

# **Bills of Sale Registration Act 1856**

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## **An Act for preventing Frauds upon Creditors by Secret Bills of Sale of Personal Chattels.**

### **Preamble.**

WHEREAS frauds are frequently committed upon creditors by secret bills of sale of personal chattels, for remedy whereof—

Be it enacted by the General Assembly of New Zealand as follows:—

**1 Bills of sale to be void unless filed within twenty-one days.**

Every bill of sale of personal chattels made after the passing of this Act, either absolutely or conditionally and subject or not subject to any trust, 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 or 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 district division or province within which such bill of sale shall be made or given, within twenty-one days after the making or giving of such bill of sale (in like manner as a warrant of attorney in any personal action is now by law required to be filed), 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 any 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 twenty-one 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.

**2 Defeazance or condition of bill of sale to be written on some paper or parchment.**

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 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.

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

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 or books in his said office, in which he shall cause to be entered an alphabetical list of every such bill of sale, containing therein the name address and description as well of the person making or giving the same as of the person to whom or in whose favour the same shall have been given; or in case the same shall be made or given under or in the execution of any process as aforesaid, then the name addition and description of the person against whom such process shall have issued, and also of the person to whom or in whose favour the same shall have been given, together with the number and the dates of the execution and filing of the same, and the sum for which the same has been given, and the time or times (if any) when the same is thereby made payable, according to the form contained in the Schedule to this Act, which said book or books, and every bill of sale or copy thereof filed in the said office, may be searched and viewed by all persons, at all reasonable times, paying to the officer for every search against one person the sum of two shillings and no more.

**4 Fee for filing bill of sale.**

There shall be paid to the Registrar or Deputy Registrar, upon the filing of every such bill of sale or a copy thereof as aforesaid, the fee or sum of two shillings and no more.

**5 Office copies or extracts to be given on payment.**

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

**6 Satisfaction may be entered.**

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 as aforesaid, if it shall appear to him that the debt (if any) for which such bill of sale is given as security shall have been satisfied or discharged.

**7 Interpretation clause.**

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 keepers’ 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 indorsement 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, and shall not include chattel interests in real estate nor shares or interest 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 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 yard 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.

**8 Short Title.**

This Act may be cited for all purposes as “*The Bills of Sale Registration Act, 1856.*”

**Schedule**

Name &c of the Person making or giving the Bill of Sale or of the person divested of property.	Name &c of the Person to whom made or given.	Whether Bill of Sale, Assignment, Transfer, or what other Assurance, and whether absolute or conditional.	Date of Execution.	Date of Filing.	Sum for which made or given.	When and how Payable.