



Western Australia

Bills of Sale Act 1899

Compare between:

[18 Mar 2011, 06-a0-02] and [05 Oct 2011, 06-b0-03]



Western Australia

**Reprinted under the
Reprints Act 1984 as
at 18 March 2011**

Bills of Sale Act 1899

**An Act to consolidate and amend the law relating to bills of sale,
liens, and bailments.**

Part I — Preliminary

[Heading amended by No. 13 of 1906 s. 1A (as amended by No. 40 of 1957 s. 21).]

1. Short title

This Act may be cited as the *Bills of Sale Act 1899*¹.

2. Commencement

This Act shall come into force on 1 March 1900.

[2A. Deleted by No. 10 of 1998 s. 76.]

3. Application of Act

- (1) Subject to subsection (2), this Act shall apply to every bill of sale and debenture executed on or after 1 March 1900, whereby power is given or conferred, either with or without notice, and either immediately or at any future time, to seize or take possession of any chattels comprised in or made subject to such bill of sale or debenture.

[(2), (3) deleted]

- (4) This Act does not apply to any bill of sale by a company other than —
 - (a) a bill by way of bailment; or
 - (b) a bill of sale given jointly with another person who is not a company, or other persons of whom at least one is not a company.
- (5) In subsection (4) —

company means a company or a registered body within the meaning of the *Corporations Act 2001* of the Commonwealth, other than a registered body specified, or of a kind specified, in the regulations.

[Section 3 amended by No. 14 of 1963 s. 2; No. 10 of 1982 s. 28; No. 11 of 1984 s. 2; No. 10 of 2001 s. 25; No. 8 of 2009 s. 5.]

[4. *Omitted under the Reprints Act 1984 s. 7(4)(f) and (g).]*

5. Terms used

In this Act, and for the purposes thereof, if not inconsistent with the context —

apparent possession — Chattels shall be deemed to be in the apparent possession of the grantor of a bill of sale so long as they remain or are in or upon any lands, tenements, hereditaments, or building occupied or used by him, or are used or employed by him in any place whatsoever, notwithstanding that formal possession thereof may have been taken by or given to any other person;

bill of sale includes any document or agreement whatsoever, whether by deed or by parol, and whether by way of sale, security, gift, or bailment —

- (a) transferring, or intended to transfer, or to be a record or evidence of the transfer of the property in or right to the possession of chattels; or
- (b) by which a right, authority, or licence to the possession of or to seize any chattels, or to any charge or security thereon shall be conferred or reserved;

bill of sale shall not include assignments for the benefit of the creditors of the grantor, made pursuant to any statutory provision; transfers, assignments or mortgages duly registered under the provisions of the *Merchant Shipping Act 1894*, of the United Kingdom as amended from time to time (or under any Act passed in substitution for that Act) of any ship or any share thereof; transfers of goods in the ordinary course of business of any trade or calling; debentures issued by any company or other corporate body, and registered under the provisions hereinafter contained; ante-nuptial settlements; bills of sale of goods in any

foreign parts or at sea; bills of lading, warehousekeeper's certificate, customs warrants, or other warrants or orders for the delivery of goods or any other documents used in the ordinary course of business as proof of the possession or control of goods, or authorising or purporting to authorise, either by indorsement or delivery, the possessor of such document to transfer or receive the goods thereby represented;

bill of sale by way of security means a bill of sale to secure the payment of money or the performance of some obligation;

chattels means stock and wool or growing crops when separately charged or bailed;

contemporaneous advance means an advance of money by the grantee to or at the request of the grantor or the sale of goods or property upon credit, or the drawing, accepting, indorsing, making, or giving of any bill of exchange, promissory note, or the execution of any guarantee, bond, or other similar undertaking by the grantee to, for, or on behalf of the grantor on the security of any bill of sale, and contemporaneously with the granting, thereof. Any unpaid purchase money shall be deemed a contemporaneous advance if the bill of sale be executed within 21 days after the sale in respect of which such purchase money is owing;

crops means European flax, hemp, wheat, maize, barley, oats, and grass, whether for hay or for grain, and vegetables, cotton, lucerne and clovers, and all tobacco, cereal and root crops and fruit;

debenture means a document containing a floating charge over any of the chattels of a company or other corporate body;

grantee includes the bailor and lessor of any bill of sale by way of bailment or lease;

grantor includes the bailee and lessee of any bill of sale by way of bailment or lease;

hire-purchase agreement means an agreement for the hire of chattels containing, in favour of the hirer (being the person to

whom the chattels are let), a right or option to purchase the chattels or any of them;

prescribed means prescribed by rules or regulations made under this Act;

registrar means any person who may be appointed by the Governor a registrar for the purposes of this Act;

stock includes any sheep, cattle, horses, mules, asses, camels, pigs, poultry and all other animals;

wool means the hair of any stock.

[Section 5 amended by No. 24 of 1914 s. 2; No. 9 of 1956 s. 2; No. 40 of 1957 s. 3; No. 33 of 1966 s. 3; No. 49 of 1983 s. 3; No. 102 of 1987 s. 4; No. 19 of 2010 s. 51.]

Part IIA — Cessation of registration

[Heading inserted by No. 42 of 2011 s. 31.]

6A. Early cessation of registration function

(1) In this section —

migration time has the meaning given in the *Personal Property Securities Act 2009* (Commonwealth) section 306(1);

pre-PPS transition period means the period —

(a) commencing at the migration time or such earlier time as may be prescribed by the regulations; and

(b) ending at the registration commencement time;

registration commencement time has the meaning given in the *Personal Property Securities Act 2009* (Commonwealth) section 306(2);

registration function means any function conferred or imposed on the Registrar under the *Bills of Sale Act 1899* relating to the registration of a Bill of Sale.

(2) The Registrar may refuse to exercise a registration function during the pre-PPS transitional period.

(3) Without limiting subsection (2), the Registrar may refuse to exercise a registration function during the pre-PPS transitional period in relation to a matter that was not finally determined or concluded immediately before the commencement of that period.

[Section 6A inserted by No. 42 of 2011 s. 31.]

Part II — Registration

[Heading amended by No. 13 of 1906 s. 1A (as amended by No. 40 of 1957 s. 21).]

6. Bills of sale, content of

- (1) Every bill of sale shall contain the names of the grantor and grantee, their residences or places of business, and their occupations.
- (1A) It shall be sufficient to state the names by which the parties are usually known, and, in case of a corporation, to state the corporate name, with the principal place of business or registered office of the corporation in the State, or, if it has no place of business or registered office in the State, then its principal place of business or registered office in the country or State in which it is incorporated or taken to be registered.
- (2) Every bill of sale shall contain the true consideration, and what portion, if any, is for an antecedent debt.
- (2A) The consideration shall be sufficiently stated, notwithstanding that the costs relative to such bill of sale shall have been deducted from or added to the amount of the expressed consideration.
- (3) Every bill of sale shall contain the place where the chattels therein referred to, other than after acquired property, are usually situated or kept at the time of the granting of such bill of sale.
- (4) Every bill of sale shall contain the sums, if any, thereby secured, and the true rate or maximum rate of interest, if any, payable, and in case of a security for a running account, open guarantee, or proposed further advances, the maximum amount of the balance or advances to be covered.

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- (5) It shall be sufficient for the purpose of this section if the bill of sale states that the rate of interest shall be the current bank rate for the time being.

[Section 6 amended by No. 24 of 1914 s. 3 (as amended by No. 40 of 1957 s. 4 and 21); No. 10 of 2001 s. 26; No. 19 of 2010 s. 51.]

7. Crops and progeny of stock, assignment of by bill of sale

- (1) The following classes of property may be assigned by bill of sale, either absolutely or by way of security, and shall be deemed to have been assigned at law as well as in equity —
- (a) crops (separately assigned) sown or growing or about to be sown or grown at the time of the execution of the bill of sale, but without prejudice to the rights of a prior *bona fide* purchaser or mortgagee by deposit or otherwise of the land on which any such crops shall grow;
 - (b) the progeny coming into existence during the operation of any bill of sale of or which comprises any stock.
- (2) The possession of such mortgaged crops or progeny by the grantor or any person claiming through him shall, to all intents and purposes, be deemed the possession of the grantee.

[Section 7 amended by No. 17 of 1905 s. 3; No. 24 of 1914 s. 5; No. 19 of 2010 s. 51.]

7A. Future or after-acquired chattels etc. subject to bill of sale, when property etc. in passes to grantee

- (1) Where, by a bill of sale executed before or after the passing of the *Bills of Sale Amendment Act 1905*¹, the grantor thereof shall purport or covenant to grant or assign to the grantee any chattels within the meaning of this Act not in existence at the time of the making of such bill of sale, or which the grantor may thereafter acquire, the property and legal interest in such future or after-acquired chattels shall, immediately upon the coming into

existence of such chattels, or on their being acquired by the grantor, be deemed to pass at law to the grantee of the bill of sale, subject, nevertheless, to the provisions thereof.

- (2) This section shall take effect as if it had been a provision of the *Bills of Sale Act 1899* from the commencement thereof.

[Section 7A inserted by No. 17 of 1905 s. 2 (as amended by No. 40 of 1957 s. 21); amended by No. 19 of 2010 s. 51.]

8. Execution and registration of bill of sale

- (1) Every bill of sale shall be executed in duplicate, and shall be attested by at least one witness not being any party thereto; and the witness to the grantor's signature shall sign a declaration at the end of such bill of sale and duplicate in the form or to the effect as set out in the Fourteenth Schedule; and any person who subscribes such declaration which in any material particular is to his knowledge false shall be guilty of a crime and be liable to imprisonment for 5 years.

Summary conviction penalty: Imprisonment for 2 years or a fine of \$8 000.

- (2) It shall not be necessary for the attesting witness or witnesses to make any such declaration before a Justice of the Peace or other person authorised to take and receive declarations, but a simple signature of the attesting witness or witnesses shall be sufficient.
- (3) Every bill of sale shall be registered, and for the purpose of such registration shall be lodged with the registrar in duplicate, and such registration shall be effected by the registrar endorsing upon each duplicate a certificate of such registration, stating the day and hour of the production thereof for registration and the actual date of registration, and a reference to the register book in which the same is recorded, and such certificate shall be authenticated by the seal and signature of the registrar.

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- (4) One duplicate (hereinafter called the original) shall be filed in the Registry, and the other (called the duplicate) shall be handed to the person entitled thereto, or his solicitor or agent; and the production of the original or of the duplicate with such certificate endorsed thereon shall be *prima facie* evidence of the due registration of such bill of sale.
- (5) Whenever there shall be any difference or variation between the contents of any original bill of sale and the duplicate, the original shall prevail.

[Section 8 inserted by No. 41 of 1925 s. 2 (as amended by No. 40 of 1957 s. 5 and 21); amended by No. 24 of 2005 s. 63.]

[9. Deleted by No. 24 of 2005 s. 63.]

10. Time for registration

- (1) The periods within which a bill of sale shall be presented for registration shall be such as may be prescribed from time to time, but until rules are made hereunder and subject thereto, such periods shall be —
 - (a) 10 days from the day of execution, if executed at a place not more than 48 km distant from the city of Perth, but where the bill of sale is a hire-purchase agreement within the meaning of that expression as defined in the *Hire-Purchase Act 1959*, the period within which that bill of sale shall be presented for registration shall be 30 days from the date upon which it is signed by the hirer referred to in the agreement, or, if the agreement is signed by more than one such hirer, within 30 days from the later or latest date on which it is so signed;
 - (b) 14 days from the day of execution, if executed at or within 80 km of the local government district of Albany (Town), Southern Cross, Coolgardie, Kalgoorlie, Menzies, Geraldton, or Cue, or if executed at a place outside such limits, and being more than 48 km distant from the said city, but not more than 321 km from the

said city, but where the bill of sale is a hire-purchase agreement within the meaning of that expression as defined in the *Hire-Purchase Act 1959*, the period within which that bill of sale shall be presented for registration shall be 30 days from the date upon which it is signed by the hirer referred to in the agreement, or, if the agreement is signed by more than one such hirer, within 30 days from the later or latest date on which it is so signed;

- (c) 30 days if executed at a place outside the limits aforesaid, and more than 321 km but less than 804 km from the said city;
 - (d) 60 days from the day on which it was executed, if executed at a place outside the limits aforesaid, and 804 km or more from the said city;
 - (e) if executed within the local government districts of Wyndham-East Kimberley or Halls Creek, or at any place out of Western Australia, then within 21 days after the time at which the bill of sale would, in the ordinary course of post, arrive in the said city, if posted immediately after the execution thereof.
- (2) The day on which the instrument is executed shall not be included in the said periods.
- (3) When the time for presenting a bill of sale expires on a day on which the registrar's office is closed, the presentation shall be valid if made on the next following day on which such office is open.

[Section 10 amended by No. 40 of 1957 s. 6; No. 40 of 1962 s. 2; No. 94 of 1972 s. 4 (as amended by No. 19 of 1973); No. 14 of 1996 s. 4; No. 59 of 2004 s. 141; No. 19 of 2010 s. 51.]

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11. Registrar to keep register book and indexes

- (1) The registrar shall cause every bill of sale presented for registration under the provisions of this Act to be numbered, and shall keep a "register book" in which shall be inserted the date when such bill of sale is registered, and the particulars, according to the form given in the Second Schedule.
- (2) The registrar shall also keep indexes of the names of grantors of bills of sale with references to the entries in the register book of the bill of sale given by each such grantor, separate indexes being kept in respect of debentures, hire-purchase agreements and other bills of sale respectively.
- (3) Each such index shall be arranged in divisions corresponding with the letters of the alphabet, so that all grantors whose surnames begin with the same letter (and no others) shall be comprised in one division, but the arrangement within each such division need not be strictly alphabetical.
- (4) Where a bill of sale has been made or given by any person under or in the execution of any process of court, then the name, residence, and occupation of the person against whom such process was issued, and also the name of the grantee thereof, shall be inserted in the book to be kept as aforesaid.

[Section 11 amended by No. 41 of 1925 s. 3; No. 40 of 1957 s. 9.]

[12. Deleted by No. 24 of 1914 s. 12.]

13. Judge may extend time for registration and rectify errors in documents

A judge of the Supreme Court on being satisfied that the omission to present for registration a bill of sale, or an affidavit of renewal thereof within the time required by or prescribed under this Act, or that any omission or misstatement in a bill of sale, or in any affidavit of any matter hereby required to be stated, was unavoidable, accidental, or due to inadvertence, may

at any time order such omission or misstatement to be rectified, by extending the time for such registration, or by the filing of a supplementary affidavit, or by directing such matter to be stated and directing the rectification of the register, affidavit, or bill of sale or copy accordingly, and on such terms and conditions as he thinks fit.

13A. Registrar may extend time for registration or renewal of registration

- (1) Where a bill of sale is not presented for registration or registered within the time required by or prescribed under this Act, or an affidavit of renewal of the registration of a registered bill of sale is not duly filed within the time so required or prescribed if —
 - (a) an application accompanied by an affidavit verifying the facts of the case is made to the registrar by the grantee of the bill of sale or any other person acting on his behalf, requesting that the relevant period of time so required or prescribed be extended; and
 - (b) the registrar is satisfied that the omission to present for registration, register or renew the registration of the bill of sale was unavoidable, accidental or due to inadvertence,

the registrar may, in his discretion, at any time not later than 3 months after the time the bill of sale should have been presented for registration or the registration thereof should have been effected or renewed, grant the application and extend the lastmentioned time for such period not exceeding 7 days after the application is granted, as the registrar thinks fit.

- (2) Where the registrar, refuses an application under this section, the applicant may apply in manner prescribed to a judge under subsection (3).
- (3) On an application made under subsection (2) to a judge, the judge on being satisfied that the omission to present for registration or register the bill of sale or file an affidavit of

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renewal thereof within the time required by or prescribed under this Act was unavoidable, accidental or due to inadvertence, may on such terms and conditions as he thinks fit, order that the time for presenting the bill of sale for registration, effecting the registration of the bill of sale or filing the affidavit of renewal thereof shall be extended.

- (4) The registrar to whom an application is made under subsection (1) may, in any case of doubt or difficulty arising in determining the application, refer the application by motion to a judge for determination and the judge may determine the application under section 13, as though the application had been made to him under that section in the first instance.
- (5) Where a bill of sale is registered or the registration thereof is renewed after the time required by or prescribed under this Act has been extended under this section or section 13, the registration of the bill of sale or renewal thereof shall be without prejudice to the rights, if any, of third parties that are acquired between the time —
 - (a) the bill of sale should have been presented for registration or the affidavit of renewal duly filed, as required by or prescribed under this Act; and
 - (b) the bill of sale is presented for registration or the registration thereof renewed.
- (6) Subject to subsection (5), nothing in this section shall be construed as taking away or in any way derogating from or diminishing any power or jurisdiction conferred on a judge by section 13.

[Section 13A inserted by No. 33 of 1966 s. 4.]

Part III — Renewal of registration

[Heading amended by No. 13 of 1906 s. 1A (as amended by No. 40 of 1957 s. 21).]

14. Time for renewal

- (1) The registration of a bill of sale, executed after the commencement of this Act, shall, during the subsistence thereof, be renewed, in manner hereinafter mentioned, once in every period of 3 years commencing from the day of the registration and such renewal shall not be effected more than 60 days prior to the expiration of any 3 year period calculated from the day of registration.

[(2) deleted]

[Section 14 amended by No. 40 of 1957 s. 10.]

15. Non-renewal, effect of

If not so renewed such registration shall cease to be of any effect at the expiration of any period of 3 years during which a renewal has not been made as hereby required.

[Section 15 amended by No. 40 of 1957 s. 11.]

16. Mode of renewal

The registration of a bill of sale shall be renewed by filing in the office of the registrar an affidavit stating the residence and description of the grantor, and, in case of a bill of sale, by way of security the amount due thereon.

16A. Affidavit under s. 16 may be made by attorney etc.

Any affidavit of renewal of a duly registered bill of sale to be filed in pursuance of section 16 may be made by any attorney under power of the person or of one of the persons entitled to the money secured by the bill of sale to which such affidavit or renewal relates, or by any person able to depose of his own

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knowledge as to the amount owing on the security of such bill of sale.

[Section 16A inserted by No. 13 of 1906 s. 15 (as amended by No. 40 of 1957 s. 21).]

17. Registration of renewal

The registrar shall thereupon number such affidavit as if the same were a bill of sale presented for registration, and re-number the original bill of sale originally registered in the said office, with a similar number, and shall mark on the same the date of renewal of registration and shall enter particulars in the register book in like manner as on an original registration, and shall also enter the date of renewal of registration in the column provided therefor.

[Section 17 amended by No. 41 of 1925 s. 4 (as amended by No. 40 of 1957 s. 21).]

Part IV — Bills of sale by way of security

[Heading inserted by No. 13 of 1906 s. 1A (as amended by No. 40 of 1957 s. 21).]

17A. Term used: bill of sale

In this Part the term *bill of sale* means a bill of sale by way of security, and includes all assignments, transfers, declarations of trust without transfer, and other assurances of personal chattels, and also powers of attorney, authorities, or licences to take possession of personal chattels as security for the payment of money or the performance of an obligation but does not include a debenture.

[Section 17A inserted by No. 13 of 1906 s. 2 (as amended by No. 40 of 1957 s. 7 and 21).]

[17B-17Q. Deleted by No. 20 of 1986 s. 4.]

17R. Form of bill of sale (Tenth Sch.)

A bill of sale by way of security may be in the form or to the effect in the Tenth Schedule, but the use of such form shall not be obligatory.

[Section 17R inserted by No. 24 of 1914 s. 10 (as amended by No. 40 of 1957 s. 21).]

17S. Implied covenants (Eleventh, Twelfth Sch.)

- (1) The covenants and powers set out in the Eleventh Schedule shall, unless negatived or modified, be implied in favour of the grantee, and as to paragraph 8 of the said Schedule, as an agreement between the parties, in every bill of sale by way of security; and the words “the grantor will insure,” in any such bill of sale, shall have the same effect and be construed as if the words set out in the Twelfth Schedule had been inserted in the bill of sale.

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- (2) Subsection (1) and the Eleventh and Twelfth Schedules shall be read and construed subject to the provisions of —
- (a) the *Credit Act 1984* in relation to any bill of sale that is a regulated mortgage to which that Act applies; and
 - (b) the *National Credit Code* (Commonwealth) in relation to any bill of sale that is a mortgage to which that Code applies.

[Section 17S inserted by No. 24 of 1914 s. 11 (as amended by No. 40 of 1957 s. 21); amended by No. 102 of 1984 s. 3; No. 30 of 1996 s. 13; No. 14 of 2010 s. 8.]

Part V — Searches and office copies

[Heading amended by No. 13 of 1906 s. 1A (as amended by No. 40 of 1957 s. 21).]

18. Register book etc. may be searched

The register book and every bill of sale registered as aforesaid may be inspected by all persons during the office hours of the Supreme Court, upon payment for every search against each person of the prescribed fee.

[Section 18 amended by No. 41 of 1925 s. 5; No. 52 of 1957 s. 2; No. 113 of 1965 s. 8; No. 74 of 1981 s. 6; No. 49 of 1983 s. 6.]

19. Office copy or extract to be given

Any person shall be entitled to have an office copy or extract of any bill of sale, and of any affidavit filed under this Act, upon paying the prescribed fee, or if he make such copy or extract himself the registrar shall, upon satisfying himself that such copy or extract is correctly made, certify to the same upon payment of the prescribed fee.

[Section 19 inserted by No. 52 of 1957 s. 2; amended by No. 113 of 1965 s. 8; No. 74 of 1981 s. 6; No. 49 of 1983 s. 7.]

20. Registration to be *prima facie* evidence of due execution etc.

Every bill of sale registered and affidavit filed under this Act shall, if purporting to have been duly executed or sworn, be *prima facie* presumed to have been duly executed or sworn, and an office copy of any bill of sale and the schedules or inventories or affidavit purporting to be certified to by the registrar (of whose signature judicial notice shall be taken in all courts), and every certificate purporting to be signed by the registrar of the time when the same shall have been registered or renewed shall, in all courts, and before all arbitrators or other persons, be received as *prima facie* evidence of the contents of

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the bill of sale and the schedules or inventories thereto, or of the affidavit; of the signatures of the parties thereto who purport to have signed the same; of the signatures of the attesting witnesses thereto; of the fact that the said bill of sale has been duly registered and renewed and the affidavit duly filed, and of the time when the same shall have been registered or filed.

[Section 20 amended by No. 41 of 1925 s. 6.]

Part VI — Entry of satisfaction

[Heading amended by No. 13 of 1906 s. 1A (as amended by No. 40 of 1957 s. 21).]

21. Memorandum of satisfaction may be filed

- (1) Upon the production to the registrar of a memorandum of satisfaction either of a bill of sale by way of security, signed by the grantee thereof, or his attorney, or of any other bill of sale, signed by each of the parties thereto or by his attorney, discharging the chattels comprised therein, or any specified part thereof, from the moneys secured thereby, or any specified part thereof, or from the performance of the obligation thereby secured, or any specified part thereof, and on production of such bill of sale and payment of the prescribed fee the registrar shall file such memorandum and make an entry thereof in the register book on the page where the bill of sale is registered.
- (2) The execution of such memorandum shall be verified by the affidavit of the attesting witness thereto.
- (3) The registrar may, in his discretion, dispense with the production of the bill of sale on proof to his satisfaction, by affidavit or otherwise, that the bill of sale has been destroyed, lost, or cannot be produced.

[Section 21 amended by No. 40 of 1957 s. 12; No. 52 of 1957 s. 2; No. 113 of 1965 s. 8; No. 74 of 1981 s. 8; No. 49 of 1983 s. 8; No. 19 of 2010 s. 51.]

22. Filing of memorandum, effect of

From and after the filing of any such memorandum the debt or charge created by the said bill of sale shall be discharged to the extent specified in such memorandum and, in relation to chattels wholly discharged from the debt or charge created by a bill of sale by way of security, the property or legal interest therein of the grantor shall be deemed to be and to have been from and

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after the filing of the said memorandum as if the bill of sale had not been given by the grantor.

[Section 22 amended by No. 40 of 1957 s. 13.]

23. **If grantee absent registrar may receive money**

If the grantee of any bill of sale by way of security shall be absent from the State, and there be no known person in the State authorised to discharge the same on his behalf, at or after the date appointed for the payment by such bill of sale, the registrar may receive such moneys in trust for the person entitled thereto, and may sign a memorandum of satisfaction in lieu of such person, and upon the filing of such memorandum the same shall be as effectual as a memorandum signed by the person entitled to such moneys.

24. **Judge may order memorandum of satisfaction to be filed**

Any judge of the Supreme Court may order a memorandum of satisfaction to be filed in respect of any bill of sale by way of security if it shall appear to him that the debt (if any) for which such bill of sale is given as security has been satisfied or discharged, or that the obligation for securing the performance of which the bill of sale has been given has been performed, and thereupon such order may be filed by the registrar and entered in his book in like manner as if the same had been a memorandum within the meaning of section 21.

Part VII — Effect of registration

[Heading amended by No. 13 of 1906 s. 1A (as amended by No. 40 of 1957 s. 21).]

25. Effect of non-compliance with Act or non-registration

- (1) Every bill of sale or debenture not complying with the terms of section 6 or 51, as the case may be, or not duly registered or renewed in the manner and time in this Act provided, shall be deemed fraudulent and void as against —
 - (a) the Official Receiver or the trustee or liquidator (under any law relating to bankruptcy, insolvency, or winding up) of the estate of the grantor;
 - (b) the assignee or trustee acting under a personal insolvency agreement,

so far as regards the property in or right to the possession of any chattels comprised in such bill of sale which, at any time within 3 months before the time of the presentation of the petition in bankruptcy or winding up, or of the passing of an effective resolution for the winding up, or of the execution of the personal insolvency agreement, as the case may be, and after the expiration of the time and extended time (if any) allowed for the registration or renewal of such bill of sale or debenture shall have been in the possession or apparent possession of the grantor.

- (2) Such bill of sale or debenture shall also be void as against all sheriffs, bailiffs, and other persons seizing any chattels comprised therein in the execution of the process of any court authorising the seizure of the chattels of the grantor and as against any person on whose behalf such process shall have been issued so far as regards the property in or right to the possession of any such chattels comprised in such bill of sale or debenture which, at the time of such seizure and after the expiration of the time and extended time aforesaid, shall be in the possession or apparent possession of the grantor.

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- (3) When, in accordance with this section, any document, whereby chattels are let on hire (with or without right of purchase) or otherwise bailed by the owner, or are acknowledged to have been received on hire or as a bailment from the owner, is or becomes void in respect of any chattels as against any person, then the chattels affected shall, as between the owner and such person, be deemed to be the property of the person to whom they have been so let on hire or bailed as aforesaid, but nothing herein shall affect the respective rights, as between themselves, of the owner and hirer or bailee of any such chattels.

[Section 25 inserted by No. 41 of 1925 s. 7; amended by No. 18 of 2009 s. 12(2).]

25A. Certain errors in bill of sale not to invalidate it

Notwithstanding anything to the contrary contained in this Act, no bill of sale shall be deemed fraudulent, void or invalid by reason only that in the bill of sale, there is an omission or incorrect or insufficient description or misdescription of the residence or place of business and occupation of the grantor or grantee, or any other contravention of the requirements of section 6 or of sections 30 or 37, if the court, judge, or justice before whom the validity of such bill of sale shall come into question shall be satisfied that such omission or incorrect or insufficient description or misdescription or contravention was accidental or due to inadvertence, and was not of such a nature as to be liable to mislead or deceive.

[Section 25A inserted by No. 13 of 1906 s. 14 (as amended by No. 40 of 1957 s. 8 and 21).]

26. Application of doctrine of apparent possession

Until the expiration of the time, or extended time, for registration of any bill of sale, and so long as such bill of sale continues to be registered hereunder, the chattels comprised in any bill of sale shall not be deemed to be in the possession, order or disposition of the grantor within the meaning of any

Act relating to bankruptcy or insolvency for the time being in force.

27. *Bona fide* purchaser not affected by unregistered bill of sale

No bill of sale shall be valid or effectual against any purchaser *bona fide* and for valuable consideration without express notice, unless such bill of sale shall, within the times aforesaid, be duly registered and renewed under the provisions of this Act.

28. Chattels liable to distress for rates

A bill of sale, whether heretofore or hereafter executed, shall not protect the chattels therein comprised against any distress for any rates or taxes payable by the owner or occupier of any land under any existing or future Act of Parliament.

[29. *Deleted by No. 40 of 1957 s. 14.]*

[29A. *Deleted by No. 102 of 1987 s. 5.]*

Part VIII — General

[Heading amended by No. 13 of 1906 s. 1A (as amended by No. 40 of 1957 s. 21).]

30. Bill of sale subject to defeasance etc. not contained in it, effect of

- (1) If any bill of sale shall be made or given subject to any defeasance, condition, or declaration of trust not contained in the body thereof, such defeasance, condition, or declaration of trust shall, for the purposes of this Act, be taken as part of such bill of sale, and shall be written on or a copy thereof annexed to the same paper or parchment on which such bill of sale shall be written, otherwise such bill of sale shall be void against the persons and to the extent mentioned in section 25.
- (2) Despite subsection (1), in the case of a document also securing the payment of the moneys payable under a bill of sale or any part of such moneys, it shall not be necessary for the purposes of this section to write such document on the same paper or parchment if the date, names of the parties thereto, and the amount secured by such document and short particulars of the property affected be set forth in such bill of sale or some schedule thereto.
- (3) This section shall not apply to any bill of exchange or promissory note comprising the amount secured or any part thereof.

[Section 30 amended by No. 19 of 2010 s. 51.]

31. Bill of sale void against trustee in bankruptcy etc. in some cases

- (1) Every bill of sale given absolutely or by way of security shall be fraudulent and void as against the trustee in bankruptcy or under a personal insolvency agreement, and also as against the liquidator in the winding up of the estate of the grantor if it has been executed within 6 months prior to the filing of the petition

on which the order of adjudication or winding up order is made, or to the resolution for voluntary winding up, or to the execution by the grantor of the personal insolvency agreement except as to any contemporaneous advance and interest thereon, and except, also, as to any money advanced or paid, or the actual price of goods sold or supplied, or the amount of any liability undertaken by the grantee of such bill of sale or his assignee to, for, or on account of the grantor after the granting, but on the security of the said bill of sale, but not exceeding the maximum amount covered thereby.

- (2) This section shall not apply to any agreement for the hire, with or without the right of purchase, of chattels.

[Section 31 amended by No. 24 of 1914 s. 6; No. 18 of 2009 s. 12(3); No. 19 of 2010 s. 51.]

31A. Contemporaneous and subsequent advances

Every bill of sale registered before or after the commencement of the *Bills of Sale Act Amendment Act 1914*¹, in which the consideration therein stated is or includes a contemporaneous advance, shall, subject in other respects to the provisions of this Act and of any other Act whereby this Act is amended, be a valid security to the extent of all advances made contemporaneously with and subsequently to the granting of such bill of sale, but not exceeding the maximum amount covered thereby.

[Section 31A inserted by No. 24 of 1914 s. 4 (as amended by No. 40 of 1957 s. 21).]

32. Bill of sale void against sheriff etc. executing process in some cases

Every bill of sale hereafter given absolutely or by way of security shall be fraudulent and void as against all sheriffs, bailiffs, and other persons seizing the chattels, or any part thereof, comprised therein in the execution of any process of any court under any writ or warrant of execution issued within 3 months from the

s. 33

registration of the said bill of sale on a judgment or order entered, made, or obtained in respect of a liquidated debt incurred by the grantor before the registration of the said bill of sale, and also against every person on whose behalf such process shall have issued, except as mentioned in section 31.

[Section 32 amended by No. 40 of 1957 s. 15.]

33. Bills of sale, date of effect of

Every bill of sale shall be deemed to be made on and shall only take effect from the day on which it is executed.

34. Priority of instruments affecting same chattels

- (1) In case 2 or more bills of sale are executed comprising in whole or in part any of the same chattels, priority shall be given to such bill of sale or bills of sale in the order of the date of their presentation for registration respectively as regards the title to or right to the possession of such chattels.
- (2) Despite subsection (1), any such prior bill of sale shall not be affected if presented for registration within the time or extended time limited by this Act.

[Section 34 amended by No. 19 of 2010 s. 51.]

35. Avoidance of duplicate bills of sale

Where a bill of sale is executed after the execution of a prior unregistered bill of sale, and comprises all or any of the chattels comprised in such prior bill of sale, then if such subsequent bill of sale is given as a security for the same debt or liability as is secured by the prior bill of sale, or for any part of such debt or liability, it shall to such extent and so far as respects the chattels comprised in the prior bill of sale, be void to the extent and as against the persons mentioned in section 25; unless it be proved to the court having cognisance of the case that the subsequent bill of sale was *bona fide* given for the purpose of correcting some material error in the prior bill of sale or in the execution or attestation thereof, and not for the purpose of evading this Act.

[Section 35 amended by No. 40 of 1957 s. 16.]

[35A. Deleted by No. 49 of 1983 s. 9.]

36. Grantee may bid for and purchase chattels and appoint etc. receiver

- (1) Notwithstanding any rule of law or equity to the contrary, the grantee of any bill of sale by way of security may at any time after he has demanded payment of the moneys or performance of the conditions secured by such bill of sale —
 - (a) bid for and purchase the whole or any part or parts of the chattels comprised in such bill of sale at any public auction thereof held under the power of sale contained or implied in such bill of sale; and
 - (b) appoint in writing and from time to time remove any person as receiver and manager of the chattels comprised in any such bill of sale to obtain and hold possession thereof, and, if thought fit, to carry on any business in connection therewith pending the sale thereof, and such person shall have the same rights, powers, and privileges as if such person were appointed by the Supreme Court.
- (2) The remuneration of such receiver and his costs and expenses shall be paid by the grantor, and shall be a first charge upon the chattels comprised in the bill of sale.

[Section 36 amended by No. 19 of 2010 s. 51.]

36A. Protection of *bona fide* purchasers

Nothing in section 25, 30, 31, or 32 shall affect the rights of any person making title to any chattels through or under any grantee of a bill of sale in good faith and for valuable consideration, by virtue of any sale or other disposition effected whilst the chattels were not in the possession or apparent possession of the grantor.

s. 36A

[Section 36A inserted by No. 41 of 1925 s. 8.]

Part IX — Bills of sale of stock

[Heading amended by No. 13 of 1906 s. 1A (as amended by No. 40 of 1957 s. 21).]

37. Stock to be described etc.

- (1) In any bill of sale comprising stock, the stock therein comprised shall be described or referred to therein by some brand or brands or other mark or marks on such stock, or shall be otherwise described or referred to by sex, age, name, colour, or otherwise, so as to be reasonably capable of identification; otherwise the same shall be void to the extent and as against the persons mentioned in section 25 so far as regards such or so much of such stock as may not be so described or referred to or be otherwise reasonably capable of identification, and the land or premises on which such stock are shall be described or mentioned in such bill of sale.
- (2) Despite subsection (1), in any bill of sale over stock on any station or farm such stock shall be sufficiently identified by reference to the places where the same are usually depasturing.

[Section 37 amended by No. 19 of 2010 s. 51.]

38. Bill of sale of stock to include progeny

A bill of sale comprising stock shall, unless the contrary be expressed therein, be deemed to include not only the stock comprised therein as provided by the last preceding section, but also the increase of such stock, and all stock the property of the grantor branded or marked or which shall have been or be branded or marked with the brand or mark specified in the bill of sale which the grantor shall have covenanted by such bill of sale to so brand or mark, and which shall, after the execution of such bill of sale during the continuance of the security, be depasturing, or be at, in, or upon any lands or premises mentioned in such bill of sale.

Part X — Bill of sale over crops

[Heading amended by No. 13 of 1906 s. 1A (as amended by No. 40 of 1957 s. 21).]

39. Bill of sale may be granted over crops

A bill of sale, by way of security, may be granted over the crops described or referred to therein then actually sown in or growing upon or about to be sown in or grown upon the lands mentioned in such bill of sale, and shall entitle the grantee thereof to the whole of the crops therein mentioned, not only while growing, but afterwards when cut or separated from the soil, and stacked or stored on the land where grown, or on any other land or premises of the grantor or grantee.

[Section 39 amended by No. 24 of 1914 s. 7.]

40. Bill of sale cannot be granted over some crops

No such bill of sale shall give any security over crops which, in the ordinary course of husbandry, cannot be harvested and taken off such land within one year from the date of the execution of such bill of sale.

41. Saving of rights of landlord and mortgagee

- (1) No such bill of sale shall prejudicially affect the rights of any landlord or mortgagee of any land whereon the said crops shall be growing or stacked unless and to the extent to which such landlord or mortgagee has consented in writing to such bill of sale.
- (2) No such bill of sale, if duly registered, shall be prejudicially affected by any subsequent sale, lease, mortgage, or other encumbrance of or upon the land described or referred to in such bill of sale, or in the schedule thereto.

[Section 41 amended by No. 19 of 2010 s. 51.]

Part XI — Bill of sale over wool

[Heading amended by No. 13 of 1906 s. 1A (as amended by No. 40 of 1957 s. 21).]

42. Bill of sale over wool

A bill of sale, by way of security, may be granted over the wool of the then next ensuing clip to be shorn from the stock described or referred to therein and then depasturing upon the lands mentioned therein, and shall entitle the grantee thereof to the wool of such stock, not only while growing but afterwards when shorn from the stock, and stacked or stored on any premises of the grantor or grantee.

[Section 42 amended by No. 102 of 1987 s. 6.]

43. Bill of sale over wool not affected by subsequent sale etc. of stock

No subsequent sale, bailment, mortgage, or other encumbrance of the stock mentioned in any such bill of sale shall prejudicially affect such bill of sale or the rights of the grantee thereof to the wool specified or referred to therein.

[Section 43 amended by No. 102 of 1987 s. 6.]

44. Form of bill of sale (Fourth Sch.)

Any such bill of sale may be in the form set forth in the Fourth Schedule.

45. Bill of sale over wool of mortgaged sheep

It shall be lawful for the grantor of any bill of sale, by way of security over sheep, but only with the consent in writing of the grantee thereof, and to the extent authorised by such consent, to give a valid security as aforesaid on the next ensuing clip of the wool of such sheep.

Part XII — Miscellaneous

[Heading amended by No. 13 of 1906 s. 1A (as amended by No. 40 of 1957 s. 21).]

[46. *Deleted by No. 24 of 1914 s. 8.]*

47. Covenants to be joint and several

Whenever there is more than one grantor or more than one grantee of any bill of sale, then any covenants, conditions, provisos, powers, and agreements expressed in such bill of sale, and imposing an obligation on such grantors or grantees, or inuring for the benefit of such grantors or grantees, shall be deemed to impose such obligations or confer such benefits, as the case may be, severally as well as jointly unless and in so far as a contrary intention appears.

48. Covenants to bind representatives

In any bill of sale, unless the contrary be expressed, all covenants, conditions, provisos, powers, and agreements therein expressed shall bind the executors, administrators, and assigns of the person upon whom such covenants, provisos, powers, and agreements shall impose an obligation, and shall operate for the benefit of the executors, administrators, and assigns of the person for whose benefit the same shall inure.

48A. Regulations

The Governor may make regulations prescribing the fees to be paid —

- (a) in respect of any applications made under this Act; and
- (b) for registration or for the renewal of registration made under this Act; and
- (c) for any service, function or procedure provided or contemplated by this Act,

and providing for the payment and recovery of such fees.

[Section 48A inserted by No. 49 of 1983 s. 10.]

[49. Deleted by 1 and 2 Edw. VII., No. 14 (1902).]

50. Rules

Rules for the purposes of this Act may be made and altered from time to time by the like person and in the like manner in which rules and regulations may be made under and for the purposes of the *Supreme Court Act 1935*.

50A. *Bills of Sale Act Amendment Act 1925* has no retrospective effect

Nothing in the *Bills of Sale Act Amendment Act 1925*¹, contained shall affect the rights or liabilities of the parties to any bill of sale or debenture which had been executed prior to the coming into operation of that Act.

[Section 50A inserted by No. 41 of 1925 s. 10 (as amended by No. 40 of 1957 s. 21).]

Part XIII — Debentures

[Heading amended by No. 13 of 1906 s. 1A (as amended by No. 40 of 1957 s. 21).]

51. Registration of debentures

- (1A) Every debenture issued or given by any incorporated body, other than a body to which the *Corporations Act 2001* of the Commonwealth applies, shall be registered under this Act in the manner set out in subsections (1), (2) and (3).
- (1) The body issuing or giving the debenture shall present to and file with the registrar for registration the original debenture or a copy thereof accompanied in either case by an affidavit verifying the execution of the debenture and, where a copy is filed, also verifying it as a true copy. The affidavit shall be made by a director or the manager or secretary of the body. In the case of a series of debentures it shall be sufficient to file a copy of one debenture of each series verified by affidavit as aforesaid. The registrar shall endorse upon the original debenture or copy presented and filed and also upon any duplicate original or other copy of the debenture which is presented to him, a certificate of registration stating the hour of the presentation for registration and the date of registration, and containing a reference to the register book in which the registration is recorded. The certificate shall be authenticated by the seal and signature of the registrar. The duplicate original or other copy presented shall then be delivered to the person entitled thereto or to his solicitor or agent. The production of a debenture, or of a duplicate or copy of a debenture, purporting to have endorsed thereon the certificate duly authenticated shall be *prima facie* evidence of the due registration of the debenture. Whenever there is any difference or variation between the contents of a debenture or copy filed with the registrar under this paragraph and of the original or duplicate or copy of the debenture, the filed document shall prevail.

- (2) Registration of a debenture, or of a series of debentures, may be renewed by the holder of any debenture, or by any officer of the body issuing or giving the same.
- (3) The renewal of registration of any one debenture of a series shall be deemed a renewal of all the debentures of such series.
[Section 51 amended by No. 40 of 1957 s. 17; No. 10 of 1982 s. 28; No. 10 of 2001 s. 27; No. 19 of 2010 s. 51.]

52. Application of certain sections to debentures

- (1) Sections 9 to 17, both inclusive, 18 to 25, both inclusive, 26, 27, 28, 31, 32 to 35, both inclusive, 36, 47, 48 and 50 shall apply, *mutatis mutandis*, to every debenture issued as aforesaid.
- (2) Such sections shall be read as if “Debenture” were throughout substituted for “Bill of Sale”.
- (3) The filing of the debenture or copy thereof as aforesaid shall be deemed to be the presentation of the debenture for registration.
[Section 52 amended by No. 40 of 1957 s. 18.]

53. When more than one debenture issued

- (1) If more than one debenture is issued or is to be issued in the same series, the affidavit verifying the execution of the debenture shall state such fact and give short particulars of the series, and every debenture of such series shall be deemed registered on compliance with the provisions of section 51 as to any one debenture or proposed debenture of such series.
- (2) Despite subsection (1), no debenture of any such series shall be protected or be deemed registered unless the same is actually issued and taken up or allotted within 6 weeks from the compliance with the provisions of section 51, or within such extended time as next hereinafter mentioned.

s. 53

- (3) A judge of the Supreme Court shall have power to extend the time for issuing, taking up, or allotting any such debenture on such terms and conditions as he may think fit.

[Section 53 amended by No. 24 of 1914 s. 9; No. 40 of 1957 s. 19; No. 19 of 2010 s. 51.]

[54. Deleted by No. 102 of 1987 s. 7.]

[First Schedule omitted under the Reprints Act 1984 s. 7(4)(f).]

Second Schedule — Register book

[s. 11]

[Heading amended by No. 19 of 2010 s. 4.]

No.	By whom given, or against whom process issued			To whom given			Nature and Date of Instrument	Consideration	Date of lodging notice of intention to register	Date of Registration.	Date of Renewal	Satisfaction entered
	Name	Residence	Occupation	Name	Residence	Occupation						

Third Schedule — Bill of sale over crops

[s. 39]

[Heading amended by No. 19 of 2010 s. 4.]

The following form of bill of sale under section 39 may be used: —

In consideration of (*here set forth the consideration*), the receipt whereof is hereby acknowledged, I (*set forth full name, address, and occupation*) do hereby sell and assign to (*set forth full name, address, and occupation of grantee*) all that and those the crops now actually sown in or growing upon or about to be sown in or grown upon the following lands (*describe lands specifically*), to hold the same crops as security for the repayment of the moneys aforesaid. The said crops shall be gathered and stacked at my expense and delivered to the said (*grantee*) on demand.

Dated this day of , 20 .

Signed in the presence of —

[Third Schedule amended by No. 24 of 1914 s. 16.]

Fourth Schedule — Lien on wool

[s. 44]

[Heading amended by No. 19 of 2010 s. 4.]

In consideration of (*here set forth the consideration*) the receipt whereof is hereby acknowledged, I (*here set forth full name, address, and occupation*) do hereby give to (*set forth full name, address, and occupation of grantee*) a preferable lien to the extent of the amount aforesaid on the wool of the ensuing clip to be shorn from my flocks of sheep, numbering _____, or thereabouts, and now depasturing at _____, under the superintendence of _____, and branded _____. The wool shall be shorn at my expense and delivered to the order of the said (*grantee*) at _____.

Dated this _____ day of _____, 20_____.

Signed in the presence of —

*[Fifth Schedule deleted by No. 40 of 1957 s. 20.]**[Sixth-Ninth Schedules deleted by No. 20 of 1986 s. 5.]*

Tenth Schedule — Bill of sale by way of security

[s. 17R]

[Heading inserted by No. 24 of 1914 s. 10 (as amended by No. 40 of 1957 s. 21); amended by No. 19 of 2010 s. 4.]

This Indenture, made the _____ day of _____, 20____, between *(names in full of grantor, his residence or place of business, and occupation)*, hereinafter called the grantor, of the one part, and *(names in full of grantee, his residence or place of business, and occupation)*, hereinafter called the grantee, of the other part, witnesseth that in consideration of the sum of _____ dollars this day paid by the grantee to the grantor *(or as the case may be)*, the receipt of which the grantor hereby acknowledges, the grantor hereby assigns unto the grantee all and singular the chattels described in the schedule hereto, and which are situated *(state the place where the chattels are situated)* by way of security for the payment by the grantor to the grantee of the sum of _____ dollars and interest thereon at the rate of _____ per centum per annum on demand *(or at such time or by such instalments as may be agreed upon)*. And it is agreed that upon payment in full by the grantor to the grantee of all the moneys hereby secured, this bill of sale shall become void, and the grantee will at the request and cost of the grantor sign and cause to be registered a memorandum of satisfaction thereof, and that it shall be lawful for the grantor to retain possession of the said chattels until default is made in the express or implied terms, covenants, conditions, and agreements of this security.

The Schedule

In witness whereof the parties to these presents have hereunto set their hands and seals, the day and year first above written.

Signed, sealed, and delivered
by the said
in the presence of }
}

[Tenth Schedule inserted by No. 24 of 1914 s. 10 (as amended by No. 40 of 1957 s. 21); amended by No. 113 of 1965 s. 8; No. 57 of 1997 s. 23.]

**Eleventh Schedule — Covenants to be deemed implied in
bills of sale by way of security**

[s. 17S]

[Heading inserted by No. 24 of 1914 s. 11 (as amended by No. 40 of 1957 s. 21); amended by No. 19 of 2010 s. 4.]

1. Grantor to pay principal and interest

That the grantor will pay to the grantee the principal and interest money secured, or intended to be secured, by such bill of sale, at the time and in manner therein provided for payment thereof.

[Clause 1 inserted by No. 24 of 1914 s. 11.]

2. Grantor not to remove chattels

That the grantor will not, without the consent in writing of the grantee, sell or exchange any of the chattels comprised in such bill of sale, or remove any of the said chattels from the premises mentioned therein, and will at all times keep such personal chattels in good order and condition.

[Clause 2 inserted by No. 24 of 1914 s. 11.]

3. Grantor not to suffer goods to be taken in execution

That the grantor will not suffer the chattels comprised in such bill of sale to be distrained for any rent, rates, or taxes, nor suffer any execution to be levied against his goods or chattels, nor become bankrupt, call a meeting of his creditors, or enter into a personal insolvency agreement.

[Clause 3 inserted by No. 24 of 1914 s. 11; amended by No. 18 of 2009 s. 12(4).]

4. Grantor to produce receipts for rent etc.

That the grantor will produce to the grantee, upon demand, the last receipt for all rent, rates, and taxes in respect of the premises whereon the chattels shall be.

[Clause 4 inserted by No. 24 of 1914 s. 11.]

cl. 5

5. Grantee may enter and view goods etc.

That the grantee may, by himself or his agents, at all reasonable times, enter upon the grantor's premises whereon the chattels are kept, and view the state and condition thereof, and that the grantor will show forth and produce to the grantee all and singular the chattels comprised in such bill of sale, and permit the grantee to take an inventory thereof.

[Clause 5 inserted by No. 24 of 1914 s. 11.]

6. Grantee's power of sale etc. in case of default

That, if the grantor shall make default in the payment of the principal or interest money thereby secured at the time provided for payment thereof, or in the observance or performance of any one of the covenants, terms, conditions, or agreements, whether expressed or implied, in such bill of sale, it shall be lawful for the grantee, without any further consent or concurrence on the part of the grantor, to enter into and upon the land, messuage, or tenement whereon the said chattels assigned are, or into or upon any other land, messuage, or tenement on or in which such chattels, or any other chattels comprised and included in such bill of sale respectively, may be, or may reasonably be supposed to be, and for that purpose to open or remove any outer or inner gate, door, fastening, or other obstruction, without liability to any action of trespass or other proceeding for so doing; but with liberty to plead the leave and license thereby given in bar to any such action or proceeding, if any such be brought or instituted, and to seize and take possession of all such chattels, and to remove the same to any other place or places for safety, convenience of sale, or otherwise, or suffer them to remain in the place or places where the same may be found, and to sell and dispose of such chattels and premises, or any of them, either together or in parcels, at such time or times, and place or places, and either by public auction or private contract, or partly by public auction and partly by private contract, to any person or persons, for such price or prices, either for cash or on credit, or partly for cash and partly on credit, and if either partly or wholly on credit, giving such time or times for payment, and taking or foregoing any security or securities for the payment of the unpaid purchase money as the grantee may deem proper or expedient, with power for him to make any such other terms and conditions in regard

to such sale or sales as he may think proper, and also to buy in all or any of the said chattels at any such sale or sales by auction, and rescind or vary any contract for sale thereof, and again to resell or offer for resale the same from time to time, without being answerable or accountable for any loss, diminution in price, costs, or expenses to be occasioned by any such bringing in, rescission, variance, or actual or attempted resale.

[Clause 6 inserted by No. 24 of 1914 s. 11.]

7. Grantee may execute documents for purpose of carrying out sale

That it shall be lawful for the grantee, upon or after any such sale as aforesaid, to make, enter into, sign, and execute all such contracts, agreements, deeds, instruments, and writings as may be necessary or expedient for the purpose of making and effectuating any such sale, and which shall be as binding and conclusive upon and against the said grantor as if he or they had joined therein, or assented thereto. And also that the receipt or receipts in writing of the grantee for all purchase money or other property which shall be paid or delivered to him under or by virtue of the bill of sale, shall be a good and sufficient discharge or good and sufficient discharges to all purchasers or other persons paying or delivering the same, and that such purchaser or other persons shall not be required to see to the application or be answerable for the misapplication or non-application thereof, or be bound or concerned to inquire into the propriety or expediency of any such sale or resale.

[Clause 7 inserted by No. 24 of 1914 s. 11.]

8. Grantee to apply money from sale in satisfaction of security

That the grantee shall, out of the moneys which shall come to his hands by reason of any such sale or sales in the first place, discharge the costs and expenses incurred or sustained in or about such sale or sales, and all other costs, charges, and expenses incurred or occasioned in or about the execution of the powers and authorities contained in the bill of sale, and shall retain the balance of such moneys, or so much thereof as may be necessary, in or towards payment and satisfaction of all moneys due and owing to him upon the security of such bill of sale, and shall pay to the grantor the surplus then remaining.

Bills of Sale Act 1899

Eleventh Schedule

Covenants to be deemed implied in bills of sale by way of security

cl. 8

[Clause 8 inserted by No. 24 of 1914 s. 11.]

Twelfth Schedule — Covenant to insure

[s. 17S]

[Heading inserted by No. 24 of 1914 s. 11 (as amended by No. 40 of 1957 s. 21); amended by No. 19 of 2010 s. 4.]

The grantor will forthwith insure and, so long as any money shall remain due from him to the grantee on the security of the bill of sale, keep insured in some public insurance office, to be approved of by the grantee, against loss or damage by fire, in the name of the grantee, the chattels comprised in such bill of sale to the full amount then due thereon, and will hand over to the grantee the policy of such insurance and produce to him the receipts for the annual or other periodical premiums payable on account thereof, and that all moneys payable by virtue of such insurance shall be received by the grantee towards satisfaction of the moneys due on such security, and that if default shall be made by the grantor in effecting or keeping on foot such insurance it shall be lawful for, but not obligatory upon the grantee (without prejudice to any other remedy) to insure the said chattels in manner aforesaid, and the money paid on account of such insurance shall be a charge on the said chattels.

[Twelfth Schedule inserted by No. 24 of 1914 s. 11 (as amended by No. 40 of 1957 s. 21).]

[Thirteenth Schedule deleted by No. 49 of 1983 s. 11.]

Fourteenth Schedule — Attestation of witness

[s. 8(1)]

[Heading amended by No. 19 of 2010 s. 4.]

I [*here state names in full, residence and occupation*] the person whose name appears as the attesting witness to the above bill of sale do hereby declare that I was present at _____ on the _____ day of _____, 20____, and saw [*grantor*] sign the above instrument, and I thereupon signed my name as attesting witness thereto.

Dated the _____ day of _____, 20____.

[Fourteenth Schedule inserted by No. 41 of 1925 s. 11 (as amended by No. 40 of 1957 s. 21).]

Notes

¹ This reprint is a compilation as at 18 March 2011 of the *Bills of Sale Act 1899* and includes the amendments made by the other written laws referred to in the following table^{1a}. The table also contains information about any reprint.

Compilation table

Short title	Number and year	Assent	Commencement
<i>Bills of Sale Act 1899</i>	1899 (63 Vict. No. 45)	16 Dec 1899	1 Mar 1900 (see s. 2)
<i>Bills of Sale Act Amendment Act 1900</i>	1900 (64 Vict. No. 28)	5 Dec 1900	5 Dec 1900
<i>Criminal Code Act 1902</i> s. 3(2)	1902 (1 and 2 Edw. VII No. 14)	19 Feb 1902	19 Feb 1902
<i>Bills of Sale Amendment Act 1905</i>	17 of 1905 (5 Edw. VII No. 17) (as amended by No. 40 of 1957 s. 21(1))	23 Dec 1905	23 Dec 1905
<i>Bills of Sale Amendment Act 1906</i>	13 of 1906 (6 Edw. VII No. 13) (as amended by No. 24 of 1909 s. 2; No. 24 of 1914 s. 12, 14, 15 and 17; No. 41 of 1925 s. 12; No. 42 of 1932 s. 2 (as amended by No. 40 of 1957 s. 21(1));	28 Nov 1906	28 Nov 1906

Bills of Sale Act 1899

Short title	Number and year	Assent	Commencement
	No. 40 of 1957 s. 7, 8 and 21(1); No. 52 of 1957 s. 2)		
<i>Bills of Sale Act Amendment Act 1912</i>	40 of 1912 (3 Geo. V No. 21) (as amended by No. 40 of 1957 s. 21(1))	5 Nov 1912	5 Nov 1912
<i>Bills of Sale Act Amendment Act 1914</i>	24 of 1914 (5 Geo. V No. 24) (as amended by No. 40 of 1957 s. 21(1); No. 52 of 1957 s. 2)	22 Sep 1914	22 Sep 1914
<i>Bills of Sale Act Amendment Act 1925</i>	41 of 1925 (16 Geo. V No. 41) (as amended by No. 40 of 1957 s. 21(1))	31 Dec 1925	31 Dec 1925
Reprint of the <i>Bills of Sale Act 1899</i> in Appendix to Session 1925 (includes amendments listed above)			
<i>Bills of Sale Act Amendment Act 1927</i>	8 of 1927 (18 Geo. V No. 8)	29 Oct 1927	29 Oct 1927
<i>Bills of Sale Act Amendment Act 1940</i>	52 of 1940 (4 and 5 Geo. VI No. 52)	30 Dec 1940	30 Dec 1940
<i>Bills of Sale Act Amendment Act 1956</i>	9 of 1956 (5 Eliz. II No. 9)	11 Oct 1956	11 Oct 1956

Short title	Number and year	Assent	Commencement
<i>Bills of Sale Act Amendment and Revision Act 1957</i>	40 of 1957 (6 Eliz. II No. 40)	22 Nov 1957	1 Jul 1958 (see s. 1(2) and <i>Gazette</i> 16 May 1958 p. 989)
<i>Bills of Sale Act Amendment Act 1957</i>	52 of 1957 (6 Eliz. II No. 52)	9 Dec 1957	9 Dec 1957
Reprint of the <i>Bills of Sale Act 1899</i> approved 12 May 1958 in Volume 12 of Reprinted Acts (includes amendments listed above)			
<i>Bills of Sale Act Amendment Act 1962</i>	40 of 1962 (11 Eliz. II No. 40)	29 Oct 1962	29 Oct 1962
<i>Bills of Sale Act Amendment Act 1963</i>	14 of 1963 (12 Eliz. II No. 14)	5 Nov 1963	5 Nov 1963
<i>Decimal Currency Act 1965</i>	113 of 1965	21 Dec 1965	Act other than s. 4-9: 21 Dec 1965 (see s. 2(1)); s. 4-9: 14 Feb 1966 (see s. 2(2))
<i>Bills of Sale Act Amendment Act 1966</i>	33 of 1966	31 Oct 1966	16 Dec 1966 (see s. 2 and <i>Gazette</i> 16 Dec 1966 p. 3315)
Reprint of the <i>Bills of Sale Act 1899</i> approved 7 Apr 1971 (includes amendments listed above)			
<i>Bills of Sale Act Amendment Act 1971</i>	32 of 1971	6 Dec 1971	1 Jan 1972 (see s. 2 and <i>Gazette</i> 17 Dec 1971 p. 5251)
<i>Metric Conversion Act 1972</i>	94 of 1972	4 Dec 1972	Relevant amendments (see Second Sch. ²) took effect on 1 Jan 1974 (see s. 4(2) and <i>Gazette</i> 2 Nov 1973 p. 4108)
<i>Bills of Sale Amendment Act 1981</i>	74 of 1981	30 Oct 1981	27 Nov 1981 (see s. 2)
<i>Companies (Consequential Amendments) Act 1982</i> s. 28	10 of 1982	14 May 1982	1 Jul 1982 (see s. 2(1) and <i>Gazette</i> 25 Jun 1982 p. 2079)
<i>Bills of Sale Amendment Act 1983</i>	49 of 1983	5 Dec 1983	1 Mar 1984 (see s. 2 and <i>Gazette</i> 20 Jan 1984 p. 120)
<i>Bills of Sale Amendment Act 1984</i>	11 of 1984	31 May 1984	31 May 1984

Bills of Sale Act 1899

Short title	Number and year	Assent	Commencement
<i>Acts Amendment and Repeal (Credit) Act 1984 Pt. II</i>	102 of 1984	19 Dec 1984	31 Mar 1985 (see s. 2 and <i>Gazette</i> 8 Mar 1985 p. 867)
<i>Bills of Sale Amendment Act 1986</i> ³	20 of 1986	25 Jul 1986	18 Aug 1986 (see s. 2 and <i>Gazette</i> 15 Aug 1986 p. 2925)
<i>Bills of Sale Amendment Act 1987</i> ⁴	102 of 1987	16 Dec 1987	14 Nov 1988 (see s. 2 and <i>Gazette</i> 5 Aug 1988 p. 2583)
Reprint of the Bills of Sale Act 1899 as at 12 Feb 1996 (includes amendments listed above)			
<i>Local Government (Consequential Amendments) Act 1996 s. 4</i>	14 of 1996	28 Jun 1996	1 Jul 1996 (see s. 2)
<i>Consumer Credit (Western Australia) Act 1996 s. 13</i>	30 of 1996	10 Sep 1996	1 Nov 1996 (see s. 2)
<i>Statutes (Repeals and Minor Amendments) Act 1997 s. 23</i>	57 of 1997	15 Dec 1997	15 Dec 1997 (see s. 2(1))
<i>Statutes (Repeals and Minor Amendments) Act (No. 2) 1998 s. 76</i>	10 of 1998	30 Apr 1998	30 Apr 1998 (see s. 2(1))
<i>Corporations (Consequential Amendments) Act 2001 Pt. 8</i>	10 of 2001	28 Jun 2001	15 Jul 2001 (see s. 2 and <i>Gazette</i> 29 Jun 2001 p. 3257 and <i>Cwlth Gazette</i> 13 Jul 2001 No. S285)
Reprint of the Bills of Sale Act 1899 as at 24 Aug 2001 (includes amendments listed above)			
<i>Courts Legislation Amendment and Repeal Act 2004 s. 141</i>	59 of 2004	23 Nov 2004	1 May 2005 (see s. 2 and <i>Gazette</i> 31 Dec 2004 p. 7128)
<i>Oaths, Affidavits and Statutory Declarations (Consequential Provisions) Act 2005 s. 63</i>	24 of 2005	2 Dec 2005	1 Jan 2006 (see s. 2 and <i>Gazette</i> 23 Dec 2005 p. 6244)
<i>Statutes (Repeals and Miscellaneous Amendments) Act 2009 s. 5</i>	8 of 2009	21 May 2009	22 May 2009 (see s. 2(b))
<i>Acts Amendment (Bankruptcy) Act 2009 s. 12</i>	18 of 2009	16 Sep 2009	17 Sep 2009 (see s. 2(b))

Short title	Number and year	Assent	Commencement
<i>Credit (Commonwealth Powers) (Transitional and Consequential Provisions) Act 2010 s. 8</i>	14 of 2010	25 Jun 2010	1 Jul 2010 (see s. 2(b) and <i>Gazette</i> 30 Jun 2010 p. 3185)
<i>Standardisation of Formatting Act 2010 s. 4 and 51</i>	19 of 2010	28 Jun 2010	11 Sep 2010 (see s. 2(b) and <i>Gazette</i> 10 Sep 2010 p. 4341)
Reprint 6: The Bills of Sale Act 1899 as at 18 Mar 2011 (includes amendments listed above)			
<i>Personal Property Securities (Consequential Repeals and Amendments) Act 2011 s. 31</i>	42 of 2011	4 Oct 2011	5 Oct 2011 (see s. 2(b))

^{1a} [On the date as at which this compilation was prepared, provisions referred to in the following table had not come into operation and were therefore not included in this compilation. For the text of the provisions see the endnotes referred to in the table.](#)

Provisions that have not come into operation

<u>Short title</u>	<u>Number and year</u>	<u>Assent</u>	<u>Commencement</u>
<i>Personal Property Securities (Consequential Repeals and Amendments) Act 2011 s. 32(1)</i>⁵	42 of 2011	4 Oct 2011	Operative immediately before the registration commencement time as defined in the <i>Personal Property Securities Act 2009</i> (Cwlth) s. 306(2) (see s. 2(c))

² The Second Schedule was inserted by the *Metric Conversion Act Amendment Act 1973*.

³ The *Bills of Sale Amendment Act 1986* s. 6 reads as follows:

6. Transitional provision

- (1) Without limiting the operation of the *Interpretation Act 1984*, where immediately before the coming into operation of this Act a notice of intention to register a bill of sale has been lodged under section 17B of the principal Act as in force before the coming into operation of this Act, and the bill of sale the subject of that notice of intention has not been registered under Part II of the principal Act at the time when this

Act comes into operation, that bill of sale shall be dealt with in all respects as if this Act had not been enacted.

- (2) In subsection (1) *bill of sale* has the meaning given to that term in section 17A of the principal Act.

⁴ The *Bills of Sale Amendment Act 1987* s. 8 reads as follows:

8. Transitional

The provisions of the principal Act as in force before the day that this Act comes into operation apply to and in relation to a bill of sale made or given before that day but nothing in this section affects the operation of section 7 of the *Chattel Securities Act 1987*.

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By Authority: JOHN A. STRIJK, Government Printer⁵ On the date as at which this compilation was prepared, the *Personal Property Securities (Consequential Repeals and Amendments) Act 2011* s. 32(1) had not come into operation. It reads as follows:

32. *Bills of Sale Act 1899* and regulations repealed

(1) *The Bills of Sale Act 1899* is repealed.