

FIRST PRINT

BILLS OF SALE (AMENDMENT) BILL 1992

NEW SOUTH WALES



EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

This Bill is cognate with the Conveyancing (Amendment) Bill 1992.

The object of this Bill is to amend the Principal Act so that bills of sale will in future be registered in the General Register of Deeds kept under the Conveyancing Act 1919 ("the General Register") instead of in the register at present kept under the Principal Act.

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides for the proposed Act to commence on a day to be appointed by proclamation.

Clause 3 amends the Principal Act as set out in Schedule 1.

SCHEDULE 1—AMENDMENTS

Schedule 1 (1) and (2) make consequential amendments.

Schedule 1 (3) requires a bill of sale to be registered in the General Register if the instrument is to be fully effective.

Schedule 1 (4)–(9) makes consequential amendments.

Schedule 1 (10) repeals section 5D relating to indexes as the indexes are in future to be kept under the Conveyancing Act 1919.

This Schedule item also repeals section 5E which prohibits the registration of a trader's bill of sale for 14 days after it is lodged for registration. This repeal is a consequence of the amendments proposed by Schedule 1 (11).

Schedule 1 (11) inserts substituted section 5F (1), repeals section 5F (2), makes a consequential amendment to section 5F (3) and inserts new section 5F (4).

Bills of Sale (Amendment) 1992

The present section 5F (1) and (2) impose a duty requiring a trader's bill of sale to be registered "forthwith" on the expiration of 14 days that follows its lodgment for registration, unless a caveat against its registration is lodged during that period. If such a caveat is lodged, the bill of sale may not be registered unless the caveat is withdrawn by the caveator or removed by order of the District Court. Even if the caveat is earlier withdrawn or removed, the trader's bill of sale may not be registered before the expiration of the period of 14 days that follows its lodgment for registration.

The substituted section 5F (1) has the same effect as the present section 5E and section 5F (1) and (2), except that registration will be automatic instead of being effected by the performance of a duty.

The new section 5F (4) is a transitional provision retaining the operation of the present sections 5E, 5F and 5L in relation to a trader's bill of sale lodged for registration within the period of 14 days that precedes the repeal of section 5E and the amendment of sections 5F and 5L.

Schedule 1 (12)–(21) makes consequential amendments.

Schedule 1 (22) inserts new sections 17 and 18.

Section 17 sets out the circumstances under which the Registrar-General may destroy a bill of sale that forms part of the General Register of Deeds.

Section 18 authorises the making of regulations of a savings or transitional nature consequential on the enactment of the proposed Act.

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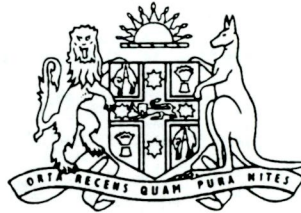
TABLE OF PROVISIONS

1. Short title
2. Commencement
3. Amendment of Bills of Sale Act 1898 No. 10

SCHEDULE 1—AMENDMENTS

BILLS OF SALE (AMENDMENT) BILL 1992

NEW SOUTH WALES



No. , 1992

A BILL FOR

An Act to amend the Bills of Sale Act 1898 to provide for the registration of bills of sale in the General Register of Deeds kept under the Conveyancing Act 1919; and for other purposes.

Bills of Sale (Amendment) 1992

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the Bills of Sale (Amendment) Act 1992.

Commencement

2. This Act commences on a day to be appointed by proclamation.

Amendment of Bills of Sale Act 1898 No. 10

3. The Bills of Sale Act 1898 is amended as set out in Schedule 1.

SCHEDULE 1—AMENDMENTS

(Sec. 3)

(1) Section 3 (**Definitions**):

After the definition of "Farmer", insert:

"General Register of Deeds" means the General Register of Deeds maintained under section 184C of the Conveyancing Act 1919.

(2) Section 3A (**Special goods—registration option**):

- (a) After "this Act" in section 3A (1) (c), insert "before the commencement of the Bills of Sale (Amendment) Act 1992 or could have been registered in the General Register of Deeds after that commencement".

- (b) Omit section 3A (2) (a), insert instead:

- (a) the registration under the Registration of Interests in Goods Act 1986 were at the same time registration in the General Register of Deeds; and

(3) Section 4 (**Cases in which bill of sale is void without registration**):

- (a) From section 4 (1), omit "filed or recorded in the office of the Registrar-General", insert instead "registered in the General Register of Deeds".

- (b) Omit section 4 (3), insert instead:

(3) Registration of a transfer or assignment of a bill of sale is not required if the bill of sale is registered in the General Register of Deeds.

Bills of Sale (Amendment) 1992

SCHEDULE 1—AMENDMENTS—*continued*

- (4) Section 4A (**Accidental misdescription etc. not to invalidate**):
Omit “filed or recorded”, insert instead “registered in the General Register of Deeds”.
- (5) Section 4B (**Power of court to extend time or supply omissions etc.**):
- (a) From section 4B (a), omit “file or record a bill of sale”, insert instead “register a bill of sale in the General Register of Deeds”.
 - (b) From section 4B (b), omit “filing or recording of a bill of sale”, insert instead “registration of a bill of sale in the General Register of Deeds”.
 - (c) Omit “time for filing or recording the bill of sale”, insert instead “time for registering the bill of sale in the General Register of Deeds”.
- (6) Section 5 (**Renewal of registration**):
After “registered” in section 5 (1), insert “in the General Register of Deeds”.
- (7) Section 5A (**Bills of sale given as security—declaration as to ownership of personal chattels**):
From section 5A (3) (b), omit “filed or recorded”, insert instead “registered in the General Register of Deeds”.
- (8) Section 5B (**Trader’s bill of sale—declaration as to facts**):
After “registered” in section 5B (4), insert “in the General Register of Deeds”.
- (9) Section 5C (**Trader’s bill of sale not valid until registered**):
- (a) From section 5C (1), omit “filed or recorded in the office of the Registrar-General”, insert instead “registered in the General Register of Deeds”.
 - (b) From section 5C (2), (3) and (5) omit “filed or recorded” wherever occurring, insert instead “registered”.
 - (c) Omit section 5C (2) (b), insert instead:
 - (b) unless within 15 days after it is made or given it is lodged for registration in the General Register of Deeds.

Bills of Sale (Amendment) 1992

SCHEDULE 1—AMENDMENTS—*continued*

- (10) Sections 5D, 5E:
Omit the sections.
- (11) Section 5F (**Time of registration of trader's bill of sale**):
- (a) Omit section 5F (1), insert instead:
- (1) If a trader's bill of sale is lodged for registration in the General Register of Deeds on or after the amendment of this section by the Bills of Sale (Amendment) Act 1992, it is taken to be registered:
- (a) at, but not before, the expiration of 14 days after being lodged for registration, unless a caveat against its registration is earlier lodged and not removed or withdrawn; or
- (b) if any such caveat is lodged and is not removed or withdrawn before the expiration of that period of 14 days—on the removal or withdrawal of the caveat, unless the bill of sale is earlier withdrawn from registration as a trader's bill of sale.
- (b) Omit section 5F (2).
- (c) From section 5F (3), omit "filed or recorded", insert instead "registered".
- (d) After section 5F (3), insert:
- (4) If a trader's bill of sale was lodged for filing or recording before, but not more than 14 days before, the amendment of this section by the Bills of Sale (Amendment) Act 1992:
- (a) sections 5E and 5L continue to apply to the bill of sale as if they had not been repealed by that Act; and
- (b) section 5F continues to apply to the bill of sale as if it had not been amended by that Act,
- and they so apply as if a reference in those sections, however expressed, to the filing or recording of a trader's bill of sale were a reference to its registration in the General Register of Deeds.
- (12) Section 5G (**Creditor may enter caveat**):
From section 5G (1), omit "filing or recording", insert instead "registration".

Bills of Sale (Amendment) 1992

SCHEDULE 1—AMENDMENTS—*continued*

- (13) Section 5I (**Judge may order registration to be stayed or caveat to be removed**):

From section 5I (1), omit “filed or recorded”, insert instead “registered in the General Register of Deeds”.

- (14) Section 5L:

Omit the section, insert instead:

Time and date of registration

5L. (1) An endorsement of a time and date that was made on a bill of sale by the Registrar-General under this section as in force before the commencement of the Bills of Sale (Amendment) Act 1992 is evidence that the bill of sale was registered at that time on that date.

(2) An entry made in the index to the General Register of Deeds:

- (a) of the date of registration of a bill of sale (other than a trader's bill of sale) is evidence that the bill of sale was registered on that date; or
- (b) of the date of lodgment for registration of a trader's bill of sale is evidence that the trader's bill of sale was lodged on that date for registration,

unless the date is earlier than the date of commencement of the Bills of Sale (Amendment) Act 1992.

- (15) Section 6 (**Promise to give a bill of sale**):

After “registered” wherever occurring in section 6, insert “in the General Register of Deeds”.

- (16) Section 7 (**Form of renewal**):

(a) From section 7 (1), omit “filing, in the office of the Registrar-General,”, insert instead “registering in the General Register of Deeds”.

(b) Omit section 7 (2).

- (17) Section 9 (**Defeasance or condition of bill of sale to form part of the instrument**):

(a) Omit “the same, or a copy thereof respectively, is filed”, insert instead “it is registered in the General Register of Deeds”.

Bills of Sale (Amendment) 1992

SCHEDULE 1—AMENDMENTS—*continued*

- (b) Omit “filed” where secondly occurring, insert instead “registered in the General Register of Deeds”.
- (18) Sections 10–12:
Omit the sections.
- (19) Section 13 (**Discharge of bill of sale**):
- (a) From section 13 (4), omit “by noting the same upon the bill of sale or copy filed”, insert instead “in the General Register of Deeds”.
 - (b) From section 13 (6), omit “the book kept by him under this Act”, insert instead “the General Register of Deeds”.
 - (c) Omit section 13 (7) and (8).
- (20) Section 13A (**Memorandum of amount due under bill of sale**):
- (a) After “registration” in section 13A (1), insert “in the General Register of Deeds”.
 - (b) From section 13A (3), omit “by noting the same on the bill of sale or copy filed and shall file the memorandum in his office”, insert instead “in the General Register of Deeds”.
 - (c) Omit section 13A (4).
- (21) Section 16 (**Time for registration of bill of sale**):
- (a) Omit “lodging, filing or recording”, insert instead “registration”.
 - (b) Omit “lodged, filed or recorded”, insert instead “registered”.
- (22) Section 17:
After section 16, insert:
Destruction of documents
17. (1) The Registrar-General may destroy a bill of sale registered in the General Register of Deeds if the Registrar-General:
- (a) captures and retains a copy of the bill of sale in a manner that enables it to be reproduced; or
 - (b) subsection (2) applies to the bill of sale.
- (2) This subsection applies to a bill of sale if:

Bills of Sale (Amendment) 1992

SCHEDULE 1—AMENDMENTS—*continued*

- (a) a period of at least 10 years has elapsed since registration of the bill of sale and there has been no registration of its renewal and no registration of an extension of its term; or
- (b) a period of at least 10 years has elapsed since registration of the bill of sale or the only or latest extension of its term; or
- (c) a period of at least 10 years has elapsed since registration of a full discharge of the bill of sale.

Savings and transitional provisions

18. (1) The regulations may include provisions of a savings or transitional nature consequent on the enactment of the Bills of Sale (Amendment) Act 1992.

(2) A provision referred to in subsection (1) may, if the regulations so provide, take effect from the date of amendment or repeal of the related provision amended or repealed by the Bills of Sale (Amendment) Act 1992 or from a later date.

(3) To the extent that a provision referred to in subsection (1) takes effect from a date that is earlier than the date of its publication in the Gazette the provision does not operate:

- (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of the person existing before the date of publication; or
 - (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of publication.
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BILLS OF SALE (AMENDMENT) ACT 1992 No. 7

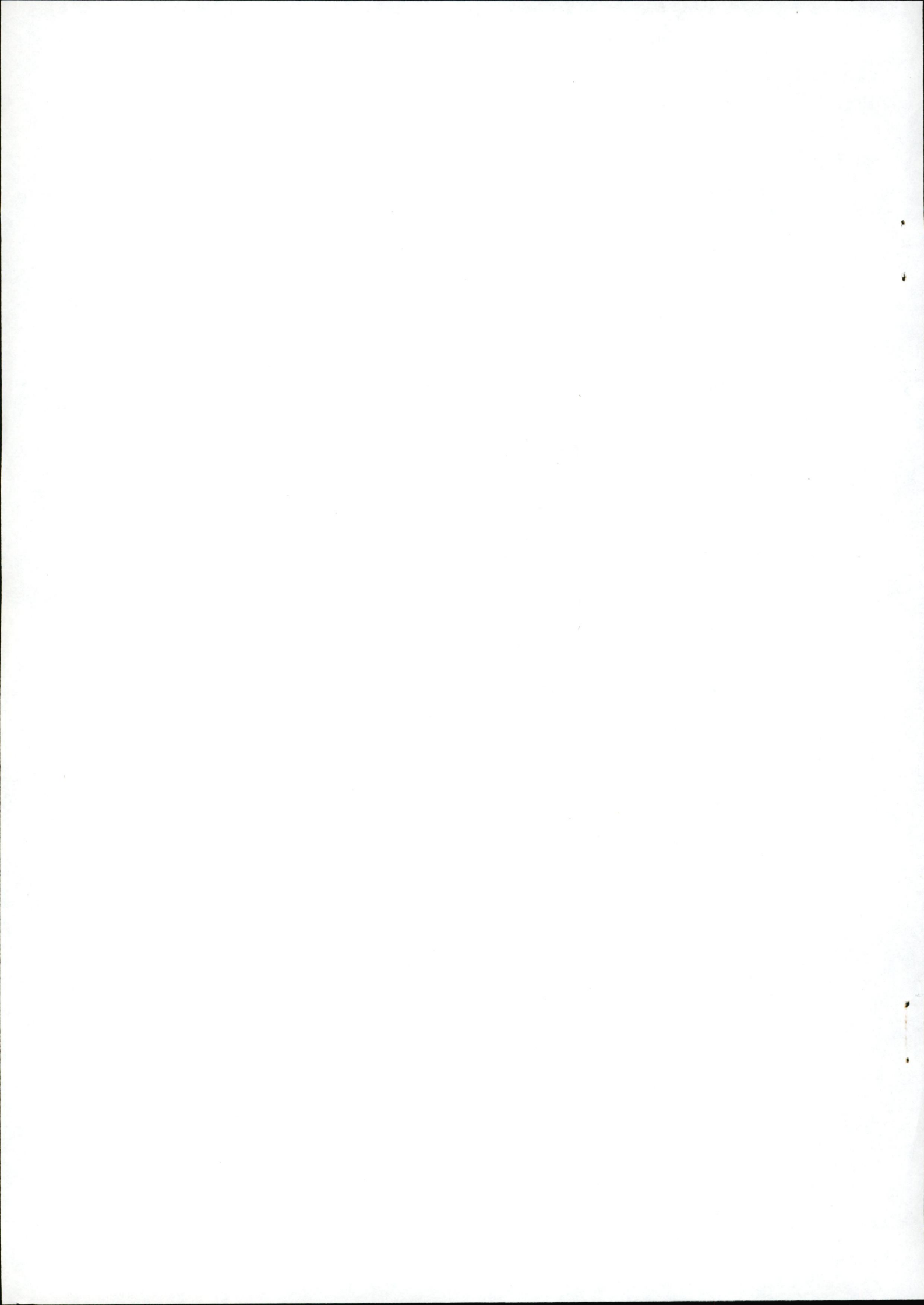
NEW SOUTH WALES



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1. Short title
2. Commencement
3. Amendment of Bills of Sale Act 1898 No. 10

SCHEDULE 1—AMENDMENTS



BILLS OF SALE (AMENDMENT) ACT 1992 No. 7

NEW SOUTH WALES



Act No. 7, 1992

An Act to amend the Bills of Sale Act 1898 to provide for the registration of bills of sale in the General Register of Deeds kept under the Conveyancing Act 1919; and for other purposes. [Assented to 17 March 1992]

Bills of Sale (Amendment) Act 1992 No. 7

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the Bills of Sale (Amendment) Act 1992.

Commencement

2. This Act commences on a day to be appointed by proclamation.

Amendment of Bills of Sale Act 1898 No. 10

3. The Bills of Sale Act 1898 is amended as set out in Schedule 1.
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SCHEDULE 1—AMENDMENTS

(Sec. 3)

(1) Section 3 (**Definitions**):

After the definition of "Farmer", insert:

"General Register of Deeds" means the General Register of Deeds maintained under section 184C of the Conveyancing Act 1919.

(2) Section 3A (**Special goods—registration option**):

(a) After "this Act" in section 3A (1) (c), insert "before the commencement of the Bills of Sale (Amendment) Act 1992 or could have been registered in the General Register of Deeds after that commencement".

(b) Omit section 3A (2) (a), insert instead:

(a) the registration under the Registration of Interests in Goods Act 1986 were at the same time registration in the General Register of Deeds; and

(3) Section 4 (**Cases in which bill of sale is void without registration**):

(a) From section 4 (1), omit "filed or recorded in the office of the Registrar-General", insert instead "registered in the General Register of Deeds".

(b) Omit section 4 (3), insert instead:

(3) Registration of a transfer or assignment of a bill of sale is not required if the bill of sale is registered in the General Register of Deeds.

Bills of Sale (Amendment) Act 1992 No. 7

SCHEDULE 1—AMENDMENTS—*continued*

- (4) Section 4A (**Accidental misdescription etc. not to invalidate**):
Omit “filed or recorded”, insert instead “registered in the General Register of Deeds”.
- (5) Section 4B (**Power of court to extend time or supply omissions etc.**):
- (a) From section 4B (a), omit “file or record a bill of sale”, insert instead “register a bill of sale in the General Register of Deeds”.
 - (b) From section 4B (b), omit “filing or recording of a bill of sale”, insert instead “registration of a bill of sale in the General Register of Deeds”.
 - (c) Omit “time for filing or recording the bill of sale”, insert instead “time for registering the bill of sale in the General Register of Deeds”.
- (6) Section 5 (**Renewal of registration**):
After “registered” in section 5 (1), insert “in the General Register of Deeds”.
- (7) Section 5A (**Bills of sale given as security—declaration as to ownership of personal chattels**):
From section 5A (3) (b), omit “filed or recorded”, insert instead “registered in the General Register of Deeds”.
- (8) Section 5B (**Trader’s bill of sale—declaration as to facts**):
After “registered” in section 5B (4), insert “in the General Register of Deeds”.
- (9) Section 5C (**Trader’s bill of sale not valid until registered**):
- (a) From section 5C (1), omit “filed or recorded in the office of the Registrar-General”, insert instead “registered in the General Register of Deeds”.
 - (b) From section 5C (2), (3) and (5) omit “filed or recorded” wherever occurring, insert instead “registered”.
 - (c) Omit section 5C (2) (b), insert instead:
 - (b) unless within 15 days after it is made or given it is lodged for registration in the General Register of Deeds.

Bills of Sale (Amendment) Act 1992 No. 7

SCHEDULE 1—AMENDMENTS—*continued*

- (10) Sections 5D, 5E:
Omit the sections.
- (11) Section 5F (**Time of registration of trader's bill of sale**):
- (a) Omit section 5F (1), insert instead:
- (1) If a trader's bill of sale is lodged for registration in the General Register of Deeds on or after the amendment of this section by the Bills of Sale (Amendment) Act 1992, it is taken to be registered:
- (a) at, but not before, the expiration of 14 days after being lodged for registration, unless a caveat against its registration is earlier lodged and not removed or withdrawn; or
- (b) if any such caveat is lodged and is not removed or withdrawn before the expiration of that period of 14 days—on the removal or withdrawal of the caveat, unless the bill of sale is earlier withdrawn from registration as a trader's bill of sale.
- (b) Omit section 5F (2).
- (c) From section 5F (3), omit "filed or recorded", insert instead "registered".
- (d) After section 5F (3), insert:
- (4) If a trader's bill of sale was lodged for filing or recording before, but not more than 14 days before, the amendment of this section by the Bills of Sale (Amendment) Act 1992:
- (a) sections 5E and 5L continue to apply to the bill of sale as if they had not been repealed by that Act; and
- (b) section 5F continues to apply to the bill of sale as if it had not been amended by that Act,
- and they so apply as if a reference in those sections, however expressed, to the filing or recording of a trader's bill of sale were a reference to its registration in the General Register of Deeds.
- (12) Section 5G (**Creditor may enter caveat**):
From section 5G (1), omit "filing or recording", insert instead "registration".

Bills of Sale (Amendment) Act 1992 No. 7

SCHEDULE 1—AMENDMENTS—*continued*

- (13) Section 5I (**Judge may order registration to be stayed or caveat to be removed**):
From section 5I (1), omit “filed or recorded”, insert instead “registered in the General Register of Deeds”.
- (14) Section 5L:
Omit the section, insert instead:
Time and date of registration
5L. (1) An endorsement of a time and date that was made on a bill of sale by the Registrar-General under this section as in force before the commencement of the Bills of Sale (Amendment) Act 1992 is evidence that the bill of sale was registered at that time on that date.
(2) An entry made in the index to the General Register of Deeds:
(a) of the date of registration of a bill of sale (other than a trader’s bill of sale) is evidence that the bill of sale was registered on that date; or
(b) of the date of lodgment for registration of a trader’s bill of sale is evidence that the trader’s bill of sale was lodged on that date for registration,
unless the date is earlier than the date of commencement of the Bills of Sale (Amendment) Act 1992.
- (15) Section 6 (**Promise to give a bill of sale**):
After “registered” wherever occurring in section 6, insert “in the General Register of Deeds”.
- (16) Section 7 (**Form of renewal**):
(a) From section 7 (1), omit “filing, in the office of the Registrar-General,”; insert instead “registering in the General Register of Deeds”.
(b) Omit section 7 (2).
- (17) Section 9 (**Defeasance or condition of bill of sale to form part of the instrument**):
(a) Omit “the same, or a copy thereof respectively, is filed”, insert instead “it is registered in the General Register of Deeds”.

Bills of Sale (Amendment) Act 1992 No. 7

SCHEDULE 1—AMENDMENTS—*continued*

- (b) Omit “filed” where secondly occurring, insert instead “registered in the General Register of Deeds”.
- (18) Sections 10–12:
Omit the sections.
- (19) Section 13 (**Discharge of bill of sale**):
- (a) From section 13 (4), omit “by noting the same upon the bill of sale or copy filed”, insert instead “in the General Register of Deeds”.
 - (b) From section 13 (6), omit “the book kept by him under this Act”, insert instead “the General Register of Deeds”.
 - (c) Omit section 13 (7) and (8).
- (20) Section 13A (**Memorandum of amount due under bill of sale**):
- (a) After “registration” in section 13A (1), insert “in the General Register of Deeds”.
 - (b) From section 13A (3), omit “by noting the same on the bill of sale or copy filed and shall file the memorandum in his office”, insert instead “in the General Register of Deeds”.
 - (c) Omit section 13A (4).
- (21) Section 16 (**Time for registration of bill of sale**):
- (a) Omit “lodging, filing or recording”, insert instead “registration”.
 - (b) Omit “lodged, filed or recorded”, insert instead “registered”.
- (22) Section 17:
After section 16, insert:
Destruction of documents
17. (1) The Registrar-General may destroy a bill of sale registered in the General Register of Deeds if the Registrar-General:
- (a) captures and retains a copy of the bill of sale in a manner that enables it to be reproduced; or
 - (b) subsection (2) applies to the bill of sale.
- (2) This subsection applies to a bill of sale if:

Bills of Sale (Amendment) Act 1992 No. 7

SCHEDULE 1—AMENDMENTS—*continued*

- (a) a period of at least 10 years has elapsed since registration of the bill of sale and there has been no registration of its renewal and no registration of an extension of its term; or
- (b) a period of at least 10 years has elapsed since registration of the bill of sale or the only or latest extension of its term; or
- (c) a period of at least 10 years has elapsed since registration of a full discharge of the bill of sale.

Savings and transitional provisions

18. (1) The regulations may include provisions of a savings or transitional nature consequent on the enactment of the Bills of Sale (Amendment) Act 1992.

(2) A provision referred to in subsection (1) may, if the regulations so provide, take effect from the date of amendment or repeal of the related provision amended or repealed by the Bills of Sale (Amendment) Act 1992 or from a later date.

(3) To the extent that a provision referred to in subsection (1) takes effect from a date that is earlier than the date of its publication in the Gazette the provision does not operate:

- (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of the person existing before the date of publication; or
- (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of publication.

[Minister's second reading speech made in—
Legislative Assembly on 26 February 1992
Legislative Council on 4 March 1992]

