

In cases where goods have had to be sold by the seller in order to raise the balance of the debt due, where the money received from such sale more than covers the debt and the costs of the sale the balance has to be paid over to the purchaser.

## The Hire-Purchase Act, 1969

*Date of commencement: 16th May, 1969.*

*Date of Assent: 7th May, 1969.*

### *Arrangement of Sections*

1. Short title.

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#### IMMOVABLE PROPERTY

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*An Act to provide/or the regulation c/hire-purchase agreements and of instalment sales subject to resolute conditions, and/or matters incidental thereto and/or the granting of certain rights to a purchaser of immovable property who has paid part of the purchase price.*

*Short title.*

1. This Act may be cited as the Hire-Purchase Act, 1969.

PART I  
MOVABLES

Interpretation.

2. (1) In this Part, unless the context otherwise requires —

“agreement” means an instalment agreement or a hire-purchase agreement;

“buyer” means the person who, in terms of any agreement, is the buyer or the lessee;

“cash price”, in relation to any goods, means the price stated in respect of those goods under section 7(1)(a);

“hire-purchase agreement” means any agreement whereby goods are sold subject to the condition that the ownership in such goods shall not pass merely by the transfer of the possession of such goods, and the purchase price is to be paid in instalments, two or more of which are payable after such transfer; and includes any other agreement which has, or agreements which together have, the same import, whatever form such agreement or agreements may take:

Provided that any agreement which or agreements which together provide for the letting and hiring of goods —

(a) with the right to purchase such goods only after two or after more than two instalments subsequent to such transfer have been paid in respect thereof; or

(b) with the right, after two or after more than two instalments subsequent to such transfer have been paid in respect thereof, to continue or renew from time to time such letting and hiring at a nominal rental, or to continue or renew, from time to time, the right to be in possession of the goods, without any further payment or against payment of a nominal periodical or other amount;

shall, whether or not the agreement or agreements may at any time be terminated by either party or one of the parties, for the purposes of this Act, be deemed to be of the said import;

“instalment agreement” means any agreement of purchase and sale whereby ownership in the goods sold passes upon delivery, and the purchase price is to be paid in instalments; two or more of which are payable after delivery, and under which the buyer is prohibited from alienating or encumbering the goods sold until the purchase price has been paid in full or the full purchase price becomes payable if the buyer alienates or encumbers the goods sold, or the seller would be entitled to the return of the goods if the buyer should fail to comply with any one or more provisions thereof, and includes any other agreement which has or agreements which together have the same import whatever form such agreement or agreements may take;

“magistrates court” means a court of the First Class established under the Magistrates Courts Act, No. 38 of 1968;

“Minister” means the Minister for Enterprise and Employment;

“purchase price” means the total sum payable under any agreement to the seller by the buyer, exclusive of any sum payable in terms of the agreement as a penalty or as damages for the breach thereof or by way of interest upon instalments which are in arrear;

“seller” means the person who, in terms of any agreement, is the seller or lessor.

(2) If any seller has agreed that any part of the purchase price may be discharged otherwise than by the payment of money, any such discharge shall, subject to section 7, be deemed to be a payment of that part of the purchase price.

*Application of this Part.*

3. (1) This Part shall —
- (a) subject to paragraph (b) and to any notice in terms of Section 4, apply to agreements relating to movables under which the purchase price does not exceed four thousand rand; and
  - (b) not apply to any agreement under which the Government is the seller.
- (2) This Part shall not apply to any agreement entered into before the 16th May, 1969, save that sections 11, 13, 14, 15 and 20, in so far as they relate to actions commenced after the commencement of this Act, shall apply also in respect of agreements in force at and entered into before such date, under which the purchase price does not exceed the sum of four thousand rand.

*Power of Minister in regard to terms of agreements and application of Act.*

4. (1) The Minister may by notice in the Gazette —
- (a) prescribe the portion of the cash price of any movables which shall be paid as contemplated in section 9(1)(a);
  - (b) prescribe the maximum period within which the purchase price under an agreement shall be payable;
  - (c) prescribe that a portion or all of this Part shall apply to agreements, entered into after the relevant date in terms of subsection (3), relating to movables specified in such notice and of which the purchase price exceeds four thousand rand or exceeds that amount but does not exceed an amount so specified;
  - (d) exempt from a portion or all of this Part all agreements, or any kind of agreement specified in such notice relating to movables belonging to a class or group of movables so specified.
- (2) In exercising the powers conferred on him by subsection (1) the Minister may make different provisions in respect of different classes of agreements or different classes or groups of movables.
- (3) A notice issued under subsection (1) shall come into operation on the date fixed therein which date shall not be earlier than one month from the date of the publication of such notice, if such notice has the effect of —
- (a) increasing the portion of the cash price referred to in paragraph (a) thereof;
  - (b) fixing or reducing any period referred to in paragraph (b) thereof; and
  - (c) making any part or all of this Act applicable to any agreements referred to in paragraph (c) thereof.

*Prospective buyer to be informed of cash price of goods.*

5. (1) Before any agreement is entered into the prospective seller shall state in writing to the prospective buyer, otherwise than in any note or memorandum of the agreement, a price at which the goods to which the agreement relates may be purchased from the seller for a cash amount in money:

Provided that this subsection shall be deemed to have been sufficiently complied with —

- (a) if the buyer has inspected the goods or like goods and at the time of his inspection tickets or labels were attached to or displayed with the goods clearly stating the cash price, either of the goods as a whole or of all the different articles or sets of articles comprised therein; or
  - (b) if the buyer has selected the goods by reference to a catalogue, price list or advertisement, which clearly stated the cash price either of the goods as a whole or of all the different articles or sets of articles comprised therein.
- (2) Any person who fails to comply with subsection (1) shall be guilty of an offence.

*Agreements to be in writing and copy to be supplied to buyer.*

6. (1) No agreement shall be of any force or effect unless it is entered into in writing and signed personally by the buyer and by, or on behalf of, all other parties to the agreement.

(2) The seller shall, within fourteen days of the making of any agreement, deliver or send a copy thereof to the buyer.

(3) Any person who fails to comply with subsection (2) shall be guilty of an offence.

*Contents of agreement.*

7. (1) Every agreement shall contain —

(a) a statement of the price at which the goods may be purchased by the buyer from the seller for a cash amount in money;

(b) a statement of the amounts which are included in the purchase price and each such amount shall be separately specified opposite the matter in respect of which it is payable;

(c) a statement of the amount payable by the buyer in pursuance of section 9(1)(a);

(d) a statement of the amount of each of the instalments by which the balance of the purchase price, after deduction of the amount paid by the buyer, is to be paid;

(e) a statement of the date, or the mode of determining the date, upon which each such instalment is payable;

(f) a description of the goods sold under the agreement and of any goods delivered to the seller under subsection (4) sufficient to identify them; and

(g) the terms as to the reservation and passing of ownership in the goods, or as to the seller's right to the return of the goods, as the case may be.

(2) If a person as seller is a party to an agreement which does not substantially comply with subsection (1) he shall be guilty of an offence.

(3) If in any proceedings under subsection (2) it is proved that the agreement in question did not comply with subsection (1), such agreement shall be deemed not to have complied substantially therewith unless it is proved that failure to comply therewith did not prejudice the buyer or any other person.

(4) If after delivery to the buyer of the goods sold under an agreement, the seller and the buyer agree that those goods or any portion thereof be replaced by any other goods, the goods required in terms of subsection (1)(f) to be described in the agreement shall, as from the date on which such goods are replaced, be the goods to which the agreement relates as from that date.

*Invalidity of certain provisions in an agreement.*

8. (1) Subject to this section the following provisions in any contract shall be of no force or effect, namely any provision whereby —

(a) any person undertakes to enter into an agreement;

(b) any person acting on behalf of the seller in connexion with the conclusion of any agreement or the negotiations which precede the conclusion of such agreement, is constituted or deemed to be the agent of the buyer;

(c) the seller is relieved from liability for any act, omission or representation of any person acting on his behalf in that connexion;

(d) the liability of the seller, in pursuance of any guarantee or warranty which would, but for such provision, be implied in any agreement, is excluded or restricted;

(e) the ownership in any goods to which any agreement relates will not pass upon payment of all the instalments payable in respect of such goods or, as the case may be, the buyer will be debarred from exercising any right to purchase the goods to which the agreement relates upon payment of all the instalments payable in respect of such goods before he may, in terms of such agreement, exercise such right;

- (f) any goods to which any agreement under which one or more instalments have been paid, relates, purport to be disposed of together with other goods to which any agreement superseding such agreement relates;
- (g) the seller or any person acting on his behalf is authorised to enter upon any premises for the purpose of taking possession of goods which have been sold under any agreement, or is relieved from liability for any such entry; or
- (h) the buyer chooses a *domicilium citandi* at a place not referred to in section 24.

(2) Subsection (1)(a) shall not apply in respect of any contract relating to goods which are, in terms of the contract, to be imported into Swaziland for sale to the prospective buyer.

(3) Subsection (1)(f) shall not be construed as if the seller and the buyer are prohibited from agreeing that the goods sold or any portion thereof be replaced by any other goods which are substantially of the same value and nature of the goods to be so replaced, if the other terms of the agreement are not altered as a result thereof.

*Invalidity of certain agreements.*

9. (1) No agreement in respect of the sale of a movable shall be of any force or effect —
- (a) until at least the appropriate prescribed portion of the cash price of such movable or, if no such portion has been prescribed, at least one-tenth of such price has been paid; and
  - (b) unless the period, within which the full purchase price is payable does not exceed the appropriate prescribed period (if any).
- (2) For the purposes of subsection (1) —
- (a) payment of the appropriate portion of the cash price may be effected wholly or partly in goods;
  - (b) no payment by means of a cheque shall, except to the extent to which the amount of such cheque has been paid to the seller or his order or his account with a bank or that of his order has been credited with such amount, be regarded as payment; and
  - (c) no payment shall, to the extent to which it is made out of moneys borrowed directly or indirectly from or through the seller or any person whose business or part of whose business it is by arrangement with the seller to advance money for payments under agreements with the seller, and no payment in goods shall, to the extent to which the amount thereof exceeds a reasonable price for the goods, be regarded as payment.
- (3) An agreement which was valid when it was entered into and which is thereafter so altered that it becomes of no force and effect by virtue of subsection (1) shall for all purposes be deemed to have been invalid *ab initio*.

*Inducement to enter agreement.*

10. (1) Any employee, agent or representative of any prospective seller who, directly or indirectly, offers, gives or promises to any prospective buyer any benefit of whatsoever nature, as an inducement to enter into any agreement, shall, subject to subsection (2), be guilty of an offence.

(2) Subsection (1) shall not apply to any benefit offered or promised in the ordinary course of business and by way of a proposed term of the agreement.

*Obligation of seller and buyer to furnish information to each other.*

11. (1) If the buyer makes a written request therefor to the seller and tenders to the seller ten cents for expenses, the seller shall, within seven days after the request is received, hand over to him or send to him by post to the address mentioned by him in the request a copy of the agreement and a statement showing —
- (a) the amount paid under the agreement by or on behalf of the buyer,
  - (b) the amount due under the agreement and unpaid, the date upon which each unpaid instalment became due, and the amount of each such instalment, and
  - (c) the amount which is to become payable under the agreement, the date or mode of determining the date upon which such future instalment is to become payable, and the amount of each such instalment.

(2) While the agreement is in force the seller shall, not later than the last day of a period of two months after the agreement is entered into, and thereafter not later than the last day of each succeeding period of two months, hand over or send by post to the buyer a statement showing the total amount paid under the agreement and the amount which is still to become payable thereunder.

(3) If at any time during the existence of an agreement the buyer or any other person who has or had possession of the goods sold under such agreement is requested thereto in writing by or on behalf of the seller or verbally by a deputy-sheriff or a messenger of the court he shall, in accordance with subsection (4), notify the person making the request —

- (a) of his residential and business address,
- (b) of the premises where the goods are ordinarily kept and of the name and address of the landlord (if any) of such premises, and
- (c) if the goods are no longer in his possession, of the name and address of the person in whose possession they are or to whom they were handed over, or of the place where they are.

(4) Notification in terms of subsection (3) shall be effected —

- (a) in the case of a request by or on behalf of the seller, by registered letter sent to the person who made such request or, if such person assents thereto, by verbal information given to him, within seven days of receipt of such request; or
- (b) in the case of a request made by a deputy-sheriff or a messenger of the court, by verbal information given to him forthwith.

(5) If at any time during the existence of an agreement —

- (a) the buyer changes his residential address;
- (b) the goods sold, or any part thereof, are or is removed from the place where such goods are ordinarily kept; or
- (c) the buyer loses or parts with possession of such goods;

the buyer shall within fourteen days notify the seller in writing, in the event contemplated in paragraph (a), of such new address, and in the event contemplated in paragraph (b), of the premises to which such goods or part thereof have or has been removed, and of the name and address of the landlord (if any) of such premises, and in the event contemplated in paragraph (c), of the name and address of the person in whose possession such goods are or to whom they were handed over, or of the place where they are.

(6) Any person who fails to comply with this section shall be guilty of an offence.

*Cession or hypothecation of and authority to collect periodical income.*

12. (1) Any cession or hypothecation to secure any payment under any agreement of so much of any periodical amount payable under a contract of service or towards the maintenance of any person, as in itself or together with any other portion of such amount which is subject to any prior cession or hypothecation to secure any payment under any other agreement exceed twenty-five per centum of the said amount, shall to the extent to which it is a cession or hypothecation in excess of such percentage of such amount be of no force or effect.

(2) Any authority given to any person for the purpose of securing any payment under any agreement, by the person entitled to any such periodical amount, to receive or collect such amount or any part thereof, shall at all times be revocable.

*Negotiable instrument.*

13. (1) Any person who takes any negotiable instrument (other than a cheque which is not a post-dated cheque) knowing that it is or was given or drawn in respect of any liability under an agreement shall be guilty of an offence:

Provided that this subsection shall not apply to any negotiable instrument taken in respect of any arrear instalments owing under an agreement.

(2) Subsection (1) shall not affect the validity of any such instrument:

Provided that any person who has in respect of any such instrument committed an offence under subsection (1) shall have no right of action on that instrument.

*Limitation of seller's right to enforce certain provisions of agreement.*

14. (1) No seller shall, by reason of any failure on the part of the buyer to carry out any obligation under any agreement, be entitled to enforce any provision in such agreement for —

- (a) the acceleration of the payment of any instalment, unless an instalment or any part thereof which is not less than one-tenth of the purchase price, or two or more instalments which together are not less than one-twentieth of the purchase price, are due and unpaid; or
- (b) payment of any amount as damages, or for any forfeiture or penalty, or for the acceleration of the payment of any instalment, unless he has by letter handed over to the buyer or sent by registered post to him at his last known residential or business address, made demand to the buyer to carry out the obligation in question within a period stated in such demand, not being less than ten days, and the buyer has failed to comply with such demand.

*Buyer's right to be reinstated after return of goods to seller.*

15. (1) If the seller has, as a result of the failure of the buyer to pay any instalment due under any agreement, recovered possession, otherwise than by an order of court, of any goods to which such agreement relates, the buyer shall except where he has himself terminated such agreement be entitled if he pays all arrears due under such agreement within a period of twenty-one days after the seller recovered possession of such goods to the return thereof at the seller's place of business or, if he has no place of business or if the buyer so requests, at the premises in which such goods are kept, and to be reinstated in his rights under such agreement.

(2) Any seller who fails to return any goods to a buyer in pursuance of an obligation under subsection (1) shall be guilty of an offence.

*Buyer's right to terminate agreement and to pay instalments before due date.*

16. The buyer shall at all times be entitled —

- (a) subject to section 17(1)(b) and provided that he tenders to the seller the return of the goods, to terminate the agreement by giving written notice of termination to the seller;
- (b) to pay any instalment of the purchase price before it is due, and shall, if he pays the whole of the purchase price remaining unpaid (not being the last instalment of such purchase price) together with such interest as may have accrued up to the date upon which such payment is made, in one amount, be entitled to the reduction of each instalment not due at such date by an amount calculated at the rate of seven and half per centum per annum on such instalment in respect of the period by which the payment of such instalment is accelerated.

*Buyer's right upon termination, rescission or breach of agreement.*

17. (1) If any agreement is terminated —

- (a) or rescinded the buyer shall, to the extent to which the seller would be placed in a better financial position than that in which he would have been if such agreement had expired after regular performance by the buyer of all his obligations thereunder, not be bound to make any payment or to perform any other act, and shall to that extent not incur the forfeiture of any payment; and
- (b) by the buyer under section 16(a) he shall, subject to any provision in such agreement for a lesser obligation be bound to place the seller in the financial position in which he would have been if such agreement had expired after regular performance by the buyer of all his obligations thereunder.

(2) If the buyer fails to carry out any obligation under any agreement, or if any other contingency occurs upon the occurrence of which the seller is entitled, in terms of such agreement, to take any action against the buyer, and such agreement is not terminated or rescinded, the buyer shall not be bound to make any payment or to perform any other act by which the seller would be placed in a better financial position than that in which he would have been if the buyer had carried out such obligation or if such contingency had not occurred.

*Rights of parties to agreement if portion of goods are returned by arrangement.*

18. If the seller agrees to the return to him by the buyer of a portion of the goods sold, and the value thereof at the time of such return —

- (a) is less than the amount of the purchase price still owing under the agreement, the difference shall be payable by the buyer within the unexpired portion of the period within which such purchase price is payable by him or within such other period as may be agreed upon; or
- (b) is more than the amount referred to in paragraph (a), the difference shall be refunded by the seller to the buyer.

*Valuation of goods.*

19. (1) If for the purposes of this Act or in connexion with any agreement, the value of any goods at any time after delivery or transfer of the possession thereof to the buyer, is to be ascertained, the parties concerned may, in the absence of agreement, jointly nominate a sworn appraiser to determine such value.

(2) If the parties concerned cannot agree as to the person to be nominated, any of them may, after the expiry of ten days after having sent to the other at his last known place of business or residence by registered post a notice of his intention to do so, apply to the court for the appointment of an appraiser for such purpose, and if such application is made to a magistrate's court and no action relating to or arising out of such agreement is pending before a superior court, such magistrate's court shall, notwithstanding anything to the contrary in any law, but subject to section 24, have jurisdiction to make such appointment.

(3) If any application is made in terms of subsection (2) by any of the parties concerned, the other may intervene in the proceedings to oppose or apply for the appointment of a particular appraiser.

(4) If by virtue of subsection (2) more than one appointment is made for the same purpose, only the first appointment so made shall be valid for the purposes of this Act.

(5) The determination of an appraiser nominated under subsection (1) or appointed under subsection (2) shall be final and binding upon all parties to the agreement.

(6) This section shall not affect the powers of any court to determine the value of any such goods with reference to which no appraiser has been nominated under subsection (1) or appointed under subsection (2).

(7) Any provision in any agreement whereby the parties thereto undertake to be bound by the determination, by a person mentioned in such agreement, of the value of the goods sold thereunder, shall be null and void.

*Powers of court.*

20. (1) In any action by the seller for the return of any goods to which any agreement relates, the court may, without prejudice to any other power make an order —

- (a) for the return of such goods to the seller subject to repayment by the seller of so much of the purchase price received by him, as may be found by such court to be just;
- (b) for the return of a part of such goods to the seller and in the case of an instalment sale agreement, for the retention by the buyer of, or in the case of a hire-purchase agreement, for the transfer to the buyer of the seller's title to the remainder of such goods;
- (c) in the case of an instalment sale agreement, for the retention by the buyer of part of such goods, or in the case of a hire-purchase agreement for the transfer to the buyer of the seller's title to part of such goods, and an order referred to in paragraph (e) in respect of the remainder thereof;
- (d) referred to in paragraph (b) subject to —
  - (i) repayment by the seller of so much of the purchase price received by him, or
  - (ii) payment by the buyer of so much of the unpaid balance of the purchase price, as the court may deem just; or

(e) if it is not satisfied as to the value of the goods, requiring such goods to be sold, within a period stated in such order, by public auction by an auctioneer nominated by such court, or if the parties so agree, by private treaty.

(2) No order shall be made in terms of subsection (1)(d)(ii), unless the buyer satisfies the court that such order will be carried out forthwith.

(3) Any order referred to subsection (1)(e) shall state the total amount found by the court to be payable under the agreement, the total amount of payments so found to have been made thereunder and the party by whom the costs incidental to the sale shall be borne; and such court may, when making any such order, at the same time order the buyer to pay to the seller the deficiency referred to in subsection (5), if any.

(4) If any goods are sold in pursuance of any order referred to in subsection (1)(e), the auctioneer or, in the case of a sale by private treaty, the seller, shall, after deducting any costs incidental to such sale awarded by the court against the buyer, any other costs so awarded and the total amount stated in such order to be payable under the agreement less the total amount of payments so stated to have been made thereunder, pay over the balance of the proceeds of the sale to the buyer:

Provided that any costs incidental to such sale, which have been so awarded, shall be a first charge upon the proceeds of such sale.

(5) If the net proceeds of the sale are insufficient to discharge the buyer's liability in respect of any costs referred to in subsection (4) and his liability under the agreement, the seller may recover the deficiency by action in a competent court.

(6) If damages have been awarded against the seller in the proceedings, the amount thereof or so much thereof as the court may determine, shall be deemed to have been paid by the buyer in respect of the purchase price of the goods, and thereupon the damages shall accordingly be remitted either in whole or in part.

(7) On the institution of an action referred to in subsection (1) and pending the conclusion of the proceedings, the court may, in addition to any other powers, upon the application of the seller, make such orders as it deems just for the purpose of protecting the goods from damage or depreciation, including orders restricting or prohibiting the use of such goods or giving directions as to their custody.

*Rights of parties after making of order of court in terms of section 20.*

21. (1) If in any action referred to in section 20(1), the court has made any order referred to therein, the seller and the buyer may agree in writing that such order shall not be given effect to but that their agreement shall in all respects remain of force and effect as if such order had not been made.

(2) If any order has been made and the buyer at a time when such agreement as is contemplated in subsection (1) between himself and the seller does not exist, pays any amount as an instalment under such agreement to the seller, the seller shall, within thirty days after the receipt by him of such amount, refund it to him.

(3) No such order in respect of which the seller and the buyer have so agreed, shall be a bar to any other action referred to in section 20(1) in respect of the agreement to which such order relates, or affect the power of a court to make in any such action any order referred to in the said subsection.

(4) Any person who contravenes subsection (2) shall be guilty of an offence.

*Automatic interdict against removal or use of goods.*

22. (1) When a summons is issued by a seller in any proceedings in connexion with or arising out of an agreement, he may include a notice in such summons whereby every person is prohibited from using the goods in question or removing them from the place where they are when such summons is served, or allowing them to be used or removed from such place by a person other than the plaintiff or a deputy-sheriff or a messenger of the court.

(2) Such notice shall operate as an interdict restraining any person having knowledge thereof from using or removing any such goods or allowing them to be used or removed.

(3) Any person affected by such notice may apply to the court to have it set aside.

(4) Any person who wilfully disobeys or fails to comply with any such notice shall be guilty of an offence.

*Decrees of civil imprisonment and garnishee orders.*

23. No decree of civil imprisonment or garnishee order for the purpose of enforcing payment by the buyer of any amount payable under an agreement or as a result of the termination or rescission thereof or as damages for any breach thereof, shall be made by any court.

*Jurisdiction.*

24. No court other than the court within whose area of jurisdiction is situate the place where the buyer is, at the time of the institution of the proceedings in question, or where he is ordinarily resident or employed or ordinarily carries on any business, profession, trade or calling, shall, except with the consent of the buyer given specifically in writing with reference to the proceedings in such court, have jurisdiction in any civil matter relating to or arising out of any agreement:

Provided that this section shall not apply if there is no place in Swaziland where the buyer is so resident or employed, or does so carry on any business, profession, trade or calling, or if no such place is known to the plaintiff.

*Waiver of rights by buyer.*

25. No waiver, whether expressed or implied, by a buyer of any right under this Act shall be of any force or effect.

*Penalties.*

26. A person convicted of an offence specified in —

- (a) section 5(2) shall be liable to a fine not exceeding fifty emalangeni or, in default of payment thereof, imprisonment not exceeding three months;
- (b) section 6(3) shall be liable to a fine not exceeding fifty emalangeni or, in default of payment thereof, imprisonment not exceeding three months;
- (c) section 7(2) shall be liable to a fine not exceeding one hundred emalangeni or, in default of payment thereof, imprisonment not exceeding six months;
- (d) section 11(6) shall be liable to a fine not exceeding one hundred emalangeni or, in default of payment thereof, imprisonment not exceeding six months;
- (e) section 13(1) shall be liable to a fine not exceeding one hundred emalangeni or, in default of payment thereof, imprisonment not exceeding six months;
- (f) section 15(2) shall be liable to a fine not exceeding one hundred emalangeni or, in default of payment thereof, imprisonment not exceeding six months, or both;
- (g) section 21(4) shall be liable to a fine not exceeding fifty emalangeni or, in default of payment thereof, imprisonment not exceeding three months;
- (h) section 22(4) shall be liable to a fine not exceeding one hundred emalangeni or, in default of payment thereof, imprisonment not exceeding six months, or both.

PART II

IMMOVABLE PROPERTY

*Non-applicability of Part I.*

27. The provisions of Part I shall not apply to this Part.

*Rights of buyer of immovable property who has paid part of the purchase price.*

28. (1) A buyer of immovable property who has agreed to pay the purchase price thereof in more than two instalments at specified periods and who, in pursuance of such agreement has paid to the seller of such property not less than fifty per centum of the purchase price shall be entitled to demand from the seller, in writing, transfer of such property against registration in favour of the seller of a first mortgage bond over such property to secure the balance of the purchase price and interest, if any, payable in terms of the agreement.

(2) If the seller of such immovable property fails or refuses to give transfer thereof to the buyer within a period of three months of the receipt by him of a demand made under subsection (1), the buyer may cancel the agreement and recover (against the return of the property if the seller is not in possession thereof) from the seller the total amount paid by him to the seller in pursuance of such agreement together with any damages he has sustained.

*Application of this Part.*

29. (a) This Part shall not apply to any agreement in which the Government is the seller of immovable property; and  
(b) this Part shall not apply to any agreement for the purchase of immovable property entered into before the commencement of this Act.