods are being bought, there is an implied condition that the goods supplied under the contract are reasonably fit for that purpose, whether or not that is a purpose for which such goods are commonly supplied, except where the circumstances show that the buyer does not rely, or that it is unreasonable for him to rely, on the skill or judgment of the seller or credit-broker.

In this subsection " credit-broker " means a person acting in the course of a business of credit brokerage carried on by him, that is a business of effecting introductions of individuals desiring to obtain credit—

- (i) to persons carrying on any business so far as it relates to the provision of credit, or
- (ii) to other persons engaged in credit brokerage.”

4 In section 25, at the end of subsection (2) insert—

“For the purposes of this section—

- (i) the buyer under a conditional sale agreement shall be deemed not to be a person who has bought or agreed to buy goods, and
- (ii) " conditional sale agreement " means an agreement for the sale of goods which is a consumer credit agreement within the meaning of the Consumer Credit Act 1974 under which the purchase price or part of it is payable by instalments, and the property in the goods is to remain in the seller (notwithstanding that the buyer is to be in possession of the goods) until such conditions as to the payment of instalments or otherwise as may be specified in the agreement are fulfilled.”

Law of Distress Amendment Act 1908

5 The following section shall be inserted after section 4—

“4A Hire purchase etc. agreements.

- (1) Goods—
 - (a) bailed under a hire-purchase agreement or a consumer hire agreement, or
 - (b) agreed to be sold under a conditional sale agreement,
 are, where the relevant agreement has not been terminated, excluded from the application of this Act except during the period between the service of a default notice under the Consumer Credit Act 1974 in respect of the goods and the date on which the notice expires or is earlier complied with.

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(2) Goods comprised in a bill of sale are excluded from the application of this Act except, during the period between service of a default notice under the Consumer Credit Act 1974 in respect of goods subject to a regulated agreement under which a bill of sale is given by way of security and the date on which the notice expires or is earlier complied with.

(3) In this section—

" conditional sale agreement " means an agreement for the sale of goods under which the purchase price or part of it is payable by instalments, and the property in the goods is to remain in the seller (notwithstanding that the buyer is to be in possession of the goods) until such conditions as to the payment of instalments or otherwise as may be specified in the agreement are fulfilled ;

" consumer hire agreement " has the meaning given by section 15 of the Consumer Credit Act 1974.

" hire-purchase agreement " means an agreement, other than a conditional sale agreement, under which—

(a) goods are bailed in return for periodical payments by the person to whom they are bailed, and

(b) the property in the goods will pass to that person if the terms of the agreement are complied with and one or more of the following occurs—

(i) the exercise of an option, to purchase by that person,

(ii) the doing of any other specified act by any party to the agreement,

(iii) the happening of any other specified event; and

" regulated agreement " has the meaning given by section 189(1) of the Consumer Credit Act 1974."

Bankruptcy Act 1914

6 The following section shall be inserted after section 38—

“38A Hire purchase etc. agreements

(1) Goods—

(a) bailed under a hire-purchase agreement or a consumer hire agreement, or

(b) agreed to be sold under a conditional sale agreement, or

(c) subject to a regulated agreement under which a bill of sale is given by way of security,

shall not be treated as the property of the bankrupt during the period between the service of a default notice under the Consumer Credit Act 1974 in, respect of the goods and the date on which the notice expires or is earlier complied with.

(2) in this section—

" conditional sale agreement " means an agreement for the sale of goods under which the purchase price or part of it is payable by instalments, and the property in the goods is to remain in the seller

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(notwithstanding that the buyer is to be in possession of the goods) until such conditions as to the payment of instalments or otherwise as may be specified in the agreement are fulfilled ;

" consumer hire agreement " has the meaning given by section 15 of the Consumer Credit Act 1974 ;

" hire-purchase agreement " means an agreement, other than a conditional sale agreement, under which—

- (a) goods are bailed in return for periodical payments by the person to whom they are bailed, and
- (b) the property in the goods will pass to that person if the terms of the agreement are complied with and one or more of the following occurs—
 - (i) the exercise of an option to purchase by that person,
 - (ii) the doing of any other specified act by any party to the agreement,
 - (iii) the happening of any other specified event; and

" regulated agreement " has the meaning given by section 189(1) of the Consumer Credit Act 1974.”

Compensation (Defence) Act 1939

7 In section 13 after " hire-purchase agreement" insert " or a conditional sale agreement ".

8 In section 17(1)—

(1) After the definition of " aircraft " insert—

“"conditional sale agreement" means an agreement for the sale of goods which is a consumer credit agreement within the meaning of the Consumer Credit Act 1974 under which the purchase price or part of it is payable by instalments, and the property in the goods is to remain in the seller (notwithstanding that the buyer is to be in possession of the goods) until such conditions as to the payment of instalments or otherwise as may be specified in the agreement are fulfilled ;”, and

(2) for the definition of " hire-purchase agreement" substitute—

“" hire-purchase agreement" means an agreement which is a consumer credit agreement within the meaning of the Consumer Credit Act 1974, other than a conditional sale agreement, under which—

- (a) goods are bailed or (in Scotland) hired in return for periodical payments by the person to whom they are bailed or hired, and
- (b) the property in the goods will pass to that person if the terms of the agreement are complied with and one or more of the following occurs—
 - (i) the exercise of an option to purchase by that person,
 - (ii) the doing of any other specified act by any party to the agreement,
 - (iii) the happening of any other specified event;”

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Liability for War Damage (Miscellaneous Provisions) Act 1939

- 9 In section 1(3), for paragraphs (a) and (b) substitute—
- “(a) a hire-purchase agreement or a conditional sale agreement within the meaning of the Consumer Credit Act 1974 being (in either case) a consumer credit agreement as defined by that Act; or
 - (b) a consumer hire agreement as defined by that Act.”

Agriculture (Miscellaneous Provisions) Act 1950

- 10 For section 1(4) substitute—
- “(4) A person in possession of a machine by virtue of a hire-purchase agreement or a conditional sale agreement shall for the purposes of this section be treated as the owner of the machine.

In this subsection—

" conditional sale agreement " means an agreement for the sale of goods under which the purchase price or part of it is payable by instalments, and the property in the goods is to remain in the seller (notwithstanding that the buyer is to be in possession of the goods) until such conditions as to the payment of instalments or otherwise as may be specified in the agreement are fulfilled ; and

" hire-purchase agreement " means an agreement, other than a conditional sale agreement, under which—

- (a) goods are bailed or (in Scotland) hired in return for periodical payments by the person to whom they are bailed or hired, and
- (b) the property in the goods will pass to that person if the terms of the agreement are complied with and one or more of the following occurs—
 - (i) the exercise of an option to purchase by that person,
 - (ii) the doing of any other specified act by any party to the agreement,
 - (iii) the happening of any other specified event.”

Rag Flock and Other Filling Materials Act 1951

- 11 For section 10(7) substitute—
- “(7) References in this section to a sale or to selling include references to a bailment or (in Scotland) hiring under a hire-purchase agreement or to an agreement to sell under a conditional sale agreement.

In this subsection—

" conditional sale agreement " means an agreement for the sale of goods under which the purchase price or part of it is payable by instalments, and the property in the goods is to remain in the seller (notwithstanding that the buyer is to be in possession of the goods) until such conditions as to the payment of instalments or otherwise as may be specified in the agreement are fulfilled ; and

" hire-purchase agreement " means an agreement other than a conditional sale agreement, under which—

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- (a) goods are bailed or (in Scotland) hired in return for periodical payments by the person to whom they are bailed or hired, and
- (b) the property in the goods will pass to that person if the terms of the agreement are complied with and one or more of the following occurs—
 - (i) the exercise of an option to purchase by that person,
 - (ii) the doing of any other specified act by any party to the agreement,
 - (iii) the happening of any other specified event.”

Reserve and Auxiliary Forces (Protection of Civil Interest) Act 1951

12 In section 4 for subsections (4), (5) and (6), substitute—

“(4) Where the appropriate court refuses leave under section 4(2) of this Act to take possession of goods subject to a hire-purchase agreement or a conditional sale agreement or to execute a judgment or order for delivery of such goods, or gives leave subject to restrictions and conditions, and the person to whom the goods are bailed, or, as the case may be, the buyer, before possession is taken or execution on the judgment or order completed, pays the total price, the creditor's title to the goods shall, notwithstanding any failure to pay the total price at the time required by the agreement, vest in that person.

(5) Where the creditor under a hire-purchase agreement or a conditional sale agreement has taken possession of the goods bailed or agreed to be sold under it, the appropriate court on an application under section 3(1)(c) of this Act, may, if it thinks fit, deal with the case as if the creditor were proceeding to take possession of the goods and, if it makes an order under that paragraph, may direct accordingly that the goods be restored to the person to whom they were bailed or, as the case may be, the buyer; and if, after the creditor has taken possession of the goods, notice is given under that paragraph with respect to them, he shall not, so long as the notice is in force or any application in pursuance of the notice is undisposed of, deal with the goods in such a way as to prejudice the powers of the appropriate court under this subsection.”

13 For section 10 substitute—

“10 Property in goods subject to hire-purchase agreement.

(1) Where the appropriate court refuses leave under section 8(3) of this Act to take or resume possession .of goods subject to a hire-purchase agreement or a conditional sale agreement or to do diligence on any decree for the delivery of such goods, or gives leave subject to restrictions and conditions, and the person to whom they are hired, or, as the case may be, the buyer before possession is taken or resumed or diligence is done, pays the total price, the creditor's title to the goods shall, notwithstanding any failure to pay the total price at the time required by the agreement, vest in that person.

(2) Where the creditor under a hire-purchase agreement or a conditional sale agreement has taken possession of the goods hired or agreed to be sold under it, the appropriate court on an application under section 9(1)(c) of this Act

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may, if it thinks fit, deal with the case as if the creditor were proceeding to take possession of the goods and, if it makes an order under that paragraph, may direct accordingly that the goods be restored to the person to whom they were hired or, as the case may be, the buyer; and if, after the creditor has taken possession of the goods, notice is given under that paragraph with respect to them, he shall not, so long as the notice is in force or any application in pursuance of the notice is undisposed of, deal with the goods in such a way as to prejudice the powers of the appropriate court under this subsection”.

14 In section 64(1)—

(1) after the definition of " compulsory national service" insert—

“" conditional sale agreement " means an agreement for the sale of goods under which the purchase price or part of it is payable by instalments, and the property in the goods is to remain in the seller (notwithstanding that the buyer is to be in possession of the goods) until such conditions as to the payment of instalments or otherwise as may be specified in the agreement are fulfilled ;

" creditor " means the person by whom goods are bailed or (in Scotland) hired under a hire-purchase agreement or, as the case may be, the seller under a conditional sale agreement, or the person to whom his rights and duties have passed by assignment or operation of the law ;

" hire-purchase agreement " means an agreement, other than a conditional sale agreement, under which—

- (a) goods are bailed or (in Scotland) hired in return for periodical payments by the person to whom they are bailed or hired, and
- (b) the property in the goods will pass to that person if the terms of the agreement are complied with and one or more of the following occurs—
 - (i) the exercise of an option to purchase by that person,
 - (ii) the doing of any other specified act by any party to the agreement,
 - (iii) the happening of any other specified event;”.

(2) After the definition of " short period of training " insert—

“" total price " means the total sum payable by the person to whom goods are bailed or hired under a hire-purchase agreement or, as the case may be, the buyer under a conditional sale agreement including any sum payable on the exercise of an option to purchase but excluding any sum payable as a penalty or as compensation or damages for a breach of the agreement”.

Clean Air Act 1956

15 In section 14 for the words " a hire-purchase agreement for the letting to him " substitute—

“either—

- (i) a conditional sale agreement for the sale to him, or
- (ii) a hire-purchase agreement for the bailment or (in Scotland) hiring to him;”.

16 In section 34(1)—

(a) after the definition of " chimney " insert—

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““ conditional sale agreement” means an agreement for the sale of goods under which the purchase price or part of it is payable by instalments, and the property in the goods is to remain in the seller (notwithstanding that the buyer is to be in possession of the goods) until such conditions as to the payment of instalments or otherwise as may be specified in the agreement are fulfilled ;”, and

(b) for the definition of " hire-purchase agreement" substitute—

““ hire-purchase agreement " means an agreement, other than a conditional sale agreement under which—

- (a) goods are bailed or (in Scotland) hired in return for periodical payments by the person to whom they are bailed or hired, and
- (b) the property in the goods will pass to that person if the terms of the agreement are complied with and one or more of the following occurs—
 - (i) the exercise of an option to purchase by that person,
 - (ii) the doing of any other specified act by any party to the agreement,
 - (iii) the happening of any other specified event;”.

Restrictive Trade Practices Act 1956

17 For section 26(3) substitute—

“(3) In this Part of this Act any reference to selling goods includes a reference to bailing or (in Scotland) hiring goods under a hire-purchase agreement or to agreeing to sell the goods under a conditional sale agreement.

In this subsection—

- (1) " conditional sale agreement " means an agreement for the sale of goods under which the purchase price or part of it is payable by instalments, and the property in the goods is to remain in the seller (notwithstanding that the buyer is to be in possession of the goods) until such conditions as to the payment of instalments or otherwise as may be specified in the agreement are fulfilled ; and
- (2) " hire-purchase agreement " means an agreement, other than a conditional sale agreement, under which—
 - (a) goods are bailed or (in Scotland) hired in return for periodical payments by the person to whom they are bailed or hired, and
 - (b) the property in the goods will pass to that person if the terms of the agreement are complied with and one or more of the following occurs—
 - (i) the exercise of an option to purchase by that person,
 - (ii) the doing of any other specified act by any party to the agreement,
 - (iii) the happening of any other specified event.”

Housing Act 1957

18 For section 94 substitute—

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“94 Power to provide furniture.

A local authority may fit out, furnish and supply any house erected, converted or acquired by them under section 92 of this Act with all requisite furniture, fittings and conveniences and may sell, or supply under a hire-purchase agreement or a conditional sale agreement, furniture to the occupants of houses provided by the local authority and, for that purpose may buy furniture.

In this subsection—

- (1) " conditional sale agreement" means an agreement for the sale of goods under which the purchase price or part of it is payable by instalments, and the property in the goods is to remain in the seller (notwithstanding that the buyer is to be in possession of the goods) until such conditions as to the payment of instalments or otherwise as may be specified in the agreement are fulfilled ; and
- (2) " hire-purchase agreement" means an agreement, other than a conditional sale agreement, under which—
 - (a) goods are bailed in return for periodical payments by the person to whom they are bailed, and
 - (b) the property in the goods will pass to that person if the terms of the agreement are complied with and one or more of the following occurs—
 - (i) the exercise of an option to purchase by that person,
 - (ii) the doing of any other specified act by any party to the agreement,
 - (iii) the happening of any other specified event.”

County Courts Act 1959

- 19 At the end of section 192(2)(c) insert—
“(d) section 139(5)(b) of the Consumer Credit Act 1974.”

Consumer Protection Act 1961

- 20 In section 2, for subsection (6) substitute—
“(6) If as respects goods of any class or description regulations under section 1 above so provide, subsections (1) to (3) above (other than subsection 3(d) and (e)) shall apply in relation to goods of that class or description as if—
 - (a) references to selling or to a sale included references to—
 - (i) bailing or (in Scotland) hiring under a hire-purchase agreement, or
 - (ii) bailing or (in Scotland) hiring under a hire agreement, or
 - (iii) an agreement to sell under a conditional sale agreement; and
 - (b) the reference to a sale under a credit-sale agreement were a reference
 - (i) to a bailment, or a hiring under a hire-purchase agreement, or
 - (ii) to an agreement to sell under a conditional sale agreement.

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Provided that subsections (1) and (2) above shall not apply—

- (a) in a case of bailment or hiring under a hire agreement, where the bailment or hiring is incidental to an agreement under which payments are to be made in the form of rent issuing out of land ;
- (b) in a case of possession for the purpose of bailment or hiring under a hire agreement, where possession is for the purpose of a bailment or hiring which is incidental to an agreement under which payments are to be made in the form of rent issuing out of land ;
- (c) in any case of bailment or hire under a hire agreement, where the bailment or hiring was lawful at the time when it began.”

21 In section 5—

(1) After the definition of " component part" insert—

““ conditional sale agreement " means an agreement for the sale of goods under which the purchase price or part of it is payable by instalments, and the property in the goods is to remain in the seller (notwithstanding that the buyer is to be in possession of the goods) until such conditions as to the payment of instalments or otherwise as may be specified in the agreement are fulfilled ;

" hire agreement " means an agreement for the bailment or (in Scotland) the hiring of goods which is not a hire-purchase agreement;”

(2) for the definition of " credit-sale agreement" substitute—

““ credit sale agreement " means an agreement for the sale of goods, under which the purchase price or part of it is payable by instalments, but which is not a conditional sale agreement;”

(3) for the definition of " hire-purchase agreement" substitute—

““ hire-purchase agreement " means an agreement, other than a conditional sale agreement, under which—

- (a) goods are bailed or (in Scotland) hired in return for periodical payments by the person to whom they are bailed or hired, and
- (b) the property in the goods will pass to that person if the terms of the agreement are complied with and one or more of the following occurs—
 - (i) the exercise of an option to purchase by that person,
 - (ii) the doing of any other specified act by any party to the agreement,
 - (iii) the happening of any other specified event;”

Hire Purchase Act 1964

22 For Part III substitute the following (which reproduces the existing provisions of that Part subject only to changes in terminology)—

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“PART III

TITLE TO MOTOR VEHICLES ON HIRE-PURCHASE OR CONDITIONAL SALE

27 Protection of purchasers of motor vehicles.

- (1) This section applies where a motor vehicle has been bailed or (in Scotland) hired under a hire-purchase agreement, or has been agreed to be sold under a conditional sale agreement, and, before the property in the vehicle has become vested in the debtor, he disposes of the vehicle to another person.
- (2) Where the disposition referred to in subsection (1) above is to a private purchaser, and he is a purchaser of the motor vehicle in good faith without notice of the hire-purchase or conditional sale agreement (the "relevant agreement") that disposition shall have effect as if the creditor's title to the vehicle has been vested in the debtor immediately before that disposition.
- (3) Where the person to whom the disposition referred to in subsection (1) above is made (the "original purchaser") is a trade or finance purchaser, then if the person who is the first private purchaser of the motor vehicle after that disposition (the "first private purchaser") is a purchaser of the vehicle in good faith without notice of the relevant agreement, the disposition of the vehicle to the first private purchaser shall have effect as if the title of the creditor to the vehicle had been vested in the debtor immediately before he disposed of it to the original purchaser.
- (4) Where, in a case within subsection (3) above—
 - (a) the disposition by which the first private purchaser becomes a purchaser of the motor vehicle in good faith without notice of the relevant agreement is itself a bailment or hiring under a hire-purchase agreement, and
 - (b) the person who is the creditor in relation to that agreement disposes of the vehicle to the first private purchaser, or a person claiming under him, by transferring to him the property in the vehicle in pursuance of a provision in the agreement in that behalf,the disposition referred to in paragraph (b) above (whether or not the person to whom it is made is a purchaser in good faith without notice of the relevant agreement) shall as well as the disposition referred to in paragraph (a) above, have effect as mentioned in subsection (3) above.
- (5) The preceding provisions of this section apply—
 - (a) notwithstanding anything in section 21 of the Sale of Goods Act 1893 (sale of goods by a person not the owner), but
 - (b) without prejudice to the provisions of the Factors Acts (as defined by section 62(1) of the said Act of 1893) or of any other enactment enabling the apparent owner of goods to dispose of them as if he were the true owner.
- (6) Nothing in this section shall exonerate the debtor from any liability (whether criminal or civil) to which he would be subject apart from this section; and, in a case where the debtor disposes of the motor vehicle to a trade or finance purchaser, nothing in this section shall exonerate—

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- (a) that trade or finance purchaser, or
- (b) any other trade or finance purchaser who becomes a purchaser of the vehicle and is not a person claiming under the first private purchaser, from any liability (whether criminal or civil) to which he would be subject apart from this section.

28 Presumptions relating to dealings with motor vehicles.

- (1) Where in any proceedings (whether criminal or civil) relating to a motor vehicle it is proved—
 - (a) that the vehicle was bailed or (in Scotland) hired under a hire-purchase agreement, or was agreed to be sold under a conditional sale agreement and
 - (b) that a person (whether a party to the proceedings or not) became a private purchaser of the vehicle in good faith without notice of the hire-purchase or conditional sale agreement (the "relevant agreement"),
 this section shall have effect for the purposes of the operation of section 27 of this Act in relation to those proceedings.
- (2) It shall be presumed for those purposes, unless the contrary is proved, that the disposition of the vehicle to the person referred to in subsection (1)(b) above (the "relevant purchaser ") was made by the debtor.
- (3) If it is proved that that disposition was not made by the debtor, then it shall be presumed for those purposes, unless the contrary is proved—
 - (a) that the debtor disposed of the vehicle to a private purchaser purchasing in good faith without notice of the relevant agreement, and
 - (b) that the relevant purchaser is or was a person claiming under the person to whom the debtor so disposed of the vehicle.
- (4) If it is proved that the disposition of the vehicle to the relevant purchaser was not made by the debtor, and that the person to whom the debtor disposed of the vehicle (the "original purchaser ") was a trade or finance purchaser, then it shall be presumed for those purposes, unless the contrary is proved,
 - (a) that the person who, after the disposition of the vehicle to the original purchaser, first became a private purchaser of the vehicle was a purchaser in good faith without notice of the relevant agreement, and
 - (b) that the relevant purchaser is or was a person claiming under the original purchaser.
- (5) Without prejudice to any other method of proof, where in any proceedings a party thereto admits a fact, that fact shall, for the purposes of this section, be taken as against him to be proved in relation to those proceedings.

29 Interpretation of Part III.

- (1) In this Part of this Act—

" conditional sale agreement " means an agreement for the sale of goods under which the purchase price or part of it is payable by instalments, and the property in the goods is to remain in the seller

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(notwithstanding that the buyer is to be in possession of the goods) until such conditions as to the payment of instalments or otherwise as may be specified in the agreement are fulfilled ;

" creditor " means the person by whom goods are bailed or (in Scotland) hired under a hire-purchase agreement or as the case may be, the seller under a conditional sale agreement, or the person to whom his rights and duties have passed by assignment or operation of law ;

" disposition " means any sale or contract of sale (including a conditional sale agreement), any bailment or (in Scotland) hiring under a hire-purchase agreement and any transfer of the property in goods in pursuance of a provision in that behalf contained in a hire-purchase agreement, and includes any transaction purporting to be a disposition (as so defined), and " dispose of " shall be construed accordingly ;

" hire-purchase agreement " means an agreement, other than a conditional sale agreement, under which—

- (a) goods are bailed or (in Scotland) hired in return for periodical payments by the person to whom they are bailed or hired, and
- (b) the property in the goods will pass to that person if the terms of the agreement are complied with and one or more of the following occurs—
 - (i) the exercise of an option to purchase by that person,
 - (ii) the doing of any other specified act by any party to the agreement,
 - (iii) the happening of any other specified events ; and

" motor vehicle " means a mechanically propelled vehicle intended or adapted for use on roads to which the public has access.

(2) In this Part of this Act " trade or finance purchaser " means a purchaser who, at the time of the disposition made to him, carries on a business which consists, wholly or partly.—

- (a) of purchasing motor vehicles for the purpose of offering or exposing them for sale, or
- (b) of providing finance by purchasing motor vehicles for the purpose of bailing or (in Scotland) hiring them under hire-purchase agreements or agreeing to sell them under conditional sale agreements,

and "private purchaser" means a purchaser who, at the time of the disposition made to him, does not carry on any such business.

(3) For the purposes of this Part of this Act a person becomes a purchaser of a motor vehicle if, and at the time when, a disposition of the vehicle is made to him ; and a person shall be taken to be a purchaser of a motor vehicle without notice of a hire-purchase agreement or conditional sale agreement if, at the time of the disposition made to him, he has no actual notice that the vehicle is or was the subject of any such agreement.

(4) In this Part of this Act the " debtor " in relation to a motor vehicle which has been bailed or hired under a hire-purchase agreement, or, as the case may be, agreed to be sold under a conditional sale agreement, means the person who at the material time (whether the agreement has before that time been terminated or not) either—

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- (a) is the person to whom the vehicle is bailed or hired under that agreement, or
 - (b) is, in relation to the agreement, the buyer, including a person who at that time is, by virtue of section 130(4) of the Consumer Credit Act 1974 treated as a bailee or (in Scotland) a custodian of the vehicle.
- (5) In this Part of this Act any reference to the title of the creditor to a motor vehicle which has been bailed or (in Scotland) hired under a hire-purchase agreement, or agreed to be sold under a conditional sale agreement, and is disposed of by the debtor, is a reference to such title (if any) to the vehicle as, immediately before that disposition, was vested in the person who then was the creditor in relation to the agreement.”

Emergency Laws (Re-enactment and Repeals) Act 1964

23

In section 1—

- (1) In subsection (1) for " or credit-sale agreements, or under agreements for letting on hire" substitute " conditional sale agreements, credit-sale agreements or hire agreements ".

- (2) For subsection (2) substitute—

“(2) In this section—

" conditional sale agreement " means an agreement for the sale of any article under which the purchase price, or part of it is payable by instalments, and the property in the article is to remain in the seller (notwithstanding that the buyer is to be in possession of the article) until such conditions as to the payment of instalments or otherwise as may be specified in the agreement are fulfilled ;

" credit-sale agreement " means an agreement for the sale of any article, under which the purchase price or part of it is payable by instalments, but which is not a conditional sale agreement;

" hire-purchase agreement " means an agreement, other than a conditional sale agreement under which—

- (a) an article is bailed or (in Scotland) hired in return for periodical payments by the person to whom it is bailed or hired, and
- (b) the property in the article will pass to that person if the terms of the agreement are complied with and one or more of the following occurs—
 - (i) the exercise of an option by that person ;
 - (ii) the doing of any other specified act by any party to the agreement;
 - (iii) the happening of any other specified event; and

" hire agreement " means an agreement for the bailment or (in Scotland) the hiring of an article which is not a hire-purchase agreement.”

Trading Stamps Act 1964

24

In section 2, for subsection (1) substitute—

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“(1) No person shall after the coming into force of this section issue any trading stamp, or cause any trading stamp to be issued, or deliver any trading stamp to any person in connection with the sale of any goods, the bailment or (in Scotland) the hiring of any goods under a hire-purchase agreement or the performance of any services, unless such trading stamp bears on its face in clear and legible characters a value expressed in or by reference to current coin of the realm.”

25 In section 3, for subsection (4) substitute—

“(4) In this section "redeemable trading stamps" means trading stamps delivered after the coming into force of this section in accordance with a trading stamp scheme on or in connection with either—

- (a) the purchase of any goods,
- (b) the bailment or (in Scotland) the hiring of any goods under a hire-purchase agreement, or
- (c) the obtaining of any services for money,

and "the holder", in relation to such a trading stamp, means the person to whom it was so delivered or any person who holds it without notice of any defect in title.”

26 In section 10(1)—

(1) after the definition of "cash value" insert—

“"conditional sale agreement" means an agreement for the sale of goods under which the purchase price or part of it is payable by instalments, and the property in the goods is to remain in the seller (notwithstanding that the buyer is to be in possession of the goods) until such conditions as to the payment of instalments or otherwise as may be specified in the agreement are fulfilled;”, and

(2) after the definition of "goods" insert—

“"hire-purchase agreement" means an agreement, other than a conditional sale agreement, under which—

- (a) goods are bailed or (in Scotland) hired in return for periodical payments by the person to whom they are bailed or hired, and
- (b) the property in the goods will pass to that person if the terms of the agreement are complied with and one or more of the following occurs—
 - (i) the exercise of an option to purchase by that person,
 - (ii) the doing of any other specified act by any party to the agreement,
 - (iii) the happening of any other specified event;”.

(3) For the definition of "trading stamp" substitute—

“"trading stamp" means a stamp which is, or is intended to be, delivered to any person on or in connection with either—

- (i) the purchase of any goods, or
- (ii) the bailment or (in Scotland) the hiring of any goods under a hire-purchase agreement,

(other than the purchase of a newspaper or other periodical of which the stamp forms part or in which it is contained) and is, or is intended to be, redeemable

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(whether singly or together with other such stamps) by that or some other person:

Provided that a stamp shall not be deemed to be a trading stamp if—

- (a) it is delivered or is intended to be delivered to a person (in this definition called " the purchaser") on or in connection with the purchase of any goods by the purchaser, or the bailment or (in Scotland) the hiring to him of any goods, and
- (b) it is intended to be, and is not, redeemable from any person other than—
 - (i) the person (in this definition called " the seller ") from whom the purchaser purchased those goods, or who bailed or hired those goods to him, or
 - (ii) any person from whom the seller (whether directly or indirectly) acquired those goods, and
- (c) in the case where a business is carried on by six or more retail establishments, the stamp is one of a kind obtainable at no more than six of those retail establishments, and not obtainable by the public elsewhere, and the arrangements under which it is redeemable are entirely separate from arrangements under which any other stamps, whether trading stamps or not, are redeemable,

and references in this definition to the purchase of goods include references to the obtaining of services for money ;”.

Housing (Scotland) Act 1966

- 27 In section 140(2), for the words from " as defined" onwards substitute " within the meaning of the Consumer Credit Act 1974 ".

Trade Descriptions Act 1968

- 28 In section 28, insert the following new subsection after subsection (5)—
- “(5A) Subsection (5) of this section does not apply to disclosure for a purpose specified in section 174(3) of the Consumer Credit Act 1974.”

Income and Corporation Taxes Act 1970

- 29 In section 495, for subsection (7) substitute—
- “(7) In this section—
- " hire-purchase agreement " means an agreement, other than a conditional sale agreement, under which—
- (a) goods are bailed or (in Scotland) hired in return for periodical payments by the person to whom they are bailed or hired, and
 - (b) the property in the goods will pass to that person if the terms of the agreement are complied with and one or more of the following occurs—
 - (i) the exercise of an option to purchase by that person,
 - (ii) the doing of any other specified act by any party to the agreement,
 - (iii) the happening of any other specified event; and

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" conditional sale agreement " means an agreement for the sale of goods under which the purchase price or part of it is payable by instalments, and the property in the goods is to remain in the seller (notwithstanding that the buyer is to be in possession of the goods) until such conditions as to the payment of instalments or otherwise as may be specified in the agreement are fulfilled"

Administration of Justice Act 1970

30 After section 38 insert the following new section—

“38A This Part of this Act shall not apply to a mortgage securing an agreement which is a regulated agreement within the meaning of the Consumer Credit Act 1974.”

31 In section 54(6)(c) after " 36 " insert " 38A ".

Vehicles (Excise) Act 1971

32 In section 38(1)—

(1) before the definition of " gas " insert—

“" conditional sale agreement " means an agreement for the sale of a vehicle under which the purchase price or part of it is payable by instalments, and the property in the vehicle is to remain in the seller (notwithstanding that the buyer is to be in possession of the vehicle) until such conditions as to the payment of instalments or otherwise as may be specified in the agreement are fulfilled ;”

(2) for the definition of " hackney carriage " substitute—

“" hackney carriage " means a mechanically propelled vehicle standing or plying for hire and includes any mechanically propelled vehicle bailed or (in Scotland) hired under a hire agreement by a person whose trade it is to sell such vehicles or bail or hire them under hire agreements ;”

(3) after the definition of " hackney carriage " insert—

“" hire agreement " means an agreement for the bailment or (in Scotland) the hiring of a vehicle which is not a hire-purchase agreement;

" hire-purchase agreement " means an agreement, other than a conditional sale agreement, under which—

(a) a vehicle is bailed or (in Scotland) hired in return for periodical payments by the person to whom it is bailed or hired, and

(b) the property in the vehicle will pass to that person if the terms of the agreement are complied with and one or more of the following occurs—

(i) the exercise of an option to purchase by that person,

(ii) the doing of any other specified act by any party to the agreement,

(iii) the happening of any other specified event;”.

Industry Act 1972

33 In section 6(2)—

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- (1) After the definition of "" capital expenditure", or expenditure of a " capital nature " " insert—

"" conditional sale agreement " means an agreement for the sale of goods under which the purchase price or part of it is payable by instalments, and the property in the goods is to remain in the seller (notwithstanding that the buyer is to be in possession of the goods) until such conditions as to the payment of instalments or otherwise as may be specified in the agreement are fulfilled ;”and

- (2) For the definition of "hire-purchase agreement" substitute—

"" hire-purchase agreement " means an agreement, other than a conditional sale agreement, under which

- (a) goods are bailed or (in Scotland) hired in return for periodical payments by the person to whom they are bailed or hired, and
- (b) the property in the goods will pass to that person if the terms of the agreement are complied with and one or more of the following occurs—
- (i) the exercise of an option to purchase by that person,
- (ii) the doing of any other specified act by any party to the agreement,
- (iii) the happening of any other specified event;”.

Counter-Inflation Act 1973

- 34 In section 21(5)—

- (a) for " total purchase price or hire-purchase price " substitute " total price "; and
- (b) for the words from " This subsection " onwards substitute— " In this subsection—

"" conditional sale agreement " means an agreement for the sale of goods under which the purchase price or part of it is payable by instalments, and the property in the goods is to remain in the seller (notwithstanding that the buyer is to be in possession of the goods) until such conditions as to the payment of instalments or otherwise as may be specified in the agreement are fulfilled, and

" hire-purchase agreement " means an agreement, other than a conditional sale agreement, under which—

- (a) goods are bailed or (in Scotland) hired in return for periodical payments by the person to whom they are bailed or hired, and
- (b) the property in the goods will pass to that person if the terms of the agreement are complied with and one or more of the following occurs—
- (i) the exercise of an option to purchase by that person,
- (ii) the doing of any other specified act by any party to the agreement,
- (iii) the happening of any other specified event; and

- (c) " total price " means the total sum payable by the person to whom goods are bailed or hired under a hire-purchase agreement or, as the case may be, the buyer under a conditional sale agreement including any sum payable on

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the exercise of an option to purchase but excluding any sum payable as a penalty or as compensation or damages for a breach of the agreement.”

Supply of Goods (Implied Terms) Act 1973

35 For sections 8 to 12 substitute the following sections (which reproduce the existing provisions of those sections subject only to changes in terminology)—

“8 Implied terms as to title.

- (1) In every hire-purchase agreement, other than one to which subsection (2) below applies, there is—
 - (a) an implied condition on the part of the creditor that he will have a right to sell the goods at the time when the property is to pass ; and
 - (b) an implied warranty that—
 - (i) the goods are free, and will remain free until the time when the property is to pass, from any charge or encumbrance not disclosed or known to the person to whom the goods are bailed or (in Scotland) hired before the agreement is made, and
 - (ii) that person will enjoy quiet possession of the goods except so far as it may be disturbed by any person entitled to the benefit of any charge or encumbrance so disclosed or known.
- (2) In a hire-purchase agreement, in the case of which there appears from the agreement or is to be inferred from the circumstances of the agreement an intention that the creditor should transfer only such title as he or a third person may have, there is—
 - (a) an implied warranty that all charges or encumbrances known to the creditor and not known to the person to whom the goods are bailed or hired have been disclosed to that person before the agreement is made ; and
 - (b) an implied warranty that neither—
 - (i) the creditor ; nor
 - (ii) in a case where the parties to the agreement intend that any title which may be transferred shall be only such title as a third person may have, that person ; nor
 - (iii) anyone claiming through or under the creditor or that third person otherwise than under a charge or encumbrance disclosed or known to the person to whom the goods are bailed or hired, before the agreement is made ;will disturb the quiet possession of the person to whom the goods are bailed or hired.

9 Bailing or hiring by description.

- (1) Where under a hire-purchase agreement goods are bailed or (in Scotland) hired by description, there is an implied condition that the goods will correspond with the description, and if under the agreement the goods are

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bailed or hired by reference to a sample as well as a description, it is not sufficient that the bulk of the goods corresponds with the sample if the goods do not also correspond with the description.

- (2) Goods shall not be prevented from being bailed or hired by description by reason only that, being exposed for sale, bailment or hire, they are selected by the person to whom they are bailed or hired.

10 Implied undertakings as to quality or fitness.

- (1) Except as provided by this section and section 11 below and subject to the provisions of any other enactment, including any enactment of the Parliament of Northern Ireland or the Northern Ireland Assembly, there is no implied condition or warranty as to the quality or fitness for any particular purpose of goods bailed or (in Scotland) hired under a hire-purchase agreement.
- (2) Where the creditor bails or hires goods under a hire-purchase agreement in the course of a business, there is an implied condition that the goods are of merchantable quality, except that there is no such condition—
- (a) as regards defects specifically drawn to the attention of the person to whom the goods are bailed or hired before the agreement is made; or
 - (b) if that person examines the goods before the agreement is made, as regards defects which that examination ought to reveal.
- (3) Where the creditor bails or hires goods under a hire-purchase agreement in the course of a business and the person to whom the goods are bailed or hired, expressly or by implication, makes known—
- (a) to the creditor in the course of negotiations conducted by the creditor in relation to the making of the hire-purchase agreement, or
 - (b) to a credit-broker in the course of negotiations conducted by that broker in relation to goods sold by him to the creditor before forming the subject matter of the hire-purchase agreement,
- any particular purpose for which the goods are being bailed or hired, there is an implied condition that the goods supplied under the agreement are reasonably fit for that purpose, whether or not that is a purpose for which such goods are commonly supplied, except where the circumstances show that the person to whom the goods are bailed or hired does not rely, or that it is unreasonable for him to rely, on the skill or judgment of the creditor or credit-broker.
- (4) An implied condition or warranty as to quality or fitness for a particular purpose may be annexed to a hire-purchase agreement by usage.
- (5) The preceding provisions of this section apply to a hire-purchase agreement made by a person who in the course of a business is acting as agent for the creditor as they apply to an agreement made by the creditor in the course of a business, except where the creditor is not bailing or hiring in the course of a business and either the person to whom the goods are bailed or hired knows that fact or reasonable steps are taken to bring it to the notice of that person before the agreement is made.
- (6) In subsection (3) above and this subsection—

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- (a) " credit-broker" means a person acting in the course of a business of credit brokerage ;
- (b) " credit brokerage " means the effecting of introductions of individuals desiring to obtain credit—
 - (i) to persons carrying on any business so far as it relates to the provision of credit, or
 - (ii) to other persons engaged in credit brokerage.

11 Samples.

Where under a hire-purchase agreement goods are bailed or (in Scotland) hired by reference to a sample, there is an implied condition—

- (a) that the bulk will correspond with the sample in quality; and
- (b) that the person to whom the goods are bailed or hired will have a reasonable opportunity of comparing the bulk with the sample ; and
- (c) that the goods will be free from any defect, rendering them unmerchantable, which would not be apparent on reasonable examination of the sample.

12 Exclusion of implied terms and conditions.

- (1) An express condition or warranty does not negative a condition or warranty implied by this Act unless inconsistent with it.
- (2) A term of a hire-purchase agreement or any other agreement exempting from all or any of the provisions of section 8 above shall be void.
- (3) A term of a hire-purchase agreement or any other agreement exempting from all or any of the provisions of sections 9, 10 or 11 above shall be void in the case of a consumer agreement and shall, in any other case, not be enforceable to the extent that it is shown that it would not be fair or reasonable to allow reliance on the term.
- (4) In determining for the purpose of subsection (3) above whether or not reliance on any such term would be fair or reasonable regard shall be had to all the circumstances of the case and in particular to the following matters—
 - (a) the strength of the bargaining positions of the creditor and the person to whom the goods are bailed or hired relative to each other, taking into account, among other things, the availability of suitable alternative products and sources of supply;
 - (b) whether that person received an inducement to agree to the term or in accepting it had an opportunity of acquiring the goods or suitable alternatives without it from any source of supply;
 - (c) whether that person knew or ought reasonably to have known of the existence and extent of the term (having regard, among other things, to any custom of the trade and any previous course of dealing between the parties) ;
 - (d) where the term exempts from all or any of the provisions of sections 9, 10 or 11 above if some condition is not complied with, whether it was reasonable at the time of the agreement to expect that compliance with that condition would be practicable ;

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- (e) whether the goods were manufactured, processed or adapted to the special order of that person.
- (5) Subsection (4) above shall not prevent the court from holding, in accordance with any rule of law, that a term which purports to exclude or restrict any of the provisions of sections 9, 10 and 11 above is not a term of the hire-purchase agreement.
- (6) In this section " consumer agreement" means a hire-purchase agreement where the creditor makes the agreement in the course of a business and the goods to which the agreement relates—
 - (a) are of a type ordinarily supplied for private use or consumption ; and
 - (b) are bailed or (in Scotland) hired to a person who does not bail or hire them or hold himself out as bailing or hiring them in the course of a business.
- (7) The onus of proving that a hire-purchase agreement is to be treated for the purposes of this section as not being a consumer agreement shall lie on the party so contending.
- (8) Any reference in this section to a term exempting from all or any of the provisions of any section of this Act is a reference to a term which purports to exclude or restrict, or has the effect of excluding or restricting, the operation of all or any of the provisions of that section, or the exercise of a right conferred by any provision of that section, or any liability of the owner for breach of a condition or warranty implied by any provision of that section.
- (9) It is hereby declared that any reference in this section to a term of an agreement includes a reference to a term which although not contained in an agreement is incorporated in the agreement by another term of the agreement.”

36 For sections 14 and 15 substitute the following sections (which reproduce the existing provisions of those sections subject only to changes in terminology)—

“14 Special provisions as to conditional sale agreements.

- (1) Section 11(1)(c) of the principal Act (whereby in certain circumstances a breach of a condition in a contract of sale is treated only as a breach of warranty) shall not apply to conditional sale agreements which are agreements for consumer sales.
- (2) In England and Wales and Northern Ireland a breach of a condition (whether express or implied) to be fulfilled by the seller under any such agreement shall be treated as a breach of warranty, and not as grounds for rejecting the goods and treating the agreement as repudiated, if (but only if) it would have fallen to be so treated had the condition been contained or implied in a corresponding hire-purchase agreement as a condition to be fulfilled by the creditor.

15 Supplementary.

- (1) In sections 8 to 14 above and this section—

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" business " includes a profession and the activities of any government department (including a Northern Ireland department), local authority or statutory undertaker ;

" buyer " and " seller " includes a person to whom rights and duties under a conditional sale agreement have passed by assignment or operation of law ;

" condition " and " warranty ", in relation to Scotland, mean stipulation, and any stipulation referred to in sections 8(1)(a), 9, 10 and 11 above shall be deemed to be material to the agreement.

" conditional sale agreement " means an agreement for the sale of goods under which the purchase price or part of it is payable by instalments, and the property in the goods is to remain in the seller (notwithstanding that the buyer is to be in possession of the goods) until such conditions as to the payment of instalments or otherwise as may be specified in the agreement are fulfilled ;

" consumer sale " has the same meaning as in section 55 of the principal Act, as amended by section 4 above ;

" creditor " means the person by whom the goods are bailed or (in Scotland) hired under a hire-purchase agreement or the person to whom his rights and duties under the agreement have passed by assignment or operation of law ; and

" hire-purchase agreement " means an agreement, other than conditional sale agreement, under which—

- (a) goods are bailed or (in Scotland) hired in return for periodical payments by the person to whom they are bailed or hired, and
- (b) the property in the goods will pass to that person if the terms of the agreement are complied with and one or more of the following occurs—
 - (i) the exercise of an option to purchase by that person,
 - (ii) the doing of any other specified act by any party to the agreement,
 - (iii) the happening of any other specified event.

- (2) Goods of any kind are of merchantable quality within the meaning of section 10(2) above if they are as fit for the purpose or purposes for which goods of that kind are commonly bought as it is reasonable to expect having regard to any description applied to them, the price (if relevant) and all the other relevant circumstances ; and in section 11 above "unmerchantable" shall be construed accordingly.
- (3) In section 14(2) above " corresponding hire-purchase agreement " means, in relation to a conditional sale agreement, a hire-purchase agreement relating to the same goods as the conditional sale agreement and made between the same parties and at the same time and in the same circumstances and, as nearly as may be, in the same terms as the conditional sale agreement.
- (4) Nothing in sections 8 to 13 above shall prejudice the operation of any other enactment including any enactment of the Parliament of Northern Ireland or the Northern Ireland Assembly or any rule of law whereby any condition or warranty, other than one relating to quality or fitness, as to be implied in any hire-purchase agreement."

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Fair Trading Act 1973

37 For section 138(5) substitute—

“(5) In subsection (4) of this section, the following expressions have the meanings given by, or referred to in, section 189 of the Consumer Credit Act 1974—
" antecedent negotiations ",
" conditional sale agreement",
" credit-sale agreement",
" hire-purchase agreement".”