

New Zealand.

ANNO TRICESIMO PRIMO

VICTORIÆ REGINÆ.

No. 23.

AN ACT to consolidate and amend the Law relating to the Registration of Bills of Sale of Personal Chattels. Title.

[10th October 1867.]

WHEREAS it is expedient to consolidate and amend the laws relating to Bills of Sale of Personal Chattels Preamble.

BE IT THEREFORE ENACTED by the General Assembly of New Zealand in Parliament assembled and by the authority of the same as follows—

1. The Short Title of this Act shall be “The Bills of Sale Act 1867” and it shall come into operation on the first day of November one thousand eight hundred and sixty-seven. Short Title.

2. The “Bills of Sale Registration Act 1856” and “The Bills of Sale Registration Amendment Act 1862” (hereinafter referred to as the said repealed Acts) are hereby respectively repealed except so far as regards bills of sale made or given before the passing of this Act. Repeal clause.

3. In construing this Act the following words and expressions shall have the meanings hereby assigned to them unless there be something in the subject or context repugnant to such constructions (that is to say) the expression “bill of sale” shall include bills of sale assignments transfers declarations of trust without transfer and other assurances of personal chattels and also powers of attorney and authorities or licenses to take possession of personal chattels as security for any debt but shall not include the following documents— (that is to say) assignments for the benefit of the creditors of the person making or giving the same marriage settlements transfers or assignments of any ship or vessel or any share thereof transfers of goods in the ordinary course of business of any trade or calling bills of sale of goods in foreign parts or at sea bills of lading warehouse-keeper’s certificates 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 endorsement or delivery the possessor of such document to transfer or receive the goods thereby represented The expression “personal chattels” shall mean goods furniture fixtures and other articles capable of complete transfer by delivery but shall not include chattel interests in real estate nor shares or interests in the stock funds or securities of any Government or in the capital or property of any incorporated or joint stock company nor choses in action nor any stock or produce upon any farms or lands which by virtue of any covenant or agreement or of the custom of the country ought not to be removed from any farm where the same shall be at the time of the making or giving of such bill of sale and personal chattels shall be deemed to be Interpretation clause.
20 Vict. No. 8 s. 7.

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in the "apparent possession" of the person making or giving the bill of sale so long as they shall remain or be in or upon any house mill warehouse building works yards land or other premises occupied by him or as they shall be used and enjoyed by him in any place whatsoever notwithstanding that formal possession thereof may have been taken by or given to any other person. The expression "registration of a bill of sale" shall mean the filing of a bill of sale or a copy thereof with the affidavit required by this Act or by "The Bills of Sale Registration Act 1856" in the office of the Registrar or Deputy Registrar of the Supreme Court for the Province within which the personal chattels comprised in such bill of sale shall be situate.

29 and 30 Vict. c. 96
s. 3.

Bills of sale to be
void unless filed
within ten days.

20 Vict. No. 8 s. 1.

26 Vict. No. 5 s. 2.

4. Every bill of sale of personal chattels made after the passing of this Act either absolutely or conditionally or subject or not subject to any trusts and whereby the grantee or holder shall have power either with or without notice and either immediately after the making of such bill of sale or at any future time to seize or take possession of any property and effects comprised in or made subject to such bill of sale and every schedule or inventory which shall be thereto annexed or therein referred to or a true copy thereof and of every attestation of the execution thereof shall together with an affidavit of the time of such bill of sale being made or given and a description of the residence and occupation of the person making or giving the same or in case the same shall be made or given by any person under or in the execution of any process then a description of the residence and occupation of the person against whom such process shall have issued and of every attesting witness to such bill of sale be filed with the Registrar or Deputy Registrar of the Supreme Court for the Province within which the personal chattels comprised in such bill of sale shall at the time of the making or giving of such bill of sale be situate within ten days after the making or giving of such bill of sale otherwise such bill of sale shall as against all assignees of the estate and effects of the person whose goods or any of them are comprised in such bill of sale under any laws now or hereafter to be in force relative to bankruptcy or insolvency or under any assignment for the benefit of the creditors of such person and as against all sheriff's officers and other persons seizing any property or effects comprised in such bill of sale in the execution of any process of any Court of Law or Equity authorizing the seizure of the goods of the person by whom or of whose goods such bill of sale shall have been made and against every person on whose behalf such process shall have been issued be null and void to all intents and purposes whatsoever so far as regards the property in or right to the possession of any personal chattels comprised in such bill of sale which at or after the time of such bankruptcy or insolvency or of the execution by the debtor of such assignment for the benefit of his creditors or of executing such process (as the case may be) and after the expiration of the said period of ten days shall be in the possession or apparent possession of the person making such bill of sale or of any person against whom the process shall have issued under or in the execution of which such bill of sale shall have been made or given as the case may be.

Defeazance or con-
dition of bill of sale
to be written on same
paper or parchment.

20 Vict. No. 8 s. 2.

5. If such bill of sale shall be made or given subject to any defeazance or condition or declaration of trust not contained in the body thereof such defeazance or 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 the same paper or parchment on which such bill of sale shall be written before the time when the same or a copy thereof respectively shall be filed otherwise such bill of sale shall be null and void to all intents and purposes as against the same persons

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and as regards the same property and effects as if such bill of sale or a copy thereof had not been filed according to the provisions of this Act.

6. The said registrar or deputy registrar shall cause every bill of sale and every such schedule or inventory as aforesaid and every such copy filed in his said office under the provisions of this Act to be numbered and shall keep a book in his said office in which shall be fairly inserted as and when such bills of sale or copies as required by this Act are respectively filed the name residence and occupation of the person by whom the bill of sale was made or given or in case the same was made or given by any person under or in the execution of process then the name residence and occupation of the person against whom such process was issued and also the name of the person or persons to whom or in whose favour the said bill of sale was given together with the number affixed to the said bill of sale or copy on the registration thereof and all such particulars shall be entered according to the form given in the Schedule to this Act and the said book and every bill of sale or copy and affidavit filed as aforesaid may be searched and viewed by all persons at all reasonable times upon payment for every search against one person of the fee or sum of two shillings and no more.

Registrar to keep book containing particulars of each bill of sale.

29 and 30 Vict. c. 96 s. 7.

7. There shall be paid to the registrar or deputy registrar upon the filing of every such bill of sale or copy thereof the fee of five shillings and no more.

Fee for filing.

8. Any person shall be entitled to have an office copy or an extract of every bill of sale or of the copy thereof filed as aforesaid upon paying for the same at the rate of four pence for every folio of seventy-two words contained in such copy or extract.

Office copies to be given on payment.

9. Satisfaction may be entered in respect of any filed bill of sale by filing with the Registrar or Deputy Registrar of the Supreme Court where the bill of sale is filed an affidavit of satisfaction by the person in whose favour the said bill of sale was made or given or by his executors administrators or assigns or by his or their lawfully appointed attorney or attorneys and such registrar or deputy registrar shall thereupon mark upon the back of the filed bill of sale and in his register of bills of sale the date of filing of such affidavit of satisfaction and in respect of such filing and marking there shall be paid to such registrar or deputy-registrar a fee of five shillings. Provided also that it shall be lawful for any Judge of the Supreme Court to order a memorandum of satisfaction to be written upon any bill of sale or copy thereof respectively 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.

Satisfaction may be entered.

26 Vict. No. 5 s. 5.

10. All bills of sale heretofore duly filed with any Registrar or Deputy Registrar of the Supreme Court under the provisions of the Acts for the time being in force for this purpose shall be as valid and effectual as if the same were duly registered under this Act.

Saving of bills already filed.

11. "The Supreme Court and Registration Fees Act 1866" shall extend and be applicable to this Act and to the fees to be collected thereunder in the same manner as the same would have been applicable to the said repealed Acts and the fees to be collected thereunder in case this Act had not been passed.

30 Vict. No. 45 to apply.

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SCHEDULE.

Satisfaction entered.	No.	By whom given, or against whom process issued.			To whom given.	Instrument.	Date of Instrument.	Date of Registration.
		Name.	Residence.	Occupation.				

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