SUPPLIED FOR THE PUBLIC SERVICE



CHAPTER 6.

An Act to amend the Courts (Emergency Powers) (Scotland) Act, 1939. [1st March 1944.]

BE it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :—

Extension of 2 & 3 Geo. 6 c. 113 to contracts made after commencement of war.

1. The following provisions of section one of the Courts (Emergency Powers) (Scotland) Act, 1939 (hereinafter referred to as the principal Act) that is to say :—

(i) paragraph (*b*) of the proviso to subsection (1) (which provides that that subsection shall not apply to any decree based upon a contract made after the second day of September nineteen hundred and thirty-nine) ; and

(ii) the first proviso to subsection (2) (which provides that that subsection shall not apply to rights or remedies arising out of contracts made after the said day)

shall cease to have effect :

Provided that, where an application is made by any person under the said section for leave

(*a*) to enforce a decree based upon a contract made after the second day of September nineteen hundred and thirty-nine ; or

(*b*) to exercise any right or remedy available in consequence of any default in the payment of a debt or the performance of an obligation, being a debt or obligation arising by virtue of a contract made after the said day,

the appropriate Court shall not exercise its powers under subsection (3) of the said section unless it is satisfied that the circumstances referred to in that subsection arose after the contract was made.

Power to grant relief against exercise of right under s. 1 (2) of 2 & 3 Geo. 6. c. 113.

2.—(1) Where an application is made for leave to exercise any of the rights or remedies mentioned in subsection (2) of section one of the principal Act, being a right or remedy available in consequence of a default by any person in the payment of a debt or the performance of an obligation, the appropriate court may, for the purposes of the principal Act, treat any person appearing to the court to have any interest in property affected by the right or remedy as if he were the person liable to pay the debt or to perform the obligation, and may grant him relief accordingly.

(2) It shall be the duty of the person making such an application as aforesaid to inform the court of the names and addresses of all persons known to him to have any interest in property affected by the right or remedy, and the court shall order intimation of the application to each of such persons and to any other person who may, at any stage of the proceedings, appear to the court to have such an interest.

Property in goods subject to hire purchase agreement.

3.—(1) Where the appropriate court refuses leave under subsection (3) of section one of the principal Act to take or resume possession of goods let under a hire purchase agreement or to do diligence on any decree for the delivery of any such goods, or gives such leave subject to restrictions and conditions, and the hirer or purchaser, before possession is taken or diligence is done, pays to the owner a sum equal to the total of the unpaid instalments, the property in the goods shall thereupon, notwithstanding any failure to pay any such instalment at the time required by the agreement, pass to the hirer or purchaser.

22 & 23 Geo. 5. c. 38.

(2) In this section the expression "hire purchase agreement" means any contract to which the Hire Purchase and Small Debt (Scotland) Act, 1932, applies or would apply if the limitation as to value contained in section one of that Act were omitted, and the expressions "instalment", "hirer", "owner" and "purchaser" have the like meanings as in that Act.

Construction and citation.

4. This Act shall be construed as one with the principal Act and may be cited as the Courts (Emergency Powers) (Scotland) Act, 1944, and the principal Act and this Act may be cited together as the Courts (Emergency Powers) (Scotland) Acts, 1939 and 1944.

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