

**LAWS OF THE GILBERT ISLANDS
REVISED EDITION 1977**

CHAPTER 4

BILLS OF SALE

ARRANGEMENT OF SECTIONS

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SCHEDULES

An Ordinance to provide for the registration of bills of sale

6 of 1897
12 of 1915
(Cap. 59 of
1952)
2 of 1969
9 of 1971
3 of 1972
(Cap. 57 of
1973)
26 of 1977

Commencement: 1st August 1897

1. This Ordinance may be cited as the Bills of Sale Ordinance. Short title

Definition of
bill of sale

2. In this Ordinance the term "bill of sale" includes—

- (i) bill of sale, assignment, transfer, declaration of trust without transfer, inventory of goods with receipt thereto attached, receipt for purchase-money of goods, and other assurance of personal chattels;
- (ii) power of attorney, and authority or licence to take possession of personal chattels as security for any debt;
- (iii) any agreement (including debentures of a joint stock company) whether intended or not to be followed by the execution of any other instrument by which a right in equity to any personal chattels or to any charge or security thereon shall be conferred;
- (iv) every attornment, instrument, or agreement, whereby a power of distress is given or agreed to be given by any person to any other person by way of security for any present, future, or contingent debt or advance and whereby any rent is reserved or made payable as a mode of providing for the payment of interest on such debt or advance or otherwise for the purpose of such security only; but this is not to extend to a mortgage of real estate which a mortgagee in possession has leased to the mortgagor at a fair and reasonable rent.

Trade
machinery

3. "Chattels personal" shall include machinery used in or attached to any factory or workshop exclusive of fixed motive powers such as water-wheels, steam-engines, steam-boilers, donkey-engines and other fixed appurtenances of the said motive powers, and exclusive of fixed power machinery such as shafts, wheels, or drums and their fixed appurtenances, which transmit the action of the motive powers, and exclusive of pipes for steam, gas and water in the factory or workshop.

Bill of sale to
have
schedule of
property

4. Every bill of sale given as security for money must have annexed to it, or written on it, a schedule containing an inventory of the personal chattels specifically described in the said schedule; and shall be void, except as against the grantor, in respect of any personal chattels not so specifically described.

Bill of sale
must be regis-
tered

5. (1) Every bill of sale must be executed in the presence of and attested by at least one witness, and must be registered in the manner and within the time hereinafter provided, and must truly set forth the consideration for which it was granted.

(2) Any bill of sale not complying with the requirements of this section shall be void in respect of the personal chattels comprised in it.

6. Personal chattels assigned under a bill of sale as security for the payment of money shall not be liable to be seized or taken possession of by the grantee for any other than the following causes—

Seizure of
chattels

- (1) if the grantor shall make default in payment of the sum or sums of money thereby secured at the time therein provided for the payment or in the performance of any covenant or agreement contained in the bill of sale and necessary for maintaining the security;
- (2) if the grantor shall become bankrupt or suffer the said goods or any of them to be distrained for rent, rates, or taxes;
- (3) if the grantor shall fraudulently either remove or suffer the said goods, or any of them, to be removed from the premises;
- (4) if the grantor shall, without reasonable excuse, refuse upon demand in writing by the grantee, to produce his last receipts for rent, rates and taxes;
- (5) if execution shall have been levied against the goods of the grantor under any judgment:

Provided that the grantor may apply to the High Court, and such court, if satisfied that the said cause of seizure no longer exists, may restrain the grantee, if a person subject to the jurisdiction of such court, from removing or selling the said chattels, or may make such other order as may seem just.

7. Registration shall be effected by presenting to the Registrar of the High Court the bill of sale with every schedule or inventory thereto annexed or therein referred to, and by filing a true copy of such bill of sale and of every such schedule or inventory together with an affidavit stating the time of such bill of sale being made or given, and of its due execution and attestation and a description of the residence and occupation of the persons making or giving the same and of every attesting witness to such bill of sale.

How registra-
tion is to be
effected

8. If the bill of sale is made or given subject to any defeasance or condition, or declaration of trust not contained in the body thereof, such defeasance, condition or declaration shall be deemed to be part of the bill, and shall be written on the same paper or parchment therewith before the registration, and shall be truly set forth in the copy filed under this Ordinance therewith, and as part thereof, otherwise the registration shall be void.

Defeasance
or declara-
tion of trust
to be regis-
tered

9. The transfer or assignment of a registered bill of sale need not be registered.

Transfer
need not be
registered

Limit of time
for registra-
tion
Schedule 1

10. Registration of bills of sale shall be effected within the times set forth in Schedule 1:

Provided that the High Court may order registration at any time of a bill of sale on proof by affidavit that it has been presented for registration at the first available opportunity.

Register to
be kept

Schedule 2

11. The Registrar of the High Court shall keep a book, in this Ordinance called "the register", for the purposes of this Ordinance and shall, upon the filing of any bill of sale or copy under this Ordinance, enter therein in the form set forth in Schedule 2 or in any other prescribed form the name, residence, and occupation of the person by whom the bill was made or given, and also the name of the person or persons to whom or in whose favour the bill was given and all other particulars required by the said Schedule, and shall number all such bills registered in each year consecutively, according to the respective dates of their registration.

Office copies

12. Any person shall be entitled to have an office copy or extract of any registered bill of sale, and affidavit of execution filed therewith, or copy thereof, and of any affidavit filed therewith (if any) or registered affidavit of renewal, upon paying for the same at the like rate as for office copies of judgments of the High Court, and any copy of a registered bill of sale and affidavit purporting to be an office copy thereof shall be admitted as *prima facie* evidence thereof.

Right to
search regis-
ter

13. Any person shall be entitled at all reasonable times to search the register and inspect every registered bill of sale, upon payment of 25 cents for every copy of a bill of sale inspected.

Avoidance of
certain dupli-
cate bills of
sale

14. Where a subsequent bill of sale is executed within or on the expiration of the time prescribed after execution for the registration of a prior unregistered bill of sale, and comprises all or any part of the personal chattels comprised in such prior bill of sale, then, if such subsequent bill of sale is given as a security for the same debt as is secured by the prior bill of sale, or for any part of such debt, it shall, to the extent for which it is a security for the same debt, or part thereof, comprised in the prior bill, be absolutely void, unless it is proved to the satisfaction of the court that the subsequent bill of sale was *bona fide* given for the purpose of correcting some material error in the prior bill of sale, and not for the purpose of evading this Ordinance.

Rectification
of register

15. The High Court on being satisfied that the omission to register a bill of sale within the time prescribed by this Ordinance,

or the omission or misstatement of the name, residence, or occupation of any person was accidental or due to inadvertence, may in its discretion order such omission or misstatement to be rectified by the insertion in the register of the true name, residence or occupation, or by extending the time for such registration on such terms and conditions (if any) as to security, notice by advertisement or otherwise, or as to any other matter, as the High Court thinks fit to direct.

16. The High Court may order a memorandum of satisfaction to be written upon any registered copy of a bill of sale, upon proof being given that the debt (if any) for which the bill of sale was made or given has been satisfied or discharged. Satisfaction to be entered in register

17. There shall be paid and received the following fees— Fees
on filing a bill of sale 25 cents
on filing the affidavit of execution of a bill of sale 25 cents.

18. (1) Chattels comprised in a bill of sale which has been duly registered under this Ordinance not being security for the payment of money shall not be deemed to be in the possession, order or disposition of the grantor of the bill of sale within the meaning of the Bankruptcy Act 1914. Order and disposition
1914 c. 59

(2) Chattels comprised in a bill of sale which has been duly registered under this Ordinance, and being security for the payment of money, shall be deemed to be in the possession, order or disposition of the grantor of the bill of sale within the meaning of the Bankruptcy Act 1883, but subject to the claim of the grantee.

19. A bill of sale to which this Ordinance applies shall be no protection in respect of personal chattels included in such bill of sale which but for such bill of sale would have been liable to be seized in execution under a judgment of the court for any rates or taxes due to the Government, and the liability of such chattels to any such seizure in execution shall be deemed to have arisen on the day when any such taxes became due, unless more than 3 months shall elapse between the day when such taxes became due and the day on which judgment was given, when the liability of such chattels to seizure in execution shall be deemed to have arisen 3 months before judgment was given. Bill of sale no protection against claim for taxes

20. Nothing in this Ordinance shall affect an assignment of personal chattels accompanied by a transfer of the possession of such chattels. Assignments accompanied by delivery need not be registered

CAP. 57 - BILLS OF SALE

(CAP. 4 of 1977).

Bills of Sale Ordinance

Amendment
No.

1 Section 18 (1977, S. 18)

- (a) Omit from subsection (1) "the Bankruptcy Act 1914",
substitute "the laws relating to bankruptcy".
- (b) Omit from subsection (2) "the Bankruptcy Act 1883",
substitute "the laws relating to bankruptcy".

CAP. 60 - COPYRIGHT

(CAP. 16 of 1977)

Copyright Ordinance

Amendment
No.

1 Section 3 (1977, S. 3)

Omit the section, substitute -

"Restriction of
importation of
printed copies.

"3(1) This section applies in the case of a literary, dramatic or musical work made outside Kiribati which, if it had been published in Kiribati, would be an infringing copy of the work within the meaning of section 18(3) of the Copyright Act, 1956 of England, in its application as a law of Kiribati.

"(2) The owner of the copyright in any published literary, dramatic or musical work may give notice in writing to the Minister that -

- (a) he is the owner of the copyright in the work; and
- (b) subject to subsection (3), he requests the Government to treat as prohibited goods, during a period specified in the notice, copies of the work to which this section applies.

"(3) The period specified in a notice under subsection (2) -

- (a) shall not exceed five years; and
- (b) shall not extend beyond the end of the period for which the copyright is to subsist.