



ANNO TRICESIMO SECUNDO

# ELIZABETHAE II REGINAE

A.D. 1983

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No. 83 of 1983

An Act to amend the Bills of Sale Act, 1886.

[Assented to 1 December 1983]

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

Short title.

1. (1) This Act may be cited as the "Bills of Sale Act Amendment Act, 1983".

(2) The Bills of Sale Act, 1886, is in this Act referred to as "the principal Act".

Commencement.

2. (1) This Act shall come into operation on a day to be fixed by proclamation.

(2) The Governor may, in a proclamation made for the purposes of subsection (1), suspend the operation of specified provisions of this Act until a subsequent day specified in the proclamation or a day to be fixed by subsequent proclamation.

Amendment of  
s. 2—  
Interpretation of  
terms.

3. Section 2 of the principal Act is amended by inserting after the definition of "contemporaneous advance" the following definition:

"dealing" with a bill of sale means transfer, assignment, extension, variation, correction or discharge of the bill of sale:.

Amendment of  
s. 3—  
Arrangement.

4. Section 3 of the principal Act is amended by striking out the item:

## PART V—PREFERABLE LIENS.

Amendment of  
s. 9—  
Contents of bill  
of sale.

5. Section 9 of the principal Act is amended by striking out paragraphs (2), (3), (4) and (5) and substituting the following paragraph:

(2) the name, place of residence or business, and occupation of every attesting witness.

Insertion of new  
s. 12b.

6. The following section is inserted after section 12a of the principal Act:

12b. Where two or more persons are registered as the grantees of a bill of sale, they shall be deemed to be severally as well as jointly entitled to—

Covenants to be joint and several.

(a) the payment of principal and interest secured by the bill of sale;

and

(b) the observance and performance of the covenants, terms, conditions or agreements, whether expressed or implied, in the bill of sale,

except insofar as a contrary intention is expressed in the bill of sale.

7. Section 13 of the principal Act is amended by striking out the passage “transfer, or discharge thereof” and substituting the passage “dealing with a bill of sale”.

Amendment of s. 13—  
Witnesses.

8. Section 14 of the principal Act is repealed.

Repeal of s. 14.

9. Section 17 of the principal Act is repealed and the following section is substituted:

Repeal of s. 17 and substitution of new section.

17. Subject to this Act, every bill of sale shall be registered within sixty days from the date of its execution.

Bill of sale to be registered.

10. Section 17a of the principal Act is amended by striking out the word “thirty” and substituting the word “sixty”.

Amendment of s. 17a—  
Successive bills of sale.

11. The following section is inserted after section 17a of the principal Act:

Insertion of new s. 17b.

17b. Where—

Power of Court to extend time for registration.

(a) a bill of sale is not registered within the prescribed time;

and

(b) the Supreme Court, on the application of the grantee or the holder of the bill of sale or of any other person interested, is satisfied that the failure to register the bill of sale within the prescribed time was accidental or that on other grounds it is just and equitable to grant relief,

the Supreme Court may, on such terms and conditions as the Court thinks just, by order, extend the time for registration for such period as is specified in the order.

12. Section 18 of the principal Act is amended—

Amendment of s. 18—  
To be registered in order of production.

(a) by inserting after the word “produced” the passage “in registrable form”;

and

(b) by striking out the passage “date of registration” and substituting the passage “time of such production”.

13. Section 19a of the principal Act is amended by striking out from subsection (7) the passage “section 21” and substituting the passage “section 23”.

Amendment of s. 19a—  
Renewal of registration of bills of sale.

Repeal of ss. 19b and 19c and substitution of new section.

Power of Court to extend time for renewal.

**14.** Sections 19b and 19c of the principal Act are repealed and the following section is substituted:

**19b.** Where—

(a) a bill of sale is not renewed within the prescribed time;

and

(b) the Supreme Court, on the application of the grantee or the holder of the bill of sale or of any other person interested, is satisfied that the failure to renew the bill of sale within the prescribed time was accidental or that on other grounds it is just and equitable to grant relief,

the Supreme Court may, on such terms and conditions as the Court thinks just, by order, extend the time for renewal for such period as is specified in the order.

Amendment of s. 20—  
Form of transfer of bill of sale.

**15.** Section 20 of the principal Act is amended by inserting after the word “hereto” the passage “, or by separate instrument”.

Repeal of ss. 21, 22 and 23 and substitution of new sections.

**16.** Sections 21, 22 and 23 of the principal Act are repealed and the following sections are substituted:

Bill of sale may be extended, varied or corrected.

**21.** (1) An extension of time for the repayment of moneys secured by a bill of sale, or any other variation, or any correction, of a bill of sale, may be effected by endorsement on the duplicate, or by separate instrument, in either case signed by the parties or, where the bill is held on joint account, by the grantor or grantors and one or more of the grantees.

(2) An extension by endorsement under subsection (1) may be effected by endorsing on the duplicate the word “Extended”, which shall mean an extension for a further period of one year of the time for repayment but otherwise upon the terms provided in the bill of sale.

(3) Subsection (2) does not limit the manner in which an extension may be effected by endorsement.

Discharge.

**22.** A bill of sale, or personal chattels comprised in a bill of sale, may be discharged or partially discharged by endorsement on the duplicate in the form of the fourth schedule, or by separate instrument, in either case signed by the grantee or grantees or, where the bill of sale is held on joint account, by one or more of the grantees.

Registration of dealings with registered bills of sale.

**23.** (1) The Registrar shall, upon the application of a party or holder of a registered bill of sale or any other person interested, register any dealing with the bill of sale.

(2) An application under subsection (1)—

(a) may be made orally or, if the Registrar so requires, shall be in writing in such form as he may require;

(b) shall be accompanied by the duplicate bill of sale;

and

(c) shall be supported by such evidence and other documents (if any) as the Registrar may require.

(3) The Registrar shall register the dealing with the bill of sale by entering particulars of the dealing on the original bill of sale (including, in the case of an extension, the date and hour of the entry) and authenticating the entry by his seal and signature.

(4) Where a dealing with a bill of sale is effected by separate instrument and registered under this section, the Registrar shall, upon application, file the separate instrument or a duplicate of the separate instrument in the registry.

(5) Where a discharge is registered under this section and the discharge is for the whole of the money secured by the bill of sale, the Registrar shall retain the duplicate bill of sale and file it in the registry.

(6) Where the Registrar is satisfied, on the basis of such evidence as he may require, that the duplicate bill of sale has been lost or destroyed—

(a) he may permit a dealing with the bill of sale to be effected by endorsement on the original bill of sale;

and

(b) he may dispense with the requirement that the duplicate bill of sale be produced.

17. Section 25 of the principal Act is amended by striking out the passage “transfer, renewal, or discharge”, twice occurring, and substituting, in each case, the passage “or any renewal of, or dealing with, the bill of sale”.

Amendment of s. 25—  
Omissions and errors in the registry may be corrected.

18. Section 28 of the principal Act is amended—

(a) by striking out from subsection (1) the passage “in which there shall be any material omission or misstatement of any of the particulars required by the ninth section hereof, or”;

(b) by striking out from subsection (1) the passage “section 19b or 19c of”;

and

(c) by striking out the second proviso to subsection (1).

Amendment of s. 28—  
Bills of sale to be void in certain circumstances.

19. The heading to Part V of the principal Act is repealed.

Repeal of heading to Part V.

20. Section 35 of the principal Act is repealed.

Repeal of s. 35.

21. The following sections are inserted after section 38 of the principal Act:

Insertion of new ss. 38a and 38b.

38a. (1) Subject to this section, every bill of sale or other instrument lodged with the Registrar for registration or filing in the registry must be on paper of a size and kind prescribed by regulation.

Paper to be used for instruments.

(2) The Registrar may dispense with the requirement to comply with subsection (1) in such circumstances as he thinks fit.

38b. (1) Where—

(a) all moneys due under a bill of sale have been paid by the grantor;

Treasurer to deal with bill of sale in certain circumstances.

and

(b) the grantee—

(i) is dead;

(ii) cannot be found;

or

(iii) is incapable of executing a discharge of the bill of sale,

the Treasurer may execute a discharge of the bill of sale.

(2) The Treasurer may receive moneys on behalf of a grantee, or the estate of a grantee, who—

(a) is dead;

(b) cannot be found;

or

(c) is incapable of executing a discharge of the bill of sale,

and any moneys so received shall, for the purposes of this section and the bill of sale, be deemed to have been paid to the grantee.

(3) Any moneys received by the Treasurer under subsection (2) shall be held by him upon trust for the grantee or other person entitled thereto.

(4) Subject to subsection (5), a discharge of a bill of sale executed under this section shall have the same effect as a discharge executed by the grantee.

(5) A discharge of a bill of sale executed under this section shall not operate as a discharge of the personal covenants of the bill of sale.

Repeal of second schedule.

22. The second schedule to the principal Act is repealed.

Repeal of fourth schedule and substitution of new schedule.

23. The fourth schedule to the principal Act is repealed and the following schedule is substituted:

Section 22.

FOURTH SCHEDULE

Discharge of Bill of Sale

I, [name of grantee] in (or upon) [here state consideration], hereby discharge (or partially discharge) [here describe the bill of sale] (or the personal chattels comprised in [here describe the bill of sale] and listed below).

[List personal chattels here, if applicable.]

Dated this            day of            19 .  
signed by the said, etc.

Repeal of seventh schedule.

24. The seventh schedule to the principal Act is repealed.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

D. B. DUNSTAN, Governor