CHAPTER 102.

An Act to modify certain rights and liabilities with respect to goods lost or damaged by war.

[7th September 1939.]

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 :—

Liabilities in respect of bailments.

1.—(1) Where, in the case of the bailment of any goods, whether before or after the commencement of this Act, an obligation is imposed on the bailor or bailee by the provisions (whether express or implied) of any contract or by any enactment, rule of law or custom—

(*a*) to insure against loss of or damage to the goods;

(*b*) to repair damage to the goods;

(*c*) to replace the goods in the event of loss;

(*d*) to restore the goods or deliver them up in good repair, notwithstanding such loss or damage;

(*e*) to continue to pay for the hire of the goods, notwithstanding such loss or damage; or

(*f*) to pay damages or compensation for any loss of or damage to the goods ;

the obligation shall, subject to the following provisions of this section, be deemed not to extend to loss or damage by war.

(2) Nothing in this section shall relieve a bailee of any liability for loss of or damage to any goods occurring while the goods are being kept or transported in a manner or at a place which is contrary to the terms of any contract relating to the custody or transport thereof, unless the bailee satisfies the court, in any proceedings brought to enforce any such liability, that he had reasonable grounds for believing that the goods were less likely to be lost or damaged while being kept or transported in that manner or at that place than while being kept or transported in accordance with the terms of the contract.

(3) Nothing in this section shall relieve a bailor or bailee of any liability imposed by any contract if the liability is expressly related to war by the terms of the contract:

Provided that this subsection shall not apply to any liability imposed on a bailee by—

1 & 2 Geo. 6. c. 53.

(*a*) a hire-purchase agreement to which the Hire Purchase Act, 1938, applies; or

(*b*) a hiring agreement under which the rate of hire does not exceed the rate of twenty pounds per annum.

Liability in respect of goods on approval or sale or return.

2. Where, whether before or after the commencement of this Act—

(*a*) any goods have been delivered to any person (hereafter in this section referred to as "the buyer") on approval or on sale or return or other similar terms; and

(*b*) an obligation is imposed on the buyer by the terms of any contract, or by any custom, to pay the price of the goods in the event of their being lost or damaged before the property therein would otherwise have passed to the buyer;

the obligation shall be deemed not to extend to loss or damage by war:

Provided that, except in a case where the price of the goods does not exceed twenty-five pounds, this section shall not apply if the loss or damage in the event of which the buyer is liable to pay the price of the goods is expressly related to war by the terms of a contract.

Liabilty of innkeepers.

3.—(1) Where an innkeeper is, as such, under an obligation to make good any loss of or damage to goods, the obligation shall be deemed not to extend to loss or damage by war.

(2) In this section "innkeeper" has the same meaning as in the Innkeepers' Liability Act, 1863. 26 & 27 Vict. c. 41.

Liability of pawnbroker in case of fire.

4. Where a pledge on which a loan of ten pounds or less has been made (whether before or after the commencement of this Act) has been lost or damaged by or in consequence of fire, the loss or damage being loss or damage by war, then, notwithstanding the provisions of section twenty-seven of the Pawnbrokers Act, 1872, or of any contract— 35 & 36 Vict. c. 93.

(*a*) the pawnbroker shall not be liable to make any payment in respect of the value of the pledge; and

(*b*) unless (in a case of damage) the pawner redeems the pledge, he shall not be liable to repay the loan.

Liability in respect of customs and excise duties.

5.—(1) Where any goods have become chargeable with a duty of customs or excise and, before the duty is paid and (in the case of an excise duty) before the goods have left the entered or registered premises of the manufacturer, the goods are lost by war, the duty shall not be chargeable.

(2) Where any goods have become chargeable with a duty of customs or excise and, before the duty is paid and (in the case of an excise duty) before the goods have left the entered or registered premises of the manufacturer, the goods are damaged by war, then—

(*a*) in a case where the duty is chargeable by reference to value, the value of the goods shall be taken to be the value thereof as reduced by the damage;

(*b*) in any other case, the goods may be abandoned to the Commissioners of Customs and Excise and thereupon the duty shall not be chargeable.

(3) The occupier of a warehouse shall not be liable to forfeit any sum, whether by way of duty or otherwise, in respect of goods deposited in his warehouse by reason

that he has failed to produce the goods to any officer of Customs and Excise on request, if he proves that his failure to produce the goods was due to the fact that the goods or the warehouse have been lost or damaged by war.

Application to Scotland.

6. In the application of this Act to Scotland—

(*a*) " bailment " means delivery of goods in pursuance of a contract of loan, deposit, pledge, hire, hire purchase, carriage, or *locatio operis faciendi* or any other contract which involves delivery by one person to another of the possession of goods for delivery to a third person or re-delivery to the owner when the purpose of the contract is at an end; and " bailor " and " bailee " mean respectively the persons by whom and to whom goods are so delivered;

(*b*) any reference to a hire purchase agreement to which the Hire Purchase Act, 1938, applies shall be construed as a reference to a contract to which the Hire Purchase and Small Debt (Scotland) Act, 1932, applies or would apply if for the limit as to value contained in section one of the last mentioned Act there were substituted a limit of one hundred pounds.

22 & 23 Geo. 5. c. 38.

Provision as to Northern Ireland. 10 & 11 Geo. 5. c. 67.

7. Notwithstanding anything in the Government of Ireland Act, 1920, the Parliament of Northern Ireland shall have power to make laws in respect of matters exclusively relating to the portion of Ireland within their jurisdiction or any part thereof, for purposes similar to the purposes of sections one to four of this Act, and for purposes similar to the purposes of the provisions of section five of this Act relating to excise duties.

Short title, interpretation, extent and commencement.

8.—(1) This Act may be cited as the Liability for War Damage (Miscellaneous Provisions) Act, 1939.

(2) In this Act the expressions " loss by war " and " damage by war " mean respectively loss (including destruction) and damage caused by, or in repelling, enemy action, or by measures taken to avoid the spreading of the consequences of damage caused by or in repelling

enemy action, and the expressions "lost by war" and "damaged by war" shall be construed accordingly.

(3) The provisions of the last foregoing section, and the provisions of section five of this Act relating to duties of customs, shall extend to Northern Ireland, but save as aforesaid this Act shall not extend to Northern Ireland.

(4) This Act shall be deemed to have come into operation on the third day of September nineteen hundred and thirty-nine.

Printed by EYRE AND SPOTTISWOODE LIMITED
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SIR WILLIAM RICHARD CODLING, C.B., C.V.O., C.B.E., the King's Printer of Acts of Parliament