

Reprinted under the *Reprints Act 1984* as at 12 February 1996

WESTERN AUSTRALIA

BILLS OF SALE ACT 1899

ARRANGEMENT

PART I — PRELIMINARY

1.	Short title	2
2.	Date of coming into operation	2
2A.	Arrangement	2
3.	Application of Act	3
4.	Repeal	5
5.	Interpretation	5

PART II — REGISTRATION

6.	Bill of sale to contain names and addresses of parties	8
7.	Future crops and progeny of stock may be included in bill of sale	9

Bills of Sale Act 1899

7A.	Legal interest in future and after acquired chattels to be deemed to pass to grantee of bill of sale	9
8.	Execution and registration of Bill of Sale	10
9.	Who may swear affidavits	11
10.	Periods for registration	11
11.	Registrar shall file and register and keep "Register Book"	13
13.	Judge may extend time or amend error	14
13A.	Power of Registrar to extend time for registration or renewal of registration of a Bill of Sale	14

PART III — RENEWAL OF REGISTRATION

14.	Time for renewal	17
15.	If not renewed document void	17
16.	Mode of renewal	17
16A.	Affidavit under section 16 may be made by attorney	18
17.	Registration of renewal	18

PART IV — BILLS OF SALE BY WAY OF SECURITY

17A.	Interpretation	19
17R.	Form of Bill of Sale. Tenth Schedule	19
17S.	Implied Covenants. Eleventh Schedule	19

PART V — SEARCHES AND OFFICE COPIES

18.	Search may be made of records	21
19.	Office copy or extract to be given	21
20.	Registration to be <i>prima facie</i> evidence of due execution, etc.	21

PART VI — ENTRY OF SATISFACTION

21.	Memo of satisfaction may be filed	23
22.	On filing memo the debt shall be discharged	23
23.	If grantee absent the Registrar may receive money	24
24.	Judge may order memorandum of discharge to be entered	24

Bills of Sale Act 1899

PART VII — EFFECT OF REGISTRATION

25.	Effect of non-compliance with Act or non-registration	25
25A.	Certain errors in bill of sale not to invalidate it	26
26.	Application of doctrine of “apparent possession”	26
27.	<i>Bona fide</i> purchaser not affected by unregistered bill of sale	27
28.	Chattels liable to distress for rates	27

PART VIII — GENERAL

30.	When instrument made subject to a defeasance not contained therein	28
31.	Bill of sale void in certain cases except for present advances etc.	28
31A.	Contemporaneous and future advances	29
32.	Bill of sale void as to execution on existing debts	29
33.	Bill of sale takes effect from date	30
34.	Priority of instruments affecting same chattels	30
35.	Avoidance of duplicate bills of sale	30
36.	Grantee may bid for and purchase chattels	31
36A.	Protection of <i>bona fide</i> purchasers	31

PART IX — BILLS OF SALE OF STOCK

37.	Stock to be described, etc.	32
38.	Bill of sale of stock to include progeny	32

PART X — BILL OF SALE OVER CROPS

39.	Bill of sale may be granted over crops	33
40.	Not available except against annual crops	33
41.	Saving of rights of landlord and mortgagee	33

PART XI — BILL OF SALE OVER WOOL

42.	Bill of sale over wool	34
43.	Not affected by subsequent dealing	34
44.	Form of security. Fourth Schedule	34
45.	Bill of sale over mortgaged sheep	34

Bills of Sale Act 1899

PART XII — MISCELLANEOUS

47.	Covenants to be joint and several	35
48.	Covenants to bind representatives	35
48A.	Regulations	35
50.	Rules	36
50A.	No retrospective effect	36

PART XIII — DEBENTURES

51.	Registration of debentures	37
52.	Application of prior sections	38
53.	When more than 1 debenture is issued	38

SCHEDULES

FIRST SCHEDULE	40
-----------------------	----

SECOND SCHEDULE

<i>Register Book</i>	41
----------------------	----

THIRD SCHEDULE	42
-----------------------	----

FOURTH SCHEDULE

<i>Lien on Wool</i>	43
---------------------	----

TENTH SCHEDULE

<i>Bill of Sale by way of Security</i>	44
--	----

ELEVENTH SCHEDULE

*Covenants to be deemed Implied in Bills of Sale
by way of Security*

1.	To pay principal and interest	45
2.	Not to remove the chattels	45
3.	Not to suffer the goods to be taken in execution	45
4.	To produce receipts for rent, etc.	45
5.	To enter and view the goods, etc.	45

Bills of Sale Act 1899

6.	Power of sale in case of default	45
7.	To execute documents for purpose of carrying out sale	46
8.	Purchase-money to be applied in satisfaction of security	46

TWELFTH SCHEDULE

	<i>Covenant to Insure</i>	48
--	---------------------------	----

	FOURTEENTH SCHEDULE	49
--	----------------------------	----

	NOTES	50
--	--------------	----

Reprinted under the
Reprints Act 1984 as
at 12 February 1996

WESTERN AUSTRALIA

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 Schedule item 2.]*

Short title

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

Date of coming into operation

2. This Act shall come into force on the 1st day of March, 1900¹.

Arrangement

- 2A. This Act is arranged as follows: —

PART I — PRELIMINARY

PART II — REGISTRATION

PART III — RENEWAL OF REGISTRATION

PART IV — BILLS OF SALE BY WAY OF SECURITY

PART V — SEARCHES AND OFFICE COPIES

PART VI — ENTRY OF SATISFACTION

PART VII — EFFECT OF REGISTRATION

PART VIII — GENERAL

PART IX — BILLS OF SALE OF STOCK

PART X — BILL OF SALE OVER CROPS

PART XI — BILL OF SALE OVER WOOL

PART XII — MISCELLANEOUS

PART XIII — DEBENTURES

SCHEDULES

[Section 2A inserted by No. 13 of 1906 s.1A; amended by No. 40 of 1957 s.21 Schedule item 2.]

Application of Act

3. (1) Subject to subsection (2) of this section, this Act shall apply to every bill of sale and debenture executed on or after the 1st 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) This Act —

- (a) does not apply to any charge or assignment referred to in subsection (3) of section 100 of the *Companies Act 1961* and registered under that Act;
- (b) subject to that section, continues to apply to any existing charge or assignment that before the coming into operation of the *Companies Act 1961*, was registered under this Act until it is registered under paragraph (b) of subsection (9) of section 100 of the *Companies Act 1961*, and thereupon this Act continues to apply to that charge or assignment except that it is not subject to avoidance under this Act and its registration under this Act is not required to be renewed.

(3) This Act —

(a) does not apply to any bill of sale, (not being a bill by way of bailment, or a bill of sale given jointly with another person who is, or other persons of whom at least one is, not a company of a kind referred to in this paragraph) by —

(i) a company;

(ii) a recognized company or a recognized foreign company within the meaning of the *Companies (Western Australia) Code*; or

(iii) a foreign company which is registered under Division 5 of Part XIII of that Code,

and the provisions of this Act shall be taken not to have or ever to have had effect in relation to any such bill of sale which was entered into, or the registration of which was required to be renewed, on or after 1 July 1982, or to which section 30 of the *Companies (Application of Laws) Act 1981*, or a provision of a law in force in another State or in a Territory of the Commonwealth corresponding to that section, applied; and

(b) subject to paragraph (a) of this subsection, continues to apply to any existing charge or assignment that before the coming into operation of the *Companies (Application of Laws) Act 1981* was registered under this Act unless and until it is registered under Division 9 of Part IV of the *Companies (Western Australia) Code*, or the corresponding provisions of the corresponding law of another State or of a Territory of the Commonwealth, whereupon it is not subject to avoidance under this Act.

[Section 3 amended by No. 14 of 1963 s.2; No. 10 of 1982 s.28; No. 11 of 1984 s.2.]

Repeal

4. (1) The Acts mentioned in the First Schedule are repealed to the extent to which the same are thereby expressed to be repealed.

(2) No such repeal shall affect any bill of sale made, given, or executed before the commencement of this Act, nor the registration thereof, or the rights or liabilities of any person in connection therewith, except with respect to renewal of registration or as hereinafter mentioned.

Interpretation

5. 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;

- (1) 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
- (2) 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 authorizing or purporting to authorize, 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.]

PART II — REGISTRATION

[Heading amended by No. 13 of 1906 s.1A as amended by No. 40 of 1957 s.21 Schedule item 2.]

Bill of sale to contain names and addresses of parties

6. Every bill of sale shall contain: —

- (1) The names of the grantor and grantee, their residences or places of business, and their occupations; provided that 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.
- (2) The true consideration, and what portion, if any, if for an antecedent debt; provided that 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) 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) 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.

Provided that 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 ss.4 and 21 Schedule item 21.]

Future crops and progeny of stock may be included in bill of sale

7. 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, that is to say: —

- (1) 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.
- (2) The progeny coming into existence during the operation of any bill of sale of or which comprises any stock.

And 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.]

Legal interest in future and after acquired chattels to be deemed to pass to grantee of bill of sale

7A. 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 of 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.

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 as amended by No. 40 of 1957 s.21 Schedule item 1.]

Execution and registration of Bill of Sale

8. (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 to this Act; and any person who subscribes such declaration which in any material particular is to his knowledge false shall be guilty of a misdemeanour, and shall be punishable as if he were guilty of an offence under section 170 of the *Criminal Code*.

(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 authorized 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.

(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 ss.5 and 21 Schedule item 28.]

Who may swear affidavits

9. Any affidavit required by this Act may be sworn before a Commissioner to administer oaths in the Supreme Court of Western Australia, or any Justice of the Peace of the State or any district of the State, or any Notary Public.

Periods for registration

10. 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: —

- (1) 10 days from the day of execution, if executed at a place not more than 48 kilometres 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;

- (2) 14 days from the day of execution, if executed at or within 80 kilometres of the municipality of Albany, Southern Cross, Coolgardie, Kalgoorlie, Menzies, Geraldton, or Cue, or if executed at a place outside such limits, and being more than 48 kilometres distant from the said city, but not more than 321 kilometres 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;
- (3) 30 days if executed at a place outside the limits aforesaid, and more than 321 kilometres but less than 804 kilometres from the said city;
- (4) 60 days from the day on which it was executed, if executed at a place outside the limits aforesaid, and 804 kilometres or more from the said city;
- (5) if executed within the magisterial district of East Kimberley within the State, 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.

Provided that the day on which the instrument is executed shall not be included in the said periods: And provided further, that 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).]

Registrar shall file and register and keep "Register Book"

11. (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 to this Act.

(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. Repealed by No. 24 of 1914 s.12.]

Judge may extend time or amend error

13. 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.

Power of Registrar to extend time for registration or renewal of registration of a Bill of Sale

13A. (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) of this section.

(3) On an application made under subsection (2) of this section 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 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) of this section 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 of this Act, 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 of this Act, 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.

Bills of Sale Act 1899

s. 13A

(6) Subject to subsection (5) of this section, 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 of this Act.

[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 Schedule item 2.]

Time for renewal

14. (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) repealed]

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

If not renewed document void

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

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

Mode of renewal

16. 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.

s. 16A

Affidavit under section 16 may be made by attorney

16A. Any affidavit of renewal of a duly registered bill of sale to be filed in pursuance of section 16 of this Act 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 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 Schedule item 16.]

Registration of renewal

17. 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 Schedule item 29.]

PART IV — BILLS OF SALE BY WAY OF SECURITY

[Heading inserted by No. 13 of 1906 s.1B as amended by No. 40 of 1957 s.21 Schedule item 2.]

Interpretation

17A. 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 Schedule item 3.]

[17B — 17Q. *Repealed by No. 20 of 1986 s.4.]*

Form of Bill of Sale. Tenth Schedule

17R. A bill of sale by way of security may be in the form or to the effect in the Tenth Schedule to this Act, 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 Schedule item 23.]

Implied Covenants. Eleventh Schedule

17S. (1) The covenants and powers set out in the Eleventh Schedule to this Act 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

Bills of Sale Act 1899

s. 17S

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 to this Act had been inserted in the bill of sale.

(2) Subsection (1) and the Eleventh and Twelfth Schedules shall be read and construed subject to the provisions of the *Credit Act 1984* in relation to any bill of sale that is a regulated mortgage within the meaning of that Act.

[Section 17S inserted by No. 24 of 1914 s.11 as amended by No. 40 of 1957 s.21 Schedule item 24; No. 102 of 1984 s.3 Twelfth Schedule.]

PART V — SEARCHES AND OFFICE COPIES

[Heading amended by No. 13 of 1906 s.1A as amended by No. 40 of 1957 s.21 Schedule item 2.]

Search may be made of records

18. 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 Schedule item 1; No. 113 of 1965 s.8; No. 74 of 1981 s.6; No. 49 of 1983 s.6.]

Office copy or extract to be given

19. 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 Schedule item 2; amended by No. 113 of 1965 s.8; No. 74 of 1981 s.6; No. 49 of 1983 s.7.]

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

20. 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 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 Schedule item 2.]

Memo of satisfaction may be filed

21. 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. The execution of such memorandum shall be verified by the affidavit of the attesting witness thereto.

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 Schedule item 3; No. 113 of 1965 s.8; No. 74 of 1981 s.8; No. 49 of 1983 s.8.]

On filing memo the debt shall be discharged

22. 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 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.]

If grantee absent the Registrar may receive money

23. 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 authorized 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.

Judge may order memorandum of discharge to be entered

24. 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 hereof.

PART VII — EFFECT OF REGISTRATION

[Heading amended by No. 13 of 1906 s.1A as amended by No. 40 of 1957 s.21 Schedule item 2.]

Effect of non-compliance with Act or non-registration

25. (1) Every bill of sale or debenture not complying with the terms of section 6 or 51 of this Act, 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 any statutory deed of assignment for the benefit of the creditors of the grantor,

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 three 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 such deed of assignment, 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 authorizing 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.

s. 25A

(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.]

Certain errors in bill of sale not to invalidate it

25A. 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 of this Act, 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 Schedule item 15.]

Application of doctrine of “apparent possession”

26. 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.

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

27. 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.

Chattels liable to distress for rates

28. 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. *Repealed by No. 40 of 1957 s.14.*]

[29A. *Repealed 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 Schedule item 2.]*

When instrument made subject to a defeasance not contained therein

30. 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.

Provided that 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.

This section shall not apply to any bill of exchange or promissory note comprising the amount secured or any part thereof.

Bill of sale void in certain cases except for present advances etc.

31. Every bill of sale given absolutely or by way of security shall be fraudulent and void as against the trustee in bankruptcy or under any statutory assignment, 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 assignment for the benefit of creditors 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. Provided that 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.]

Contemporaneous and future advances

31A. 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 Schedule item 22.]

Bill of sale void as to execution on existing debts

32. 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 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 of this Act.

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

Bill of sale takes effect from date

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

Priority of instruments affecting same chattels

34. 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: Provided that such prior bill of sale shall not be affected if presented for registration within the time or extended time limited by this Act.

Avoidance of duplicate bills of sale

35. 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 hereof; 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. Repealed by No. 49 of 1983 s.9.]

Grantee may bid for and purchase chattels

36. 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 —

- (1) 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.
- (2) 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.

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.

Protection of *bona fide* purchasers

36A. Nothing in section 25, 30, 31, or 32 of this Act 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.

[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 Schedule item 2.]*

Stock to be described, etc.

37. 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 hereof 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: Provided that 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.

Bill of sale of stock to include progeny

38. 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 Schedule item 2.]

Bill of sale may be granted over crops

39. 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.]

Not available except against annual crops

40. 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 1 year from the date of the execution of such bill of sale.

Saving of rights of landlord and mortgagee

41. 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: Provided that 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.

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 Schedule item 2.]

Bill of sale over wool

42. 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.]

Not affected by subsequent dealing

43. 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.]

Form of security. Fourth Schedule

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

Bill of sale over mortgaged sheep

45. 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 authorized 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 Schedule item 2.]

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

Covenants to be joint and several

47. Whenever there is more than 1 grantor or more than 1 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.

Covenants to bind representatives

48. 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.

Regulations

48A. The Governor may make regulations prescribing the fees to be paid —

- (a) in respect of any applications made under this Act;

s. 50

- (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.** *Repealed by 1 and 2 Edw. VII., No. 14 (1902).*]

Rules

50. 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*.

No retrospective effect

50A. 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 Schedule item 30.*]

PART XIII — DEBENTURES

[Heading amended by No. 13 of 1906 s.1A as amended by No. 40 of 1957 s.21 Schedule item 2.]

Registration of debentures

51. Every debenture issued or given by any incorporated body, other than a body to which the *Companies (Western Australia) Code* or any corresponding law of another State or Territory of the Commonwealth applies, shall be registered under this Act in the following manner: —

- (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.

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.]

Application of prior sections

52. (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 of this Act 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.]

When more than 1 debenture is issued

53. If more than 1 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: Provided that 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. Provided that 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.]

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

SCHEDULES

FIRST SCHEDULE

[Section 4]

No. of Act.	Extent of Repeal.
30 Victoria, 5	The whole.
43 Victoria, 19	The whole.
55 Victoria, 7	The whole.
56 Victoria, 11	The whole.
55 Victoria, 32	Subsection 2 of Section 46.
62 Victoria, 15	So much of Section 53 as refers to 55 Victoria No. 32, Section 46.

SECOND SCHEDULE

[Section 11]

Register Book

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

[Section 39]

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 , 19 .

Signed in the presence of —

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

FOURTH SCHEDULE

[Section 44]

Lien on Wool

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 _____, 19 _____.

Signed in the presence of —

[**FIFTH SCHEDULE.** *Deleted by No. 40 of 1957 s.20.*]

[**SIXTH, SEVENTH, EIGHTH and NINTH SCHEDULES.** *Repealed by No. 20 of 1986 s.5.*]

TENTH SCHEDULE

[Section 17R]

Bill of Sale by way of Security

This Indenture, made the _____ day of _____, 19____, 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 amended by No. 24 of 1914, First Schedule as amended by No. 40 of 1957 s.21 Schedule item 27; No. 113 of 1965 s.8.]

ELEVENTH SCHEDULE

[Section 17S]

***Covenants to be deemed Implied in Bills of Sale
by way of Security***

To pay principal and interest

1. 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.

Not to remove the chattels

2. 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.

Not to suffer the goods to be taken in execution

3. 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 make any statutory assignment for the benefit of his creditors.

To produce receipts for rent, etc.

4. 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.

To enter and view the goods, etc.

5. 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.

Power of sale in case of default

6. 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.

To execute documents for purpose of carrying out sale

7. 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.

Purchase-money to be applied in satisfaction of security

8. 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.

[Eleventh Schedule amended by No. 24 of 1914 Second Schedule as amended by No. 40 of 1957 s.21 Schedule item 27.]

TWELFTH SCHEDULE

[Section 17S]

Covenant to Insure

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 amended by No. 24 of 1914 Third Schedule as amended by No. 40 of 1957 s.21 Schedule item 27.]

[THIRTEENTH SCHEDULE. *Deleted by No. 49 of 1983 s.11.]*

FOURTEENTH SCHEDULE

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 _____, 19____ and saw (*grantor*) sign the above instrument, and I thereupon signed my name as attesting witness thereto.

Dated the _____ day of _____, 19____.

[Fourteenth Schedule added by No. 41 of 1925 s.11 as amended by No. 40 of 1957 s.21 Schedule item 31.]



Bills of Sale Act 1899

NOTES

¹ This reprint is a compilation as at 12 February 1996 of the *Bills of Sale Act 1899* and includes the amendments effected by the other Acts referred to in the following Table.

Table of Acts

Act	Number and Year	Assent	Commencement	Miscellaneous
<i>Bills of Sale Act 1899</i>	63 Vict. No. 45 (1899)	16 December 1899	1 March 1900 (see section 2)	
<i>Bills of Sale Act Amendment Act 1900</i>	64 Vict. No. 28 (1900)	5 December 1900	5 December 1900	
<i>Criminal Code Act 1902</i> , section 3 (2)	1 and 2 Edw. VII No. 14 (1902)	19 February 1902	19 February 1902	
<i>Bills of Sale Amendment Act 1905</i>	17 of 1905	23 December 1905	23 December 1905	Amended by Act No. 40 of 1957, section 21 (1)
<i>Bills of Sale Amendment Act 1906</i>	13 of 1906	28 November 1906	28 November 1906	Amended by Act No. 24 of 1909, section 2; Act No. 24 of 1914, sections 14, 15 and 17; Act No. 41 of 1925, section 12; Act No. 42 of 1932, section 2 (as amended by Act No. 40 of 1957, section 21 (1)); Act No. 40 of 1957, sections 7, 8 and 21 (1); Act No. 52 of 1957, section 2

Bills of Sale Act 1899

Act	Number and Year	Assent	Commencement	Miscellaneous
<i>Bills of Sale Act Amendment Act 1912</i>	40 of 1912	5 November 1912	5 November 1912	Amended by Act No. 40 of 1957, section 21 (1)
<i>Bills of Sale Act Amendment Act 1914</i>	24 of 1914	22 September 1914	22 September 1914	Amended by Act No. 40 of 1957, section 21 (1); Act No. 52 of 1957, section 2.
<i>Bills of Sale Act Amendment Act 1925</i>	41 of 1925	31 December 1925	31 December 1925	Amended by Act No. 40 of 1957, section 21 (1)
<i>Bills of Sale Act Amendment Act 1927</i>	8 of 1927	29 October 1927	29 October 1927	
<i>Bills of Sale Act Amendment Act 1940</i>	52 of 1940	30 December 1940	30 December 1940	
<i>Bills of Sale Act Amendment Act 1956</i>	9 of 1956	11 October 1956	11 October 1956	
<i>Bills of Sale Act Amendment and Revision Act 1957</i>	40 of 1957	22 November 1957	1 July 1958 (see section 1 (2) and <i>Gazette</i> 16 May 1958 p.989)	
<i>Bills of Sale Act Amendment Act 1957</i>	52 of 1957	9 December 1957	9 December 1957	
<i>Bills of Sale Act Amendment Act 1962</i>	40 of 1962	29 October 1962	29 October 1962	
<i>Bills of Sale Act Amendment Act 1963</i>	14 of 1963	5 November 1963	5 November 1963	

Bills of Sale Act 1899

Act	Number and Year	Assent	Commencement	Miscellaneous
<i>Decimal Currency Act 1965</i>	113 of 1965	21 December 1965	Sections 4 to 9: 14 February 1966 (see section 2 (2)); balance: 21 December 1965	
<i>Bills of Sale Act Amendment Act 1966</i>	33 of 1966	31 October 1966	16 December 1966 (see section 2 and <i>Gazette</i> 16 December 1966 p.3315)	
<i>Bills of Sale Act Amendment Act 1971</i>	32 of 1971	6 December 1971	1 January 1972 (see section 2 and <i>Gazette</i> 17 December 1971 p.5251)	
<i>Metric Conversion Act 1972</i>	94 of 1972	4 December 1972	The relevant amendments, as set out in the Second Schedule, took effect on 1 January 1974 (see section 4 (2) and <i>Gazette</i> 2 November 1973 p.4108)	The Second Schedule was inserted by the <i>Metric Conversion Act Amendment Act 1973</i> (Act No. 19 of 1973)
<i>Bills of Sale Amendment Act 1981</i>	74 of 1981	30 October 1981	27 November 1981 (see section 2)	
<i>Companies (Consequential Amendments) Act 1982, section 28</i>	10 of 1982	14 May 1982	1 July 1982 (see section 2 (1) and <i>Gazette</i> 25 June 1982 p.2079)	
<i>Bills of Sale Amendment Act 1983</i>	49 of 1983	5 December 1983	1 March 1984 (see section 2 and <i>Gazette</i> 20 January 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

Act	Number and Year	Assent	Commencement	Miscellaneous
<i>Acts Amendment and Repeal (Credit) Act 1984</i> , section 3	102 of 1984	19 December 1984	31 March 1985 (see section 2 and <i>Gazette</i> 8 March 1985 p.867)	
<i>Bills of Sale Amendment Act 1986</i>	20 of 1986	25 July 1986	18 August 1986 (see section 2 and <i>Gazette</i> 15 August 1986 p.2925)	Section 6: transitional ²
<i>Bills of Sale Amendment Act 1987</i>	102 of 1987	16 December 1987	14 November 1988 (see section 2 and <i>Gazette</i> 5 August 1988 p.2583)	Section 8: transitional ³

² Section 6 of the *Bills of Sale Amendment Act 1986* (Act No. 20 of 1986) reads as follows —

“ **Transitional provision**

6. (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. ”.

³ Section 8 of the *Bills of Sale Amendment Act 1987* (Act No. 102 of 1987) reads as follows —

“ **Transitional**

8. 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*. ”.

