4TH SCH. —*cont.*

Session and Chapter.	Short Title.	Extent of Repeal.
9 & 10 Geo. 5. c. 56.	The Solicitors Act, 1919	The whole Act.
9 & 10 Geo. 5. c. 71.	The Sex Disqualification (Removal) Act, 1919.	Section two.
11 & 12 Geo. 5. c. 32.	The Finance Act, 1921	Section sixty.
12 & 13 Geo. 5. c. 57.	The Solicitors Act, 1922	The whole Act.
15 & 16 Geo. 5. c. 21.	The Land Registration Act, 1925.	Sections one hundred and eighteen and one hundred and forty-six.
15 & 16 Geo. 5. c. 49.	The Supreme Court of Judicature (Consolidation) Act, 1925.	Subsections (2) and (3) of section two hundred and fifteen. In subsection (1) of section two hundred and sixteen, the words from "and (*b*)" to "appointment."
18 & 19 Geo. 5. c. 22.	The Solicitors Act, 1928	The whole Act.

CHAPTER 38.

An Act to amend the law of Scotland with regard to the purchase and hire of articles not exceeding twenty pounds in value by payment in instalments, and with regard to proceedings in the sheriff's small debt court. [12th July 1932.]

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 :—

Contracts to which Act applies.

1. This Act shall apply to any contract entered into after the passing of this Act, notwithstanding anything contained in such contract, in whatsoever terms it may be expressed and whether it be truly one of sale or of hire, if it is a contract whereby—

(*a*) one person (hereinafter referred to as "the owner") lets on hire to another person (hereinafter

referred to as "the hirer") an article which does not exceed twenty pounds in value, in consideration of periodical payments to be made by the hirer to the owner with an option to the hirer to become the purchaser of the article; or

(*b*) one person (hereinafter referred to as "the owner") sells to a purchaser, an article which does not exceed twenty pounds in value for a price payable by instalments and subject to the condition that the property in the article shall not pass to the purchaser until payment of the last instalment of the price or of a specified number of such instalments or of a specified sum.

Conditions of validity of contracts.

2. No contract to which this Act applies and no contract of cautionry for, or guarantee of, the performance of any obligation under a contract to which this Act applies shall be binding on any person as hirer, purchaser, cautioner or guarantor unless—

(i) the contract is signed by such person; and

(ii) either (*a*) a copy of the contract is delivered to him at the time of his signature, and an acknowledgment of such delivery is endorsed on the contract and signed by him, or (*b*) a copy of the contract is sent to him by registered post, within fourteen days after his signature of the contract.

Power to hirer or purchaser to terminate contract.

3.—(1) The hirer or purchaser under a contract to which this Act applies shall be entitled at any time prior to the date when the final payment by him under the contract becomes due to terminate the contract and any liability attaching to him thereunder by—

(i) redelivering to the owner the article to which the contract relates in as good a state of repair as at the time of its delivery to him, due allowance being made for reasonable wear and tear; and

(ii) paying (*a*) any instalment due at, or prior to, the date of such redelivery, and unpaid at that date, and (*b*) the amount, if any, by which one third of the total payments stipulated for in the contract by way of instalment exceeds the *cumulo* amount of the instalments due at or prior to the aforesaid date.

(2) For the purposes of this section, delivery—

(*a*) to any person specified by the owner in a notice given to the hirer or purchaser and residing or carrying on business within a radius of two miles from the place where any person who acted on behalf of the owner in connection with the formation or conclusion of the contract resided or carried on business at the time he so acted; or

(*b*) if no such notice has been given, to such last-mentioned person,

shall be deemed to be redelivery to the owner.

Agreements to prorogate jurisdiction.

4. Any provision or agreement in, or in relation to a contract to which this Act applies—

(*a*) whereby any party to such contract prorogates, or agrees to submit to, the jurisdiction of a particular court; or

(*b*) whereby the owner, or any person on his behalf, is authorised to enter any premises for the purpose of taking possession of any article to which the contract applies, or any part thereof, or to take possession of any such article or part, or is exempted from any liability in respect of such entry or taking possession to which he would otherwise be subject; or

(*c*) whereby any person acting as agent on behalf of the owner in connection with the formation or conclusion of the contract is treated as, or deemed to be, the agent of the hirer or purchaser

shall be void.

Redelivery of article to hirer or purchaser on payment of balance due under contract.

5.—(1) Where the owner of an article which is the subject of a contract to which this Act applies has obtained decree for delivery to him of the article in respect of the failure of the hirer or purchaser to make any payment due under the contract, the hirer or purchaser shall be entitled, notwithstanding the decree, to retain the article or, in the case where the owner has obtained possession in pursuance of the decree, to recover the article from the owner, if within fourteen days after the date of the decree he pays to the owner a sum equal to the total payments stipulated for in the contract by way of instalment, so far as unpaid together with the amount

of any expenses to which the owner may have been found entitled in the action in which decree for delivery to him was granted, and such amount in respect of the expense reasonably incurred by him in obtaining possession in pursuance of the decree as may, failing agreement, be determined by the court by which the decree was granted on an application presented by the hirer or purchaser.

(2) A hirer or purchaser shall, on payment in pursuance of the foregoing subsection of the sum therein referred to, have the like right to the article as if he had become the purchaser or as if the property had passed to him in accordance with the contract.

(3) Any application under subsection (1) of this section shall be disposed of summarily and without any written pleadings.

Decree for delivery in small debt court may include warrant to take possession.

6.—(1) It shall be competent to include in any decree granted in the small debt court ordaining a person to deliver any corporeal moveables a warrant to sheriff officers to search such premises in the occupation of that person as owner or tenant as may be specified in the warrant, and to take possession of the moveables or any of them which may be found in such premises.

(2) Any warrant granted in pursuance of the foregoing subsection shall be deemed to include authority to open, if need be, shut and lockfast places for the purpose of carrying the warrant into lawful execution.

Amendment of law as to imprisonment on small debt decree for delivery. 7 Edw. 7. c. 51. 52 & 53 Vict. c. 26.

7.—(1) Section forty-six of the Sheriff Courts (Scotland) Act, 1907, shall, in so far as it authorises the enforcement by imprisonment of decrees for delivery granted under the Small Debt Amendment (Scotland) Act, 1889, cease to have effect, and no person shall be apprehended or imprisoned on account of his failure to comply with an order or decree granted in the small debt court for the delivery of corporeal moveables, except in accordance with the following provisions—

(i) The pursuer in any action in which such a decree has been granted may at any time after the expiry of ten free days from the date of the decree, if delivery in accordance therewith shall not have been made, present an application to the court for a warrant for the imprisonment of the defender in the action against whom the decree has been granted;

(ii) The court shall order service on the defender of the application, which shall proceed on seven days' warning or induciae;

(iii) The application shall be disposed of summarily and without any written pleadings;

(iv) The court may, if it shall be proved that the defender is wilfully refusing to comply with the decree, grant an order for the imprisonment of the defender for any period not exceeding six weeks, or may recall the decree and substitute therefor a decree for payment by the defender to the pursuer of a specified sum, or make or grant such other order or decree as appears to the court to be just and equitable in the circumstances;

(v) A person imprisoned under a warrant granted under this section shall, notwithstanding any period specified in the warrant, be entitled to immediate liberation when the court is satisfied that delivery has been made in accordance with the decree or that the defender is no longer wilfully refusing to comply with the decree, and it shall be the duty of any person to whom delivery is made in accordance with the decree or with the provisions of subsection (2) of this section to intimate such delivery forthwith to the court;

(vi) Imprisonment under a warrant granted under this section shall be without prejudice to any other diligence or execution by which the decree may competently be enforced;

(vii) The person on whose application a warrant for imprisonment is granted under this section shall not be liable to aliment or to contribute to the aliment of the person imprisoned thereunder.

(2) A defender against whom a decree for delivery of any corporeal moveables has been granted shall, for the purposes of this section, be deemed to have complied with such decree if delivery of the moveables has been made—

(*a*) to any person specified by the pursuer in a notice given to the defender and residing or carrying on business within a radius of two

miles from the place where any person who acted on behalf of the pursuer in connection with the formation or conclusion of any contract under which the moveables came into the possession of the defender resided or carried on business at the time he so acted; or

(*b*) in the case where no such notice has been given, to any person who so acted as agent on behalf of the pursuer.

Actions competent in the small debt court to be brought in that court only.

8. No cause, action or proceeding on or arising out of any contract to which this Act applies which may competently be brought or instituted in the small debt court shall be brought or instituted, except in that court, but nothing in this section shall affect or prejudice any power vested in the sheriff to remit to the ordinary court roll any such cause, action or proceeding brought or instituted in the small debt court.

Avoidance of contract inconsistent with Act.

9. Any contract or agreement by virtue of which any right conferred by this Act on the hirer, purchaser, cautioner or guarantor under a contract to which this Act applies, is taken away or limited shall to that extent be void.

Interpretation.

10.—(1) In this Act, unless the context otherwise requires—

"instalment" includes any periodical payment and any sum payable, under a contract to which this Act applies, by way of deposit or premium, or on, or in respect of, the exercise of an option to purchase, and payments stipulated for under such a contract shall be deemed to be periodical notwithstanding that they may not be payable at regular intervals;

"small debt court" means any court held in pursuance of the Small Debt (Scotland) Act, 1837, as amended by any subsequent enactment. 7 Will. 4 and 1 Vict. c. 41.

(2) For the purposes of this Act the sum of the instalments stipulated for in a contract to which this Act applies shall be deemed to be the value of the article to which the contract relates.

Short title and extent.

11. This Act may be cited as the Hire Purchase and Small Debt (Scotland) Act, 1932, and shall extend to Scotland only.