

CHATTELS TRANSFER AMENDMENT BILL

EXPLANATORY NOTE

This Bill amends the Chattels Transfer Act 1924.

Clause 2 makes amendments that are consequential on the passing of Part II of the Industrial and Provident Societies Amendment Act 1952. That Part provides for the registration of charges given over property by industrial and provident societies on the same lines as the system of registration for charges given by companies. In view of the registration provisions in the Companies Act 1933, the definition of the term "instrument" in the principal Act does not include charges given by a company. *Clause 2 (1)* of this Bill similarly provides that the term "instrument" in the principal Act is not to include charges given by industrial and provident societies. *Clause 2 (2)* makes section 4 (2) of the principal Act apply to charges registered under the Industrial and Provident Societies Act in the same way as it already applies to charges registered under the Companies Act. (Section 4 (2) provides that except as otherwise provided all persons are deemed to have notice of a security upon its being registered under the Companies Act.) *Clause 2* is made retrospective to 1 January 1953, being the date of the commencement of Part II of the industrial and Provident Societies Amendment Act 1952.

Clause 3 amends section 57 (3) of the principal Act to make it clear that an assignment of a customary hire purchase agreement is valid without registration notwithstanding that it involves an assignment of the chattels that are the subject of the agreement. Section 2 (7) of the Chattels Transfer Amendment Act 1931 amended section 57 (3) of the principal Act to provide that assignments of customary hire purchase agreements, whether absolute or by way of mortgage, were valid without registration, but certain dicta in the judgment of the Court of Appeal in the case *Dempsey and the National Bank of N.Z. Ltd. v The Traders' Finance Corporation* [1933] N.Z.L.R. 1258 have raised doubts as to the effect of this amendment. These dicta suggest that an assignment of a hire purchase agreement still requires registration because it is also an assignment of the chattels, as the ownership of the chattels remains in the vendor and must be assigned with his interest under the hire purchase agreement. The clause is intended to remove those doubts, and, like the 1931 amendment, it is made retrospective to the commencement of the principal Act, but without affecting any legal proceedings completed or commenced before the passing of the Bill.

The removal of the doubts about assignments by individuals will automatically clarify the position as to similar assignments made by companies and industrial and provident societies, because an assignment that would not require registration under the principal Act if executed by an individual does not require registration if executed by a company or such a society. (See section 89 (2) (c) of the Companies Act 1933 and section 17 (2) (c) of the Industrial and Provident Societies Amendment Act 1952.)

Hon. Mr Webb

CHATTELS TRANSFER AMENDMENT

ANALYSIS

Title.	2. Principal Act not to apply to securities granted by industrial and provident societies.
1. Short Title.	3. Section 57 of principal Act (as to assignments of hire purchase agreements) amended.

A BILL INTITULED

An Act to amend the Chattels Transfer Act 1924. Title.

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:

- 5 **1.** This Act may be cited as the Chattels Transfer Amendment Act 1953, and shall be read together with and deemed part of the Chattels Transfer Act 1924 (hereinafter referred to as the principal Act). Short Title. See Reprint of Statutes, Vol. I, p. 632
- 10 **2.** (1) Section two of the principal Act is hereby amended by adding to the exceptions to the definition of the term "instrument" the following paragraph: Principal Act not to apply to securities granted by industrial and provident societies.
- 15 “(1) Mortgages or charges granted or created by a society registered under the Industrial and Provident Societies Act 1908:” See Reprint of Statutes, Vol. III, p. 1029

(2) Section four of the principal Act is hereby amended as follows:

(a) By inserting in subsection two, after the words “by a company registered under the Companies Act 1908”, the words “or by a society registered under the Industrial and Provident Societies Act 1908”:

(b) By adding to subsection two the words “or the said Industrial and Provident Societies Act 1908, as the case may be”.

(3) This section shall be deemed to have come into force on the first day of January, nineteen hundred and fifty-three (being the date of the commencement of Part II of the Industrial and Provident Societies Amendment Act 1952).

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Section 57 of principal Act (as to assignments of hire purchase agreements) amended.

See Reprint of Statutes, Vol. I, pp. 655, 670

3. (1) Section fifty-seven of the principal Act is hereby amended by inserting in subsection three (as amended by subsection seven of section two of the Chattels Transfer Amendment Act 1931), after the words “assignment of a customary hire purchase agreement”, the words “and of the chattels the subject of the agreement”.

(2) This section shall be deemed to have come into force on the date of the commencement of the principal Act, save that nothing in this section shall apply with respect to any deed, agreement, or chattel which before or at the date of the passing of this Act has been or is the subject of any action or proceeding in any Court of law.