

**For any query on the subject, email at: [messagerakesh@gmail.com](mailto:messagerakesh@gmail.com)**



Notes Prepared By:  
**RAKESH AGARWAL**

*M.Com, MBA, FIII*

E-mail: [messagerakesh@gmail.com](mailto:messagerakesh@gmail.com)

WhatsApp No: 8486118428

**Coaching Available for:** Bank P.O./ Clerk, SSC, Railway, MAT, CA, CS, B.Com and M.Com. For details, call 8486118428 or email at [info@prepNext.com](mailto:info@prepNext.com)

## Financial Accounting

### Unit 2

#### HIRE PURCHASE AND INSTALMENT ACCOUNTS

#### TERMS FREQUENTLY USED IN HIRE PURCHASE TRANSACTIONS

- i) **Hire Purchase Agreement** : As per Section 2 of the Hire Purchase Act, 1972, “hire purchase agreement” means an agreement under which goods are let on hire and under which the hirer has an option to purchase them in accordance with the terms of the agreement and includes an agreement under which –
- possession of goods is delivered by the owner thereof to a person on condition that such person pays the agreed amount in periodical instalments, and
  - the property in the goods is to pass to such person on the payment of the last of such instalments, and
  - such person has a right to terminate the agreement at any time before the property so passes.

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- ii) **Hire Purchaser or Hirer**: A Hirer means a person who obtains or has obtained possession of the goods from an owner under a hire purchase agreement.
- iii) **Hire Vendor**: Seller of goods in a hire purchase agreement.
- iv) **Cash Price**: Amount for which an article can be purchased immediately by making a lump sum payment, without there being any facility of instalments. In other words, it is the price at which the goods may be purchased by the hirer for cash.
- v) **Hire Purchase Price**: Total amount which the hirer is required to pay to the hire vendor under the hire-purchase agreement in order to complete the purchase of or acquisition of property in the goods to which the agreement relates. It includes the cash price and interest of the future instalments. Thus, hire-purchase price = Cash Price + Interest Charged.
- vi) **Hire Purchase Charges**: Hire purchase charges means the difference between hire purchase price and the cash price as stated in the Hire Purchase Agreement.
- vii) **Down Payment**: Amount which is required to be paid by hire-purchaser to the hire vendor at the time of commencement of hire-purchase agreement.
- viii) **Goods Repossessed**: Goods taken by the hire vendor from the hire purchaser in case the hire purchaser makes any default in the payment of any instalment.
- ix) **Interest**: Cost of borrowed funds to buy the asset. It is the excess of hire purchase price over cash price.
- x) **Instalments**: These are convenient amounts in which hire purchase price is split. It is the amount which is inclusive of interest together with the part of principal amount paid periodically as per agreement.

- xi) Stock with Customers (or H.P. Stock):** Value of goods with the hire purchasers for which instalments will become due in the subsequent accounting periods.
- xii) Instalments Due (or H.P. Debtors):** Instalments which are due in the accounting period but not paid by the hire purchaser.
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**Q: What are the contents of a hire purchase agreement?**

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**Ans.:**

**Form and Contents of the Hire Purchase Agreement:**

Every Hire Purchase Agreement has to be in writing and should be signed by all the parties thereof. A surety, if any, must sign the agreement. The agreement should state the following:

- (i)** The Hire Purchase Price of the goods to which the agreement relates
- (ii)** Cash Price of such goods
- (iii)** The down payment, if any
- (iv)** The date of commencement of the agreement.
- (v)** The number of instalments in which the hire purchase price is to be paid and the amount of each of those instalments, and the date or mode of determining the date, upon which it is payable, and the person to whom and the place where it is payable
- (vi)** The rate of interest charged by the hire vendor (**optional**)
- (vii)** The description of the goods to which the agreement relates in a manner sufficient to identify them
- (viii)** Where any part of the hire purchase price is to be paid otherwise than by cash or by cheque, the hire purchase agreement shall contain a description of that part of the hire purchase price

*Where any of the above requirement has not been complied with, the hirer may institute a suit for getting the hire purchase agreement rescinded, and the court may, if it is satisfied that the failure to comply with any such requirement has prejudiced the hirer, rescind the agreement on such terms as it thinks fit in the circumstances of the case.*

**Q: What is the limitation on hire purchase charges under the Hire Purchase Act?** ([www.prepNext.com](http://www.prepNext.com))

**Ans.:**

**LIMITATION ON HIRE PURCHASE CHARGES:**

In order to prevent levying of exorbitant hire purchase charges by the owner of the goods, in a contract of hire purchase, section 7 of the Hire Purchase Act, 1972 has put a restriction to the levying of such charges. The limit so put is termed as Statutory Charges. They are calculated in respect of each of the cash price instalments corresponding to each of the hire purchase instalment.

The statutory charges should be lower of the following two limits:

- (i) The amount calculated at 30 % of each cash price instalment.
- (ii) The amount calculated in accordance with the following formula

$$SC = \frac{CI \times R \times T}{100}$$

Where,

SC = Statutory Charges

CI = Amount of Cash Price Instalment expressed in Rupees or fraction thereof

R = 10 % or such higher rate as may be determined by the Central Government in consultation with the R.B.I

T = Time expressed in years and fraction of years that elapses between the date of the agreement and the date of each hire purchase instalment corresponding to the Cash Price Instalment as payable under the agreement.

**Q: What do you understand by Repossession?** ([www.prepNext.com](http://www.prepNext.com))

**Ans.:**

In a hire purchase agreement the hire purchaser has an obligation to pay up to the last instalment so that the ownership of goods passes to him. If the hire purchaser fails to pay any of the instalments, the hire vendor has the right to take the asset back in its actual form without any compensation to the hire purchaser. The amounts received from the hire purchaser through down payment and instalments **are forfeited** and treated as the hire charges by the hire vendor. This act of recovery of possession of the asset is termed as **repossession**.

Depending on the agreement between the parties, there are two possibilities in repossession of goods, i.e., (i) when the vendor takes back the complete repossession of the asset and (ii) when the vendor takes possession of only a part of the total asset sold to the hire purchaser.

The former is called "*Complete Repossession*" and the latter "*Partial Repossession*". In case of a partial repossession, only a part of the asset is taken back by the hire vendor and other part is left with the hire purchaser. Of course, in case of partial repossession, only a part of the amount paid by the hire purchaser will be forfeited by the hire vendor.

**N.B.:** Assets are repossessed at a mutually agreed value (based on agreed rate of depreciation which is an enhanced rate). Repossessed assets are ultimately sold to other customers after repairing or reconditioning (if necessary).

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**Q: What are the different ways in which goods can be sold?**

([www.prepNext.com](http://www.prepNext.com))

**Ans.:**

There are different ways in which goods can be sold i.e. possession as well ownership of goods will be passed from the seller to the purchaser:

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- (i) **Cash Sales:** Goods can be sold for cash, i.e., where ownership and possession is immediately passed from the seller to the purchaser and purchaser also makes the payment in cash at the time of taking the delivery of goods.
- (ii) **Credit Sales:** Goods can be sold on credit also where ownership and possession of goods passes immediately from the seller to the buyer but the payment is deferred, i.e., made after sometimes.
- (iii) **Instalment Sale:** An instalment sale is a credit sale in which payments are made in instalments over a period of time. Under instalment sale system, the possession as well as ownership passes from the seller to the buyer immediately on entering the agreement but the buyer agrees to pay the total price in instalments. This system is also referred to as 'Deferred payment system.' If buyer defaults in the payment of any instalment, the seller cannot repossess the goods but he can sue the buyer for the amount due.
- (iv) **Hire Purchase:** Hire purchase means a transaction, for purchase and sale of goods, under which-
  - (i) possession of goods is delivered by the owner thereof to a person on condition that such person pays the agreed amount in periodical instalments;
  - (ii) the property in the goods is to pass to such person on the payment of the last of such instalments. The property in the goods does not pass till the final payment is paid.;
  - (iii) Each instalment is to be treated as hire charges so that if default is made in the payment of any instalment (even the last one), the seller will have a right to repossess the goods from the buyer and forfeit the amount already received treating it as a hire charge; and
  - (iv) such person has a right to terminate the agreement at any time before the property so passes.

**Q: What do you understand by Hire Purchase System? What are its features?** *(www.prepNext.com)*

**Ans:**

Hire purchase means a transaction, for purchase and sale of goods, under which-

- (i) possession of goods is delivered by the owner thereof to a person on condition that such person pays the agreed amount in periodical instalments;
- (ii) the property in the goods is to pass to such person on the payment of the last of such instalments. The property in the goods does not pass till the final payment is paid.;
- (iii) Each instalment is to be treated as hire charges so that if default is made in the payment of any instalment (even the last one), the seller will have a right to repossess the goods from the buyer and forfeit the amount already received treating it as a hire charge; and
- (iv) such person has a right to terminate the agreement at any time before the property so passes.

**Features of Hire-Purchase System:**

Following are the main features of the hire purchase system:

- a) **Agreement:** There is an agreement between the seller and the purchaser.
- b) **Instalments:** The price under hire-purchase system is paid in periodical instalments.
- c) **Down-Payment:** The hire purchaser generally makes a down payment (initial payment) on signing the agreement
- d) **Constituents of Hire Purchase Instalments** The instalments in hire purchase include interest (finance charge) as well as repayments of principal.

- e) **Transfer of Possession:** The hire vendor transfers only possession of the goods to the hire purchaser immediately after the contract for hire purchase is made.
- f) **Ownership:** Hire vendor continues to be the owner of the goods till the payment of last instalment.
- g) **Position of Buyer:** The hire-purchaser has a right to use the goods as a bailee.
- h) **Hire Charge:** Till the payment of the last instalment, each instalment including down payment (if any) is treated as hire charges by the seller.
- i) **Right to terminate agreement:** The hire-purchaser has a right to terminate the agreement at any time and to return the goods to the seller, if he does not want to pay the rest of the instalments.
- j) **Transfer of Ownership:** If all instalments are paid as per the terms of agreement, the property in goods passes to the purchaser; and the hire-purchaser becomes the owner of the goods.
- k) **Repossession:** In case of default in respect of payment of even the last instalment, the hire vendor has the right to repossess the goods sold on hire purchase and forfeit the amount already received either as down payment or in instalments.

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**Q: What do you understand by Instalment Purchase System? What are its features?**

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**Ans.:**

An instalment purchase is a purchase on credit in which payments are made in instalments over a period of time. Under instalment sale system, the possession as well as ownership passes from the seller to the buyer immediately on entering the agreement but the buyer agrees to pay the total price in instalments. This system is also referred to as 'Deferred payment system.' If buyer defaults in the payment of any instalment, the seller cannot repossess the goods but he can sue the buyer for the amount due.

**Features of Instalment Purchase System:**

Following are the main features of this system:

- a) There is an agreement between the seller and the buyer.
- b) It is an outright sale of goods.
- c) The buyer is required to pay the total price in instalments over a period of time.
- d) The buyer gets immediate possession as well as ownership of the goods.
- e) As the purchaser is the owner of goods, he can dispose of the goods in any manner he likes.
- f) In the event of default by the buyer in the payment of any instalment, the seller can not repossess the goods (because the ownership has already been transferred). In case of default by the buyer in payment of any instalment, the seller can only bring a suit against the buyer for the recovery of unpaid price and damages.

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**Q: Differentiate between**

**(i) Hire Purchase and Credit Sale**

**(ii) Hire Purchase System and Instalment Purchase System**

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**Ans:**

**(i) Distinction Between Hire Purchase and Credit Sale**

<b>Basis</b>	<b>Hire Purchase</b>	<b>Credit Sale</b>
<b>Nature of Agreement</b>	It is an agreement of hiring of goods, though later on it may become a sale after the payment of last instalment.	It is an agreement of sale.
<b>Right of Repossession</b>	The seller can repossess the goods if the buyer makes default in the payment of any instalment and the money paid by the buyer is forfeited.	The seller cannot repossess the goods for default in payment of instalments. However, he can sue the buyer for the outstanding amount.
<b>Transfer of Property in Goods</b>	The property in the goods passes from hire-vendor to hire-purchaser after the payment of the final instalment.	The property in the goods is passed on to the buyer as soon as the contract is completed.
<b>Lien on Goods</b>	The seller has a lien on the goods till the last payment is paid by hire purchaser.	The seller has no lien on the goods sold, except in certain special cases.
<b>Treatment of Payment</b>	The payments are treated as hire charge until the last instalment is paid.	In the case of credit sale, any payment is treated as a payment towards the price of the good sold.
<b>Return of Goods</b>	A hire purchaser can return the goods at any time before the last payment is paid.	A buyer can not return the goods once sold unless there is an agreement to the contrary.
<b>Position of the Buyer</b>	The buyer is treated as a bailee for the goods till he pays the last instalment.	The buyer is the owner of the goods.
<b>Mode of Payment</b>	The price of the goods is paid by a fixed number of periodical instalments.	Payment for the goods is made in lump-sum or as per the terms of the agreement
<b>Act</b>	It is governed by the Hire Purchase Act- 1972	It is governed by the Sale of Goods Act, 1930

**(ii) Distinction between Hire Purchase System and Instalment Purchase System:**

<b>Basis</b>	<b>Hire-Purchase System</b>	<b>Instalment Purchase System</b>
<b>Nature of Contract</b>	Hire purchase is an agreement of hiring of goods.	Instalment purchase system is an agreement of sale of goods.
<b>Transfer of Property in Goods</b>	The property in the goods passes from hire-vendor to hire-purchaser after the payment of the final instalment.	The property in the goods (ownership) is passed on to the buyer immediately at the time of sale.
<b>Rights of Seller</b>	The seller can repossess the goods if the buyer makes default in the payment of any instalment.	The seller cannot repossess the goods for default in payment of instalments. However, he can sue the buyer for the outstanding amount and for damages.
<b>Rights of Disposal</b>	The buyer cannot hire out, sell, transfer, destroy, damage or pledge the goods.	The buyer can hire out, sell, transfer, destroy, pledge the goods and the bona fide purchaser can get good title.
<b>Return of Goods</b>	Goods can be returned if the buyer does not want to pay rest of the instalments	Goods cannot be returned by the buyer to the seller unless there is some default on the part of the seller.
<b>Lien of Goods</b>	The seller has a lien on the goods until he receives the full payment.	Here the seller has no lien on the goods sold.
<b>Forfeiture of Amount Paid</b>	In case of default by buyer in payment, the total amount of instalments paid is forfeited and treated as hire charges.	In case of default, the total amount of instalments paid by the buyer will be taken as a payment towards part of the selling price and the seller can only sue for the unpaid balance.
<b>Treatment of Instalment</b>	In case of hire purchase system, each instalment is treated as hire charge till the last instalment is paid.	In case of instalment purchase system, each periodical instalment is treated as a part payment for the goods sold.

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<b>Parties</b>	The Parties to the contract are called hire-purchaser and hire-vendor.	The parties to the contract are called buyer and seller.
<b>Position of the Buyer</b>	The buyer is considered as a bailee till the last instalment is paid.	The buyer is treated as the owner of the goods.
<b>Risk for Loss of Goods</b>	If the hire-purchaser takes as much care of the goods as is required to be taken by a bailee, he is not responsible for any loss of the goods.	As risk lies with ownership and the buyer becomes owner of the goods on signing of the contract, the buyer bears the risk of loss of goods.
<b>Termination of Contract</b>	The hire purchaser can terminate the contract, and return the goods. In such a case, he will not be required to pay the remaining instalments.	The buyer can not terminate the contract and escape the liability of the payment of the remaining instalments.
<b>Buyer's Right to Sell</b>	If the purchaser sells the goods to a third party before the payment of last instalment, the third party does not get a better title on the goods purchased.	If the purchaser sells the goods to a third party before the payment of last instalment, the bona fide purchaser gets a better title on the goods purchased.
<b>Governing Act</b>	The provisions of the Hire-purchase Act apply to the transaction	The provisions of Sale of Goods Act apply to the transaction.
<b>Position of the Buyer</b>	The buyer is treated as a bailee for the goods till he pays the last instalment.	The buyer is the owner of the goods.
<b>Responsibility of normal repairs</b>	The responsibility of normal repairs lies with hire vendor being owner of goods.	The seller is not responsible for the normal repairs as the purchaser is the owner of goods from the very beginning.

**Q: Write a short note on Maintenance Suspense Account (Reserve for Service).** *(www.prepNext.com)*

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**Ans.:**

**Reserve for Service (Maintenance Suspense Account):**

Sometimes goods are sold on the stipulation that goods will be maintained free of charge during a stated period. Obviously, the price charged for the goods will also include a charge for such free service or maintenance. In such a case, when goods are sold with the guarantee for free maintenance or service for a stipulated period, a provision should be created for free maintenance, by crediting the amount charged for free maintenance to a separate account called Maintenance Suspense Account.

The following points should be kept in view while making accounting entries in respect of money received and expenditures incurred for maintenance:

- (i) When sales are made, the amount so charged, should be credited to Maintenance Suspense Account.
- (ii) Actual maintenance expense should be debited to this account, the ultimate balance in the account being treated as profit or loss.
- (iii) The total charge for the maintenance should be spread over the free maintenance period on the basis that the sales have been made evenly throughout the year. Moreover, if a number of units have been sold, the period of maintenance should be taken to begin in the middle of the financial year.
- (iv) If the actual amount of maintenance is less than the estimated amount of maintenance, the excess balance in the Maintenance Suspense Account for the year, should be carried forward. It is desirable that nothing should be credited to Profit and Loss Account in respect of such saving until the stipulated period for maintenance is over. However, in case the actual maintenance expenditure exceeds the estimated amount of maintenance, the loss for the year should preferably be charged to Profit and Loss Account.

- (v) The balance of maintenance suspense account after the guarantee period is over, is transferred to profit and loss account.

**Example:** A piece of machinery is sold on 1<sup>st</sup> April, 2008 for Rs.40,000 with the stipulation that it will be maintained free of charge for two years; (ii) the estimated charge in respect of the first year is Rs.3,000 and that for the second year is Rs.5,000; and (iii) the actual maintenance expenses are Rs.1600 in the first year and Rs.5,600 in the second year. In this case, Rs.8,000 will be credited to Maintenance Suspense on 1<sup>st</sup> April, 2008. To this account Rs.1600 will be debited during 2008-09. The balance of Rs.6,400 will be carried forward. In 2009-2010, Rs.5,600 will be debited. The balance of Rs.800 will be credited to Profit and Loss Account. Suppose, the actual maintenance expenses in the first year were Rs.3,400. In that case Rs.3,400 would have been debited to the Maintenance Suspense and Rs.400 [excess of Rs.3,400 (actual) over Rs.3,000 (estimated)] should have been debited to Profit and Loss Account for the year ended 31<sup>st</sup> March, 2009.

**Note :**

- 1. Some concerns carry forward the credit balance in the Maintenance Suspense so that any future loss is automatically adjusted without transfer to the Profit and Loss Account.*
- 2. In case the goods are sold on hire purchase basis, the interest should be calculated on the full cash price including the charge for maintenance.*
- 3. If a number of units are sold, the period of maintenance should be taken to begin in the middle of the financial year, so that if the period is two years, three financial years will be involved – half of current, full next and half of the third.*

**Q: What are the warranties and conditions to be implied in hire-purchase agreements?** *(www.prepNext.com)*

**Ans.:**

**IMPLIED WARRANTY**

**(1)** Notwithstanding anything contained in any contract, in every hire-purchase agreement there shall be an **implied warranty**

- (a) that the hirer shall have and enjoy **quiet possession of the goods**; and
- (b) that the goods shall be **free from any charge or encumbrance** in favour of any third party at the time when the property is to pass.

**IMPLIED CONDITIONS**

**(2)** Notwithstanding anything contained in any contract, in every hire-purchase agreement there shall be-

- (a) an **implied condition** on the part of the owner that he has a **right to sell the goods** at the time when the property is to pass;
- (b) an implied condition that the goods **shall be of merchantable quality**, but no such condition shall be implied –
  - (i) as regards defects of which the owner could not reasonably have been aware at the time when the agreement was made, or
  - (ii) as regards defects specified in the agreement (whether referred to in the agreement as defects or by any other description to the like effect), or
  - (iii) where the hirer has examined the goods, or a sample thereof, as regards defects which the examination ought to have revealed, or
  - (iv) if the goods are second-hand goods and the agreement contains a statement to that effect.

**(3)** Where the hirer, whether expressly or by implication,-

(a) has made known to the owner the particular purpose for which the goods are required, or

(b) in the course of any antecedent negotiations, has made that purpose known to any other person by whom those negotiations were conducted,

there shall be an implied condition that the goods shall be reasonably **fit, for such particular purpose**.

**(4)** Where the **goods** are **let** under a hire-purchase agreement **by reference to a sample** there shall be-

(a) an implied condition on the part of the owner that the bulk will correspond with the sample in quality, and

(b) an implied condition on the part of the owner that the hirer will have a reasonable opportunity of comparing the bulk with the sample.

**(5)** Where the **goods** are **let** under a hire-purchase agreement **by description** there shall be an implied condition that the goods will correspond with the description;

**(6)** Where the **goods** are **let** under the agreement **by reference to a sample as well as by description**, it shall not be sufficient that the bulk of the goods correspond with the sample if the goods do not also correspond with the description.

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**Q: What are the rights and obligations of the Hirer (hire purchaser)? Explain in brief.** *(www.prepNext.com)*



**Ans.:                    RIGHTS OF THE HIRER/ HIRE PURCHASER**

**1. Right of the hirer to purchase with rebate:**

The hirer may, at any time during the continuance of the hire-purchase agreement and after giving at least 14 days notice to the owner in writing, complete the purchase of the goods. In such a case, he will have to pay or tender to the owner, the hire-purchase price or the balance thereof as reduced by the rebate calculated in the manner given below:

$$\text{Rebate} = \frac{2}{3} \times \frac{(\text{Hire Purchase Charges} \times \text{No. of Instalments not yet due})}{\text{Total No. of Instalments}}$$

**2. Right of hirer to terminate agreement at any time:**

The hirer may, at any time before the final payment under the hire-purchase agreement falls due, terminate the hire purchase agreement after giving the owner at least 14 days notice in writing. He has to re-deliver or tender the goods to the owner and pay or tender the amounts which have become due towards the hire-purchase price and have not been paid by him. However in some cases, he may be required to pay a sum not exceeding the termination charges mentioned in the contract.

Where the hirer terminates the agreement under above mentioned condition, and the agreement provides for the payment of a sum named on account of such termination, the liability of the hirer to pay that sum shall be subject to the following conditions, namely:-

- (a) where the sum total of the amounts paid and the amounts due in respect of the hire-purchase price immediately before the termination exceeds one-half of the hire-purchase price, the hirer shall not be liable to pay the sum so named;
- (b) where the sum total of the amounts paid and the amounts due in respect of the hire-purchase price immediately before the termination does not exceed one-half of the hire-purchase price, the hirer shall be liable to pay the difference between the said sum total and the said one-half, or the sum named in the agreement, whichever is less.

*(N.B. These provisions have been made to protect the hire purchaser from requirement to pay unreasonable amount, which may be named by the hire vendor in the hire purchase agreement, in case of termination of the hire purchase*

agreement)

**3. Right of hirer to appropriate payments in respect of two or more agreements:**

A hirer who is liable to make payments in respect of two or more hire-purchase agreements to the same owner shall, notwithstanding any agreement to the contrary, be entitled to appropriate the sum paid by him towards the satisfaction of the sum due under any one or more of the agreements, in such proportions as he thinks fit, and, if he fails to make any such appropriation as aforesaid, the sum so paid shall stand appropriated towards the satisfaction of the sums due under the respective hire-purchase agreements in the order in which the agreements were entered into.

**4. Rights of hirer in case of repossession/ seizure of goods by owner:**

If the amount paid by the hirer till the date of repossession of the goods and the value of the goods on the date of repossession of goods exceeds the total hire purchase price, the excess payment made by the hirer will be returned to the hirer by the owner of the goods.

*If the owner fails to pay the whole / part of the amount due from him, calculated as above, to the hirer within a period of thirty days from the date notice for the payment of the said amount is served on him by the hirer, the owner shall be liable to pay interest on such amount from the date of expiry of the said period of thirty days.*

**5. Assignment and transmission of hirer's right or interest:**

With the consent of the owner, the hirer may assign both the benefit and the burden of the contract to a third person. The owner cannot unreasonably refuse consent where the nominated third party has good credit rating.

**N.B:** As a condition of granting such consent, the owner may stipulate that all defaults under the hire-purchase agreement shall be made good and may require the hirer and the assignee to execute and deliver to the owner an assignment agreement, in a form approved by the owner, whereby, without affecting the continuing personal liability of the hirer in such respects, the assignee agrees with the owner to be personally liable to pay the instalments of hire remaining unpaid and to perform and observe all other stipulations and conditions of the hire-purchase agreement during the residue of the term thereof and whereby the

assignee indemnifies the hirer in respect of such liabilities.

**6. Right in case of wrongful repossession of goods by owner:**

Where the owner wrongfully repossesses the goods, the hirer has the right either to recover the goods plus damages for loss of quiet possession or to damages representing the value of the goods lost.

**7. Right to receive notice in case of termination of agreement by the seller:**

The hiree (vendor) cannot terminate the hire purchase agreement for default in payment of hire or due to an unauthorised act or breach of expressed conditions unless a notice in writing in this regard is given to the hirer. The period of notice will be one week where the hire is payable weekly or less than that interval and two weeks in other cases.

**8. Limitations on right to repossess goods by the seller:**

*The right to repossess the goods will not exist unless sanctioned by the Court in the following cases:*

- (a) Where the hire purchase price is less than Rs.15,000, and one half of the hire purchase price has been paid.*
- (b) Where the hire purchase price is not less than Rs.15,000, and three fourth of hire purchase price has been paid.*

*However this proportion in case of motor vehicles is as under:*

- (a) One half, where the hire purchase price is less than Rs.5,000.*
- (b) Three fourths, where the hire purchase price is not less than Rs.5,000 but less than Rs.15,000.*
- (c) Three fourths or such higher proportion not exceeding nine-tenth where the hire purchase price is not less than Rs.15,000.*

**9. Right to receive copy of agreement:**

The hirer has a right to receive, free of cost, a true copy of the hire-purchase agreement, signed by the owner immediately after execution of the agreement.

**10. Right to receive statement:**

The hirer has a right of receiving a statement from the owner against a payment of rupee one showing (i) the amount paid by or on behalf of the hirer, (ii) the amount which has become due under the agreement but remains unpaid and the date upon which each unpaid instalment became due, and the amount of each such instalment and (iii) the amount which is to become payable under the agreement and the date or the mode of determining the date upon which each future instalment is to become payable, and the amount of each such instalment.

**OBLIGATIONS OF HIRER**

**1. To pay hire instalments and comply with agreement:**

A hirer is bound-

- (a) to pay the hire in accordance with the agreement, and
- (b) otherwise to comply with the terms of the agreement.

**2. To take reasonable care of the goods:**

A hirer shall take as much care of the goods, to which the hire-purchase agreement relates, as a man of ordinary prudence would, under similar circumstances, take of his own goods of the same bulk, quality and value. The hirer shall be liable to make compensation to the owner for any damage caused by failure to take reasonable care of the goods. However, he shall not be responsible for the loss, destruction or deterioration of the goods, if he has taken reasonable amount of care.

**3. To use goods as per agreement:**

If the hirer makes any non-standard use of the goods which is not according to the conditions of the hire purchase agreement, the hirer shall be liable to make compensation to the owner for any damage arising to the goods from or during such use.

**4.To give information as to whereabouts of goods:**

The hirer shall, on receipt of a request in writing from the owner, inform the owner where the goods are at the time when the information is given or, if it is sent by post, at the time of posting. If the hirer fails without reasonable cause to give the said information within fourteen days of the receipt of the notice, he shall be punishable with fine.

**5. Not to sell Goods:**

An hirer can sell the products if and only if he has purchased the goods finally or else not to any other third party.

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**Q: What are the rights and obligations of the owner in a hire purchase agreement? (www.prepNext.com)**

**Ans.:**

**RIGHTS OF THE OWNER**

**1. Rights of owner to terminate agreement:**

The owner usually has the right to terminate the hire purchase agreement (after giving due notice to the hirer in writing) in the following cases:

- (i) Where a hirer defaults in the payment of instalments.
- (ii) Where a hirer does any act with regard to the goods, to which the agreement relates, which is inconsistent with any of the terms of the agreement ; or
- (iii) breaks an express condition which provides that, on the breach thereof, the owner may terminate the agreement.

## **2. Rights of owner on termination:**

Where a hire-purchase agreement is terminated by owner for default in payment of hire or unauthorised act or breach of express conditions, then the owner shall be entitled-

- (i) to forfeit the deposit
- (ii) to retain the instalments already paid and to recover any arrears of hire which has become due.
- (iii) to repossess the goods (which may have to be by application to a Court depending on the nature of the goods and the percentage of the total price paid)
- (iv) to enter the premises of the hirer and seize the goods (subject to any contract to the contrary)
- (v) to claim damages for any loss suffered.
- (vi) to damages for non- delivery of the goods, from the date on which termination is effective, to the date on which the goods are delivered to or seized by the owner.

### **THE OWNER'S OBLIGATIONS:**

#### **1. Obligation to supply copy of agreement:**

It shall be the duty of the owner to supply, free of cost, a true copy of the hire-purchase agreement, signed by the owner,-

- (a) to the hirer, immediately after execution of the agreement; and
- (b) where there is a contract of guarantee, to the surety, on demand made at any time before the final payment has been made under the agreement.

#### **2. Obligation to supply statement:**

It shall also be the duty of the owner, at any time before the final payment has been made under the hire-purchase agreement, to supply to the hirer, within fourteen days after the owner receives a request in writing from the hirer in this behalf and the hirer tenders to the owner the sum of one rupee for expenses, a statement signed by the owner or his agent showing:-

- (a) the amount paid by or on behalf of the hirer;

- (b) the amount which has become due under the agreement but remains unpaid, and 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, and the date or the mode of determining the date upon which each future instalment is to become payable, and the amount of each such instalment.
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**Q: What are the cases in which Permission of the Court is required to repossess the Goods?** *(www.prepNext.com)*

**Ans.:**

**Permission of the Court is required to Repossess the Goods in Certain Cases**

**(Sec. 20):**

In the following cases, the owner can seize or repossess the goods from the hirer only with the permission of the appropriate Court:

- (i) When the Hire Price is less than Rs.15,000 and one-half of the price has been paid.
- (ii) In any other case when three-fourth of the hire purchase price has been paid.

In the case of motor-vehicles, the hire vendor will have to make an application to the appropriate Court for repossession of the goods in the following cases:

- (i) Where the hire purchase price is less than Rs.5000, but one-half of the hire purchase price has been paid.
  - (ii) Where the hire purchase price is not less than Rs. 5000 but less than Rs.15,000, three-fourth of the hire purchase price has been paid.
  - (iii) In any other case where three-fourth or such higher proportion not exceeding 9/10<sup>th</sup>, as the Central Government may notify, has been paid.
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**Q: What are the reliefs available to the hire purchaser against termination?** *(www.prepNext.com)*

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**Please WhatsApp your suggestions/ feedback at: 8486118428**

**Ans.:**

The following reliefs are available to the hire purchaser against termination:

**(A) RELIEF AGAINST TERMINATION FOR-NON-PAYMENT OF HIRE**

**1) Restriction on owner's right to recover possession of goods otherwise than through court:**

In the following cases, the owner can seize or repossess the goods from the hirer only with the permission of the appropriate Court:

- (i) When the Hire Price is less than Rs.15,000 and one-half of the price has been paid.
- (ii) In any other case when three-fourth of the hire purchase price has been paid.

In the case of motor-vehicles, the hire vendor will have to make an application to the appropriate Court for repossession of the goods in the following cases:

- (i) Where the hire purchase price is less than Rs.5000, but one-half of the hire purchase price has been paid.
- (ii) Where the hire purchase price is not less than Rs.5000 but less than Rs.15,000, and three-fourth of the hire purchase price has been paid.
- (iii) In any other case where three-fourth or such higher proportion not exceeding 9/10<sup>th</sup>, as the Central Government may notify, has been paid.

*If the owner recovers possession of goods in contravention, of the above provisions, the hire-purchase agreement, if not previously terminated, shall terminate, and-*

- (a) the hirer shall be released from all liability under the agreement and shall be entitled to recover from the owner all sums paid by the hirer under the agreement or under any security given by him in respect thereof; and*
- (b) the surety shall be entitled to recover from the owner all sums paid by him under the contract of guarantee or under any security given by him in respect thereof.*



**2) Relief against termination by the order of the Court:**

Where the owner, after he has terminated the hire-purchase agreement in accordance with the provisions of sub-section (1) of section 18, institutes a suit or makes an application against the hirer for the recovery of the goods, and at the hearing of the suit or application, the hirer pays or tenders to the owner the hire in arrears, together with such interest thereon as may be payable under the terms of the agreement and the costs of the suit or application incurred by the owner and complies with such other conditions, if any, as the court may think fit to impose, the court may, in lieu of making a decree or order for specific delivery, pass an order relieving the hirer against the termination; and thereupon the hirer shall continue in possession of the goods as if the agreement had not been terminated.

**(B) RELIEF AGAINST TERMINATION FOR UNAUTHORISED ACT OR BREACH OF EXPRESS CONDITION**

Where a hire-purchase agreement has been terminated for unauthorized act or breach of express condition, no suit or application by the owner against the hirer for the recovery of the goods shall lie unless and until the owner has served on the hirer a notice in writing,-

- (a) specifying the particular breach or act complained of; and
- (b) if the breach or act is capable of remedy, requiring the hirer to remedy it,

and the hirer fails, within a period of thirty days from the date of the service of the notice, to remedy the breach or act if it is capable of remedy.