

LAWS OF BRUNEI

REVISED EDITION 1984

CHAPTER 70

BILLS OF SALE

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CAP. 70

Bills of Sale

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SCHEDULES

BILLS OF SALE ACT

An Act to declare the law relating to bills of sale11 of 1956
19 of 1957*Commencement: 16th January 1958* S.16/58

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

2. This Act shall apply to every bill of sale, whether the same is absolute or subject or not subject to any trust whereby a right is conferred, either with or without notice and immediately or at any future time, to seize or take possession of any personal chattels comprised in or made subject to such bill of sale, but shall not, after the coming into operation of any Act relating to companies, except as in this Act expressly mentioned, apply to any mortgages, charges or debentures issued by any incorporated company and secured upon the stock or goods, chattels and effects of such company. Application

3. In this Act — Interpretation

“bill of sale” includes bills of sale, assignments, transfers, declarations of trust without transfer, inventories of goods with receipt thereto attached, or receipts for purchase moneys of goods, and other assurances of personal chattels, and also powers of attorney, authorities, or licences to take possession of personal chattels and security for any debt, and also any agreement, 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 mortgage, charge or security thereon, shall be conferred, but does not include the following documents —

(a) assignments for the benefit of the creditors of the person making or giving the same;

(b) ante-nuptial marriage settlements;

(c) transfers or assignments of any ship or vessel or share thereof;

(d) transfers of goods in the ordinary course of business of any trade or calling;

(e) bills of sale of goods in foreign ports or at sea;

(f) bills of lading, warehouse-keeper's 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 authorising or purporting to authorise, either by endorsement or by delivery, the possessor of such documents to transfer or receive goods thereby represented; or

(g) instruments charging or creating any security on or declaring trusts of imported goods given or executed at any time prior to their deposit in a warehouse, factory, or store, or to their being reshipped for export, or delivered to a purchaser not being the person giving or executing such instrument;

“bill of sale” also includes as regards any personal chattels which may be seized or taken thereunder 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 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 adv-

ance or otherwise for the purpose of such security only, but does not include or extend to any charge of any land which the chargee being in possession demises to the chargor as his tenant at a fair and reasonable rent;

“bill of sale” also includes agreements for the hire of personal chattels entered into for the purpose of securing the repayment to the lessor of such chattels of money advanced by him to the hirer; and the hirer shall in every such case be deemed to be the grantor of the bill of sale and the lessor shall be deemed to be the grantee thereof;

“Court” means the Court of a Magistrate;

“factory or workshop” means any premises on which any manual labour is exercised by way of trade, or for the purposes of gain in or incidental to the following purposes or any of them —

(a) the making of any article or part of an article;

(b) the altering, repairing, ornamenting or finishing of any article; or

(c) the adapting for sale of any article;

No fixtures or growing crops shall be deemed to be “separately assigned or charged” by reason only that they are assigned by separate words, or that power is given to sever them from the land or building to which they are affixed, or from the land on which they grow, without otherwise taking possession of or dealing with such land or building, or land, if by the same instrument any interest in the land or building to which such fixtures are affixed, or in the land on which such crops grow, is also conveyed to the same person or persons.

“personal chattels” means goods, furniture and other articles capable of complete transfer by delivery, and trade machinery as hereinafter defined, and, when separately assigned or charged, fixtures, and growing crops; but does not include fixtures, except trade machinery as hereinafter defined, when assigned together with any land or building to which they are affixed, nor growing crops when assigned together with any land on which they grow, nor shares or interests in the stocks, funds or securities of any Government or in the capital or property of incorporated companies nor *choses in action*;

“trade machinery” means the machinery used in or attached to any factory or workshop, exclusive of —

(a) the fixed motive powers, such as the water-wheels and steam-engines, and the steam-boilers, donkey-engines, and other fixed appurtenances of the said motive powers;

(b) the fixed power machinery such as the shafts, wheels, drums and their fixed appurtenances, which transmit the action of the motive powers to the other machinery, fixed and loose; and

(c) the pipes for steam, gas and water in the factory or workshop;

Appointment
of Registrar

4. His Majesty the Sultan and Yang Di-Pertuan may by notice in the *Gazette* appoint by name or office a fit and proper person to be Registrar for the purpose of this Act.

Bill of sale to
be void under
certain
circumstances
unless
attested and
registered

5. (1) Every bill of sale shall be duly attested and shall be registered as provided in this Act and shall truly set forth the consideration for which it was given, otherwise the following consequences shall ensue —

(a) in the case of a bill of sale made or given by way of security for the payment of money by the grantor thereof, such bill of sale shall be void in respect of the personal chattels comprised therein; and

(b) in the case of any other bill of sale it shall as against all trustees or assignees of the estate of the person whose chattels or any of them are comprised in such bill of sale under the law of bankruptcy or liquidation or under any assignment for the benefit of the creditors of such person, and also as against all Officers of Court and other persons seizing any chattels comprised in such bill of sale in the execution of any process of any Court authorising the seizure of the chattels of the person by whom or of whose chattels such bill has been made, and also as against every person on whose behalf such process shall have been issued, be deemed fraudulent and void so far as regards the property in or right to the possession of any chattels comprised in such bill of sale which at or after the time of filing the petition for bankruptcy or liquidation or of the execution of such assignment or of executing such process, as the case may be, and after the expiration of 7 clear days after the execution of the bill of sale are in the possession or apparent possession of the person making such bill of sale or of any person whom the process has issued under or in the execution of which such bill has been made or given, as the case may be.

(2) Personal chattels shall be deemed to be in the "apparent possession" of the person making or giving a bill of sale, so long as they remain or are in or upon any house, warehouse, shop, building, vessel, works, yard, land or other premises occupied by him, or are used and enjoyed by him in any place whatsoever, notwithstanding that formal

possession thereof may have been taken or given by or to any other person.

(3) Personal chattels comprised in a valid bill of sale which is duly attested and registered under this Act shall not, so long as such bill of sale continues to be duly registered under this Act, be deemed to be in possession, order or disposition of the grantor of the bill of sale within the meaning of the law of bankruptcy.

(4) Subsection (3) shall not apply to personal chattels in the possession, order or disposition of the grantor in his trade or business.

Bill of sale to be accompanied by schedule of property

6. (1) Every bill of sale shall have annexed thereto or written thereon a schedule containing an inventory of the personal chattels comprised in the bill of sale, and such bill of sale, save as hereinafter mentioned, shall have effect only in respect of the personal chattels specifically described in the said schedule and shall be void in respect of any personal chattels not so specifically described.

(2) Save as hereinafter mentioned every bill of sale shall be void in respect of any personal chattels specifically described in the schedule thereto of which the grantor was not the true owner at the time of the execution of the bill of sale.

(3) Nothing in this section shall render a bill of sale void in respect of any of the following things —

(a) any growing crops separately assigned or charged where such crops were actually growing at the time when the bill of sale was executed;

(b) any fixtures separately assigned or charged and any plant or trade machinery where such fixtures, plant or trade machinery are used in, attached to, or brought upon any land, plantation,

factory, workshop, warehouse or other place in substitution for any of the like fixtures, plant or trade machinery specifically described in the schedule to such bill of sale.

7. Subject and without prejudice to the other provisions of this Act for invalidating bills of sale, every bill of sale made or given by way of security for the payment of money by the grantor thereof shall be void in the following cases —

Bill of sale given by way of security void in certain cases

(a) if the amount the payment of which is thereby secured is less than \$1,000;

(b) if it is not made in the form specified in the First Schedule;

(c) if it is made or given wholly or in part in consideration of a pre-existing debt.

8. A bill of sale made or given by way of security for the payment of money by the grantor thereof shall be no protection against a distress for the recovery of rent or for the recovery rates, cesses or assessments imposed by any Municipal Board.

Bill of sale not to protect chattels against rates

9. (1) Chattels comprised in a bill of sale made or given by way of security for the payment of money by the grantor thereof shall not, except with the consent of the grantor, be seized or taken possession of or sold without an order of a Court.

Remedy of grantee

(2) A Court on the application of the grantee or transferee, may —

(a) if the grantor has made default in payment of the sum or sums of money secured by the bill of sale 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;

(b) if the grantor has become bankrupt or has suffered the said chattels or any of them to be distrained for rent, municipal or local authority rates, cesses or assessments or otherwise;

(c) if the grantor has fraudulently either removed or suffered to be removed from the premises the said chattels or any of them;

(d) if the grantor has not, without reasonable excuse, upon demand in writing by the grantee or transferee produced to him his last receipts for rent and municipal or local authority rates, cesses or assessments; or

(e) if execution has been levied against the goods of the grantor under process of any Court;

order the chattels comprised in the bill of sale to be seized or taken possession of and sold or may, if satisfied that the grantor should by reason of payment made by him or for any other reason be granted relief, make such other order as seems just.

(3) Not more than one year's arrear of interest shall be recoverable under any bill of sale.

Mode of
registering
bills of sale

10. (1) A bill of sale shall be attested and registered under this Act as in this section provided.

(2) The execution by the grantor of every bill of sale shall be attested —

(a) by a magistrate; or

(b) by the Registrar.

(3) Such bill with every schedule or inventory there-to annexed, shall be delivered to the Registrar for registra-tion within 7 clear days after the execution by the grantor of such bill.

(4) If a true copy of the bill of sale and of every schedule or inventory thereto is not delivered to the Reg-istrar at the time of registration, he shall take a true copy thereof and every bill of sale and the true copy thereof shall be signed and sealed by the Registrar.

(5) The true copy of the bill of sale signed and sealed by the Registrar shall be filed by the Registrar.

(6) If the bill of sale is made or given subject to any defeasance or condition or declaration of trust not con-tained 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 therewith before the registra-tion, and shall be truly set forth in the copy filed under this Act and as part thereof, otherwise the registration shall be void.

11. In case two or more bills of sale are given comprising in whole or in part any of the same chattels they shall have priority in the order of the date of their registration respec-tively as regards such chattels.

Priority given
by
registration

12. A transfer of a registered bill of sale need not be attested under this Act, but the transferee of such bill of sale must within 7 clear days after the execution of such transfer file with the Registrar a certificate in the form in the Second Schedule, stating the date of the bill of sale and of the last registration thereof, the names, residences and occupations

Transfers
need not be
attested

of the parties thereto as stated therein, the names, residences and occupations of the parties to the transfer and that the said bill of sale is still a subsisting security, and shall also produce at the same time to the Registrar the said transfer, otherwise the said transfer shall be void.

Renewal of
registration

13. (1) The registration of a bill of sale must be renewed once at least every 12 calendar months, and if a period of 12 calendar months elapses from the registration or renewed registration of a bill of sale without a renewal or further renewal, as the case may be, the registration shall become void.

(2) The renewal of a registration shall be effected by filing with the Registrar a certificate in the form in the Third Schedule stating the date of the bill of sale and of the registration thereof and the names, residences and occupation of the parties thereto as stated therein and that the bill of sale is still a subsisting security.

The register

14. (1) The Registrar shall keep a book, hereinafter referred to as "the register", and shall upon the filing of any copy of a bill of sale enter therein the name, residence and occupation of the grantor, or, in case the same is made or given by any person under or in the execution of any process, then the name, residence and occupation of the person against whom such process was issued, and also the name of the person or persons to whom or in whose favour the bill is given and the date of the instrument and the date of registration and shall number all such bills registered in each year consecutively according to the respective dates of their registration.

(2) Upon the registration of certificate of renewal the like entry shall be made, with the addition of the date and number of the last previous entry relating to the same bill, and the copy of the bill of sale originally filed shall be thereupon marked with the number affixed to such certificate of renewal.

(3) Upon the registration of certificate of transfer of a bill of sale an entry thereof shall be made in the register over against the last previous entry relating to such bill of sale.

15. (1) It shall be a sufficient compliance with any of the provisions of sections 10, 12 or 14 of this Act requiring any document or certificate to be delivered to or filed with the Registrar if such document or certificate is delivered to or filed with the District Officer at any District Office.

Delivery of
documents to
District
Officers

(2) A District Officer on the delivery to or filing with him of any such document or certificate shall —

(a) issue to the person delivering or filing the same a receipt in such form as may be prescribed, and

(b) forthwith transmit such document or certificate together with a duplicate of the receipt to the Registrar.

(3) The Registrar shall, upon receipt by him of any document or certificate transmitted to him in pursuance of subsection (2) and if the same is in order for registration, enter the particulars required by subsection (1) of section 14 in the register.

For the purposes of this subsection the date of registration of any document shall be deemed to be the date on which the same was delivered to or filed with the District Officer.

16. No bill of sale and no transfer of a bill of sale shall be registered unless the same is duly stamped in accordance with the provisions of the Stamp Act.

Bill of sale to
be stamped
before
registration
Cap. 34

17. (1) Any magistrate on being satisfied that the omission to register a bill of sale or a certificate of renewal or

Rectification
of register

transfer thereof within the time prescribed, or the omission or mis-statement of the name, residence or occupation of any person, was accidental or due to inadvertence or to absence from Brunei may, in his discretion, order such omission or mis-statement 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 matter as he thinks fit.

(2) Any application for the rectification of the register under this section shall be made in Chambers.

(3) Where the time for registration has been extended by an order made under this section the Registrar shall, upon registration of the bill of sale or certificate of transfer or renewal of a bill of sale in respect of which such order has been made, enter in the register in addition to the particulars required by subsection (1) of section 14 of such bill of sale or certificate of transfer or renewal, as the case may be, a statement of the fact that the time for registration has been so extended.

Entry of
satisfaction

18. (1) A magistrate may order a memorandum of satisfaction to be written on any registered copy of a bill of sale upon being satisfied that the debt, if any, for which such bill was made or given has been satisfied or discharged.

(2) Upon production to him of any order made in pursuance of subsection (1) of this section, and the original of the bill of sale to which such order relates, the Registrar shall write a memorandum of satisfaction on the registered copy of the bill of sale.

(3) The Registrar may write a memorandum of satisfaction upon any registered copy of a bill of sale on a consent to the satisfaction signed by the person entitled to the benefit of the bill of sale and verified by certificate being

produced to him and on the original bill of sale being also produced to him.

(4) Whenever the Registrar writes a memorandum of satisfaction on the registered copy of a bill of sale he shall enter a like memorandum in the register against the last previous entry relating to such bill of sale.

(5) The Registrar may, in proof to his satisfaction that the original of any bill of sale required to be produced to him under the provisions of this section has been lost or destroyed, dispense with the production of such original.

(6) Before dispensing with production as aforesaid the Registrar shall require the person entitled to the benefit of the bill of sale to make a statutory declaration that such bill has not been deposited as security for any loan and shall give 14 days' notice in the *Gazette* of his intention to write a memorandum of satisfaction on the registered copy of such bill.

19. (1) The Registrar may cause to be destroyed —

Destruction
of documents

(a) the registered copy of any bill of sale and any documents relating thereto after the lapse of 5 years from the date upon which a memorandum of full satisfaction has been written on such registered copy; and

(b) the registered copy of any bill of sale and any documents relating thereto delivered to or filed with him more than 5 years previously, and in respect of which no certificate of renewal has been registered within such period of 5 years.

(2) The Registrar shall make a note of the fact of such destruction in the register against the entry therein relating to the registered copy of the bill of sale or other document so destroyed.

Office copies
and searches

20. (1) Any person shall be entitled to have an office copy of or extract from any registered bill of sale or registered certificate of renewal upon paying for the same at the rate of \$2.00 per page or part thereof or at such other rate as is prescribed, and every such copy shall, until the contrary is proved, be evidence of the original and of the fact and date of registration as shown thereon.

(2) Any person shall be entitled at all reasonable times, subject to such regulations as are prescribed —

(a) to search the register on payment of a fee of \$5.00 or such other fee as is prescribed;

(b) on a like payment in respect of each bill of sale inspected to inspect, examine, and make extracts from any registered bill of sale;

Provided that the said extracts shall be limited to the dates of execution, registration, renewal of registration, and satisfaction, to the names, addresses, and occupations of the parties, to the amount of the consideration, and to any further prescribed particulars.

Certificates

21. Every certificate required by or for the purposes of this Act shall be made before a magistrate or the Registrar and shall be deemed to be a certificate within the meanings of sections 197 and 198 of the Penal Code.

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Registrar
may draft
documents

22. The Registrar may, on request and on payment of the prescribed fees, draft or assist in the drafting of a bill of sale or a certificate intended to be registered under this Act:

Provided that the Registrar or the Government shall not be liable for any defect in any such bill of sale or certificate.

Fees

23. There shall be charged in respect of the registration of bills of sale and other matters done under this Act such fees as are prescribed.

24. (1) His Majesty in Council may make rules in respect Rules
of all or any of the following matters —

(a) the form of the register and the mode in which the same is to be made and kept;

(b) the mode in which registration is to be conducted;

(c) the making of entries in the register of the satisfaction or discharge of the debt secured by a registered bill of sale;

(d) the fees to be taken;

(e) generally in relation to any matters, whether similar or not to those above-mentioned, as to which it is expedient to make rules for carrying into effect the objects of this Act.

(2) Any such rules shall be published in the *Gazette*, and shall have the same force and effect as if enacted in this Act.

FIRST SCHEDULE

(Section 7(b))

This Indenture, made the _____ day of _____
19____, between _____ of
of the one part and _____ of
of the other part, WITNESSETH that in consideration of
the sum of _____ dollars now paid to the
said _____ by the said
(the receipt whereof the said
acknowledges) (or whatever else the consideration may be)
he the said _____ doth hereby assign
unto the said _____ all and singular the several chattels
and things specified in the schedule hereto by way of security
for the payment of the sum of _____ dollars and
interest thereon at the rate of _____ per cent per annum,

and the said doth hereby agree that he
 will duly pay to the said the principal
 sum aforesaid, together with the interest then due, by
 equal payments of dollars on
 the day of (or whatever else
 may be the stipulated time or times of payment): and the
 said doth also agree with the
 said that he will (here insert
 terms as to insurance, payment of rent or otherwise which the parties
 may agree to for the maintenance or defeasance of the security).

Provided always that the chattels hereby assigned shall not be
 seized or taken possession of or sold except with the consent of the
 grantor or under an order of a Court.

In Witness our hands the day and year above written.

Signed and sealed by the said

in the presence of me,

or the witness	{	Signature
		Address
		Occupation

SECOND SCHEDULE

(Section 12)

Certificate of Transfer of Bill of Sale

I, _____ of _____
 doth certify that a bill of sale bearing date the _____
 day of _____, 19____, and made between _____
 of the one part and _____
 of the other part, of which a copy was registered on
 the _____ day of _____, 19____, at _____

as instrument No. _____, (and which was last registered
 on the _____ day of _____, 19____), is still a
 subsisting security and was by an indenture bearing date the
 _____ day of _____, 19____, transferred
 to _____ of _____,
 which said indenture is now produced and shown to me
 marked _____
 Signed at _____
 the _____ day of _____, 19____
 in the presence of _____

THIRD SCHEDULE

(Section 13(2))

Certificate of Renewal of Registration

 I, _____ of _____
 do certify that a bill of sale bearing date the
 day of _____, 19____, and made between

 of the one part and

 of the other part, of which a copy was registered on the
 day of _____, 19____, at

 as instrument No. _____, is still a subsisting security.
 Signed at _____
 the _____ day of _____, 19____
 in the presence of _____



SUBSIDIARY LEGISLATION

Rules under section 22

BILL OF SALE RULES

S. 18/58

Commencement: 1st March 1958

1. These rules may be cited as the Bills of Sale Rules. Citation

2. In these rules — Interpretation

“The Act” means the Bills of Sale Act; Cap. 70

“the Registrar” means the Registrar appointed under section 4 of the Act.

3. Every copy of a bill of sale delivered to the Registrar for registration under the Act and any copy taken by the Registrar pursuant to subsection (4) of section 10 of the Act shall have endorsed thereon a certificate in the form of or to the effect of the certificate in the First Schedule hereto. Verification of copy of bill of sale

4. The receipt to be issued by a District Officer pursuant to the provisions of subsection (2) of section 15 of the Act shall be in the form set out in the Second Schedule hereto. Form of receipt by District Officer

5. The fees to be paid in pursuance of the Act shall be the fees specified in the Third Schedule hereto. Fees

FIRST SCHEDULE

(Rule 3)

I (full name), of
(address and occupation)

.....
do hereby certify that I have compared the within copy of
the Bill of Sale dated the day of
19 made between and
..... with the original Bill of Sale

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Bills of Sale

[Subsidiary]

and do further certify that the same is a true copy of the said Bill of Sale and of every schedule or inventory thereto annexed.

Dated this day of 19.....

Signature

Witness*

*To be witnessed by a magistrate or the Registrar except in a case where the Registrar himself certifies the copy.

SECOND SCHEDULE

(Rule 4)

No.

BRUNEI GOVERNMENT

District Office at

....., 19.....

BILLS OF SALE ACT, CAP. 70

Received from

of

at
a.m.
p.m. on the date above-mentioned the following documents, that is to say

.....
.....
.....
.....

[Subsidiary]

together with the sum of \$..... (say dollars
..... and cents.....)

being for

.....

.....
Clerk

.....
District Officer

THIRD SCHEDULE

(Rule 5)

	\$	¢
1. Upon filing for registration a copy of a bill of sale or any certificate of renewal or transfer of bill of sale	5	00
2. Upon lodgment of an order made under section 17 or section 18 (1) of the Act	5	00
3. For writing a memorandum of satisfaction on the registered copy of a bill of sale	5	00
4. For taking a true copy of any bill of sale and of every schedule or inventory thereto where no true copy has been delivered to the Registrar, for each page or part thereof	5	00
5. For drafting or assistance in drafting a bill of sale or a certificate under the Act, for each page or part thereof	5	00
6. For attending and witnessing the execution of a bill of sale outside a Government Office, to the magistrate or the Registrar as the case may be	10	00

