

No. 6 of 1897.



In the name of Her Majesty, VICTORIA, of the United Kingdom of Great Britain and Ireland Queen, Empress of India, &c., &c., &c.

QUEEN'S REGULATION

(Made by Her Majesty's High Commissioner for the Western Pacific, in accordance with the provisions of the Pacific Order in Council, 1893.)

TO PROVIDE FOR THE REGISTRATION OF BILLS
OF SALE.

[L.S.] H. S. BERKELEY.

Extent of Regulation. 1. THIS Regulation shall apply only to the districts of—

- (i) Tonga ;
- (ii) The Gilbert and Ellice Islands ; and
- (iii) The British Solomon Islands.

*Definition of
"The Court."*

2. The term "The Court" shall mean the High Commissioner's Court or a Judge thereof.

*Definition of
Bill of Sale.*

3. The term "Bill of Sale" shall include—

- (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)

(ii) Power of attorney, and authority or license 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.

4. "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. Trade machinery.

5. 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 to have schedule of property.

6. 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. Any Bill of Sale not complying with the requirements of this section shall be void in respect of the personal chattels comprised in it. Bill of Sale must be registered.

7. 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 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 Court, and the Court, if satisfied that the said cause of seizure no longer exists, may restrain the grantee (if a person subject to the jurisdiction of the Court) from removing or selling the said chattels, or may make such other order as may seem just. Proviso.

How registration
is to be effected.

8. Registration shall be effected by presenting to the Registrar of the 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.

Defeasance or
declaration of trust
to be registered.

9. 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 Regulation therewith, and as part thereof, otherwise the registration shall be void.

Transfer need not
be registered.

10. The transfer or assignment of a registered Bill of Sale need not be registered.

Bills of Sale to be
registered in district
where chattels are
situated.

11. Registration shall be effected in each case at the office of the Court of the district in which the goods comprised in the Bill of Sale are situated.

Limit of time for
registration.

12. Registration of Bills of Sale shall be effected within the times set forth in the schedule "A" hereto. Provided that the Court may order registration at any time of a Bill of Sale on proof by affidavit that it has been presented for registration by the first available opportunity.

Register to be kept.

13. The registrar shall keep a book (in this Regulation called "The Register") for the purposes of this Regulation and shall, upon the filing of any Bill of Sale or copy under this Regulation, enter therein in the form set forth in the second schedule (B) hereto annexed 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.

Register to be open
for inspection.

14. 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 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. Any person shall be entitled at all reasonable times to search the register and inspect every registered Bill of Sale, upon payment of two shillings and sixpence for every copy of a Bill of Sale inspected.

Avoidance of certain
duplicate Bills of
Sale.

15. 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 Regulation.

16. The Court on being satisfied that the omission to register a Bill of Sale within the time prescribed by this Regulation, 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 Court thinks fit to direct.

Rectification of register.

17. The 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.

18. There shall be paid and received the following fees:—

Fees.

On filing a Bill of Sale 2s. 6d.

On filing the affidavit of execution of a Bill of Sale 2s. 6d.

19. Chattels comprised in a Bill of Sale which has been duly registered under this Regulation 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, 1883." Chattels comprised in a Bill of Sale which has been duly registered under this Regulation, 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.

Order and disposition.

20. A Bill of Sale to which this Regulation 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 Governments of the Protectorates established by Her Majesty in the Southern Solomons, Gilbert and Ellice Islands, or to the Government of His Majesty the King of Tonga, 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 three 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 three months before judgment was given.

Bill of Sale no protection against claim for taxes.

22. Nothing in this Regulation 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.

This Regulation may be cited as "The Bills of Sale Regulation, 1897," and shall come into force on the first day of August one thousand eight hundred and ninety-seven.

SCHEDULES.

SCHEDULE A.

Times prescribed for registration of Bills of Sale under this Regulation.

District.	Place.	Time.
Tonga	Tongatabu	Seven days.
	Haabai Group }	Thirty days.
	Vavau Group }	
	Other islands in the king- dom of Tonga. }	Sixty days.
Gilbert and Ellice Islands	Tarawa	Seven days.
	Maiana and Abaiang	Thirty days.
	Other Islands of Gilbert and Ellice Groups }	Sixty days.
Southern Solomons	Florida Island	Seven days.
	Guadalcanar, Savo and Malayta	Thirty days.
	Other islands in the Southern Solomons }	Sixty days.

SCHEDULE B.

Form of Register of Bills of Sale.

Satisfaction entered.	No.	By whom given (or against whom process issued).			To whom given.	Nature of Instru- ment.	Date.	Date of Registration.
		Name.	Resi- dence.	Occupation.				

Published and exhibited in the Public Office of Her Majesty's High Commissioner for the Western Pacific this twenty-eighth day of June, 1897.

By Command,
H. A. SMALLWOOD,
Acting Secretary to the High Commissioner.

SUVA :

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