



Australian Capital Territory

# **Instruments Act 1933**

**A1933-25**

**Republication No 3A**

**Effective: 10 November 1999 – 28 March 2001**

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Authorised by the ACT Parliamentary Counsel

## **About this republication**

### **The republished law**

This is a republication of the *Instruments Ordinance 1933* effective 10 November 1999 to 28 March 2001.

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## AUSTRALIAN CAPITAL TERRITORY

# INSTRUMENTS ACT 1933

**Republication No 3A**

**As in force on 10 November 1999**

**Includes all amendments up to Act 1999 No 66**

Prepared by the ACT Parliamentary Counsel's Office

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## AUSTRALIAN CAPITAL TERRITORY

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### **INSTRUMENTS ACT 1933**

An Act relating to Instruments and Securities

#### **PART 1—PRELIMINARY**

**1. Short title**

This Act may be cited as the *Instruments Act 1933*.<sup>1</sup>

**2. Commencement**

This Act shall commence on a date to be fixed by the Attorney-General by notice in the *Gazette*.<sup>1</sup>

**3. Repeal and saving**

(1) The *Bills of Sale Ordinance 1930* and the *Bills of Sale Ordinance 1931* are repealed.

(2) The Acts of the State of New South Wales specified in Schedule 1 shall cease to apply to the Territory.

(3) Notwithstanding anything contained in this Act, any bill of sale, agreement or mortgage which at the commencement of this Act is registered under any law referred to in this section, shall continue to be as valid and effectual, and the law under which it was registered shall continue to apply thereto, as if this Act were not in force.

**5. Interpretation**

In this Act, unless the contrary intention appears—

“determined fee” means the fee determined pursuant to section 37 for the purposes of the provision in which the expression occurs.

### **PART 3—BILLS OF SALE**

#### **8. Interpretation**

(1) In this Part, unless the contrary intention appears—

“bill of sale” includes bills of sale, assignments, transfers, declarations of trusts without transfer, and other assurances of personal chattels, and also powers of attorney, authorities, and licences to take possession of personal chattels as security for any debt, but does not include the following documents, that is to say: assignments for the benefit of the creditors of the person making or giving the assignments; marriage settlements; transfers or assignments of any ship or vessel, or any share thereof; transfers of goods in the ordinary course of business of any trade or calling; bills of sale of goods in foreign parts or at sea; bills of lading; India warrants; 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 indorsement or by delivery, the possessor of the document to transfer or receive goods thereby represented;

“personal chattels” means goods, furniture, fixtures and other articles capable of complete transfer by delivery; but does not include chattel interests in real estate, or shares or interests in the stock, funds or securities of any government, or in the capital or property of any incorporated or joint stock company, or choses in action, or any stock or produce upon any farm or lands which by virtue of any covenant or agreement, or of the custom of the country, ought not to be removed from any farm or lands where the stock or produce are at the time of making or giving of the bill of sale.

#### **8A Meaning of *apparent possession* in Pt 8**

For this Part, personal chattels are taken to be in the *apparent possession* of the person making or giving a bill of sale, if—

- (a) they are on any land or premises occupied by the person; or
- (b) they are used and enjoyed by the person anywhere;

even though that formal possession of them has been taken by or given to someone else.

#### **9. Bills of sale—registration**

(1) Every bill of sale of personal chattels made or given either absolutely or conditionally, or subject or not to any trusts, and whereby the grantee or holder

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has power, either with or without notice and either immediately or at any future time, to seize and take possession of any property and effects comprised in or made subject to the bill of sale, shall, within 30 days after the making or giving of the bill of sale, be registered by leaving in the office of the Registrar-General—

- (a) the bill of sale and every schedule or inventory which is thereto annexed or therein referred to, or a true copy thereof, and of every attestation of the execution thereof;
- (b) a statutory declaration or an affidavit of the time of the bill of sale being made or given;
- (c) a description of the residence and occupation of the person making or giving the bill of sale, or a description of the residence and occupation of the person against whom the process has issued in case the bill of sale is made or given by any person under or in the execution of any process; and
- (d) a description of the residence and occupation of every attesting witness to the bill of sale.

**(1A)** A bill of sale left in the office of the Registrar-General shall be accompanied by the determined fee.

**(2)** In default of registration in accordance with the provisions of this section, but subject to subsection (3) the bill of sale shall, as against—

- (a) the official receiver or trustee in bankruptcy, where a sequestration order is made against the grantor under the *Bankruptcy Act 1966* of the Commonwealth, and all assignees or trustees of the estate and effects of the person whose goods or any of them are comprised in the bill of sale, under any assignment for the benefit of the creditors of that person; and
- (b) all sheriff's officers and other persons seizing any property or effects comprised in the bill of sale, in the execution of the process of any court authorising the seizure of the goods of the person by whom or of whose goods the bill of sale has been made; and
- (c) every person on whose behalf the process has been issued;

be null and void, to all intents and purposes whatsoever, so far as regards the property in, or right to the possession of, any personal chattels comprised in the bill of sale, which at or after the date of the sequestration order, or the time of the execution by the debtor of the assignment for the benefit of his or her creditors, or of executing the process (as the case may be), and after the expiration of the period of 30 days referred to in subsection (1) are in the

possession or apparent possession of the person making the bill of sale, or of any person against whom the process has issued under or in the execution of which the bill of sale has been made or given, as the case may be.

(3) Where the interest of a grantee or holder of a bill of sale is registered under the *Registration of Interests in Goods Act 1986* of the State of New South Wales, the bill of sale is as valid and effective as if it had been registered under this Act.

#### **10. Defeasance or condition of bill of sale**

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, the defeasance or condition or declaration of trust shall, for the purposes of this Act, be taken as part of the bill of sale, and shall be written on the same paper on which the bill of sale is written before the time when the bill of sale is registered, otherwise the bill of sale shall be null and void to all intents and purposes as against the same persons, and as regards the same property and effects, as if the bill of sale had not been registered according to the provisions of this Act.

#### **11. Records of each bill of sale**

(1) The Registrar-General shall cause every bill of sale, and every schedule and inventory and every copy of a bill of sale, schedule or inventory left in his or her office under the provisions of this Act to be numbered.

(2) The Registrar-General shall keep a book or index, in which he or she shall cause to be inserted as and when any bill of sale or copy thereof is left for registration, the name, addition, and description of the person making or giving the bill of sale, or, in case the bill of sale is made or given by any person under or in the execution of any process, the name, addition and description of the person against whom the process has issued, as the case may be, and also of the persons to whom or in whose favour the bill of sale has been given or transferred, but containing no further particulars thereof.

#### **12. Household furniture**

Where, at the time any person makes or gives a bill of sale, that person is married and living with his or her wife or husband, and the bill of sale comprises any household furniture, the bill of sale shall not be enforced by seizure or sale of any such furniture as then is actually in use by the person making or giving the bill of sale or his or her wife or husband, as the case may be, unless at the time of execution it is endorsed in the manner and according to the form contained in Schedule 2 by the wife or husband of the maker or giver of the bill of sale, and the endorsement is attested by the Registrar-General, a



legal practitioner, a justice of the peace or a person prescribed for the purposes of paragraph 8 (b) of the *Statutory Declarations Act 1959* of the Commonwealth:

Provided that this section shall have no effect after the death of the wife or husband, or if, after the making or giving of the bill, the husband and wife live apart pursuant to a decree, order, or deed of separation, or if a decree for the dissolution or nullity of their marriage has been made.

**13. Bill of sale—transferable**

(1) A bill of sale shall be transferable by writing, and every transferee thereof may bring every such action thereupon or in respect thereof in his or her own name, and shall have and may exercise the same right, title and interest, powers and authorities as the original grantee could have brought, would have had or might have exercised if no transfer had been made by him or her.

(2) The Registrar-General, if required so to do, shall, on payment of the determined fee, register any such transfer by noting in the book or index kept under section 11, the name, addition and description of the transferee, and the date of the execution of the transfer.

**14. Discharge of bill of sale**

(1) A bill of sale may be discharged or partly discharged by a memorandum in accordance with the form set out in Part 1 of Schedule 3, or to the like effect, endorsed on the bill of sale or copy thereof, held by the grantee or person claiming through the grantee, acknowledging that the bill of sale has been or is discharged or, in case of part discharge, the extent to which it has been or is so discharged.

(2) If the Registrar-General is satisfied that the bill of sale or copy held by the grantee or person claiming through the grantee cannot, for some good reason, be produced, a bill of sale may be discharged or partly discharged by a memorandum in accordance with the form set out in Part 2 of Schedule 3, or to the like effect, acknowledging that the bill of sale has been or is discharged or, in case of a part discharge, the extent to which it has been or is so discharged.

(3) The signature to any memorandum acknowledging any such discharge or part discharge shall be witnessed by a legal practitioner or by a justice of the peace, or by a person prescribed for the purposes of paragraph 8 (b) of the *Statutory Declarations Act 1959* of the Commonwealth.

(4) The Registrar-General, if required so to do, and if satisfied that any bill of sale has been discharged or partially discharged, shall register the discharge or part discharge by noting the discharge or part discharge upon the bill of sale or copy registered and in the book or index kept under section 11.

**15. Not to affect liens on crops, wool etc**

Nothing in this Part shall affect or apply to any liens on crops, liens on wool or mortgages of stock registered in accordance with the provisions of this Act.

**PART 4—LIENS ON CROPS**

**16. Interpretation**

In this Part, unless the contrary intention appears—

“agricultural produce” includes wheat, maize, sorghum, barley, oats, lucerne, and grass, whether for hay or grain, and other agricultural produce;

“horticultural produce” means fruit of any kind.

**17. Lien on yearly crops**

(1) In all cases where any person makes any bona fide advance of money or goods to any holder of land on condition of receiving as security for the advance the growing crop or crops of agricultural or horticultural produce on any such land, and where the agreement relating to the security is made in accordance with or to the effect of the form in Schedule 4, and purports on the face of it to have been made as security for the advance, and is duly registered within 30 days after the date of the agreement, by leaving in the office of the Registrar-General a true copy thereof duly verified by statutory declaration or affidavit, the person making the advance, whether before, at, or after the date of the agreement, shall have a preferable lien upon, and be entitled to the whole of the crop and the whole produce thereof, and the possession thereof by the lienor shall be to all intents and purposes in the law the possession of the lienee, and when the advance is repaid with interest specified in the agreement the possession and property of the crop shall revert to and vest in the lienor.

(2) A lien left in the office of the Registrar-General for registration shall be accompanied by the determined fee.

**18. Lien not affected by sale etc of land**

No such lien duly made and registered shall be extinguished or otherwise prejudicially affected by the death of the lienor, or by any sale or mortgage of, or other incumbrance upon the land on which any such crop is growing; and if the lienor, or the lienor’s executors, administrators, or assigns, neglects or refuses either to pay off the whole of the advance with interest as agreed upon, or to give up the crop to the lienee thereof in pursuance of the agreement, the lienee, or the lienee’s executors, administrators, or assigns may

enter into possession of the crop, and may gather, and carry away and sell the crop, and may apply the proceeds in paying himself or herself the advance, with interest as agreed upon, and all expenses of gathering, carrying away, making marketable, and selling any such crop, and shall pay the balance to the lienor, or the lienor's executors, administrators, or assigns.

**19. Lienee to pay rent of leased land before selling crop**

(1) If the lienor be a leaseholder then the lienee shall, before selling any such crop, pay to the landlord of the land whereon the crop is growing such sum of money not exceeding 1 year's rent as is due to the landlord for rent at the time of carrying away the crop, and the lienee may repay himself or herself the sum so paid out of the proceeds of the sale of the crop before paying over the balance to the lienor.

(2) For the purposes of this section—

“leaseholder” includes a person holding land under a lease from the Commonwealth, and a person to whom land is sublet;

“landlord of the land”, where the leaseholder holds the land under a lease from the Commonwealth, means the Commonwealth, and, where the leaseholder is a sublessee, means the person by whom the land is sublet.

**20. Lienee to pay interest to mortgagee of land before selling crop**

If at the time of making any such lien there is in force a mortgage of the land whereon the crop subject to the lien is growing, and the land is at the time of harvesting the crop in the occupation of the mortgagee, the lienee shall, before selling any such crop, pay to the mortgagee the amount of interest (not exceeding 12 months' interest) due upon the mortgage at the time of carrying away or selling the crop; and the lienee may repay himself or herself the sum so paid for interest out of the proceeds of the sale of the crop before paying over the balance to the lienor.

**21. Lien on crops—transferable**

(1) A lien under this Part shall be transferable by writing, and every transferee thereof may bring every such action thereupon or in respect thereof in his or her own name, and shall have and may exercise the same right, title and interest, powers and authorities as the original lienee could have brought, would have had or might have exercised if no transfer had been made by the original lienee.

(2) The Registrar-General, if required so to do, shall, on payment of the determined fee, register any such transfer by noting in the register kept under

section 22, the name, addition and description of the transferee, and the date of the execution of the transfer.

**22. List in registry open to inspection**

The Registrar-General shall keep a separate alphabetical register of all agreements referred to in section 17.

**23. Duration of lien**

A lien under this Part shall not continue in force for more than 1 year from the date thereof, and the Registrar-General, at the request of both parties, shall at any time enter satisfaction thereon.

**24. Penalties for frauds on lienee**

Any lienor, whether principal or agent, who, by sale or delivery of any crop affected by the lien, or of any part thereof, without the written consent of the lienee, or by any other means defrauds the lienee of the crop or the value thereof, or any part thereof, and thus or by any means directly or indirectly defeats, invalidates, or impairs the lienee's right of property in the crop, shall be guilty of an offence, and shall be liable on conviction—

- (a) if the offender is a natural person—to a fine not exceeding 100 penalty units or imprisonment for 1 year, or both; or
- (b) if the offender is a body corporate—to a fine not exceeding 500 penalty units.

**PART 5—LIENS ON WOOL AND STOCK MORTGAGES**

**24A. Interpretation**

In this Part—

“stock” means horses, cattle, sheep or swine.

**25. Right of lienee to wool as security etc**

(1) In all cases where any person makes any bona fide advance of money or goods, or gives any valid promissory note or bill to any proprietor of sheep on condition of receiving in payment or as security only for the money, goods, promissory note, or bill, as the case may be, the wool of the then next ensuing clip of the proprietor, and where the agreement relating to the purchase or security is made in accordance with or to the effect of the form in Schedule 5, and purports on the face of it to have been made in payment or as security for the advance, and is duly registered within 30 days after the date of the agreement by leaving in the office of the Registrar-General a true copy thereof, duly verified by statutory declaration or affidavit, the person making the

purchase or advance shall be entitled to the whole of the wool mentioned in the agreement, whether the advance of money or goods, or of the note or bill is made before, at, or after the granting of any such preferable lien; and the possession of the wool by the proprietor shall be, to all intents and purposes in the law, the possession of the person making the purchase or advance; and when the advance is repaid, with such interest and commission as is specified in any such agreement, the possession and property of the wool shall revert in the proprietor.

(2) A lien left in the office of the Registrar-General for registration shall be accompanied by the determined fee.

**26. Right of lienee to ensuing clip of wool**

(1) Where any person makes any bona fide purchase or advance, as mentioned in section 25, the preferable lien of the lienee making the purchase or advance on the wool of the next ensuing clip of the proprietor shall not be in any way extinguished, suspended, impaired, or otherwise prejudicially affected by any subsequent sale, mortgage, or other incumbrance whatsoever of the sheep mentioned and described in the registered agreement relating to any such preferable lien, but shall be as valid and effectual to all intents and purposes whatsoever against any such subsequent purchaser, mortgagee, incumbrancer, or other claimant or possessor of the sheep, as against the original proprietor thereof who granted the preferable lien.

(2) If any such lienor, subsequent mortgagee, or incumbrancer, or other claimant or possessor of the sheep neglects or refuses to shear and deliver the wool of any sheep for which any such preferable lien has been granted in pursuance of the provisions in that behalf contained in the registered agreement, the lienee, or the lienee's executors, administrators, or assigns may take possession of the sheep bearing the wool, for the purpose of washing and shearing the sheep; and all expenses attending the washing and shearing and conveyance of the wool to the place of abode of the lienee shall be incorporated with and be deemed in law part of the amount secured by the lien.

**27. Right of mortgagor where mortgagee in possession**

(1) Any mortgage of stock which, after the commencement of this Act, is made bona fide and for valuable consideration, and the names of the parties to which and the particulars of which are duly registered within 30 days after the date thereof in the office of the Registrar-General in accordance with the form in Schedule 6 shall be valid in the law to all intents and purposes whether the money secured by the mortgage is payable presently or not, and notwithstanding that the mortgaged stock are not delivered over to the

mortgagee but remain and continue in every respect, as theretofore, in the possession, order, and disposition of the mortgagor.

(2) A mortgage of stock left in the office of the Registrar-General for registration shall be accompanied by the determined fee.

**28. Mortgagor of sheep may with consent of mortgagee give lien**

Any mortgagor of sheep may, with the consent in writing of the mortgagee thereof, but not without that consent, make and give a valid lien on the next ensuing clip of the wool of those sheep.

**29. Liens on wool and stock mortgages—transferable**

(1) A lien on wool or a mortgage of stock shall be transferable by writing, and every transferee thereof may bring every such action thereupon or in respect thereof in the transferee's own name, and shall have and may exercise the same right, title and interest, powers and authorities as the original lienee or mortgagee could have brought, would have had or might have exercised if no transfer had been made by the original lienee.

(2) The Registrar-General, if required so to do, shall, on payment of the determined fee, register any such transfer by noting in the appropriate registry kept under section 30, the name, addition and description of the transferee, and the date of the execution of the transfer.

**30. Particulars of registration by Registrar-General**

The Registrar-General shall keep a separate and distinct registry from year to year of all agreements for purchases of wool or advances thereon as mentioned in section 25, and shall also keep a separate and distinct registry of the particulars of all mortgages of stock, as mentioned in section 27.

**31. Cancelling of liens**

The Registrar may, at the request of each of the parties to a preferable lien on wool, enter satisfaction on the lien in the register kept under section 30.

**32. Registration of satisfaction of mortgage**

In every case where the amount of principal and interest, or of the balance of principal and interest due upon any mortgage of stock is paid to the person entitled to receive it, or his or her agent in that behalf, and a receipt in writing for the amount so paid is given, signed by the person so entitled, or by his or her agent acknowledging the payment to be in satisfaction of the mortgage, the mortgagor, or the mortgagor's executors, administrators, or assigns may cause a copy of the receipt, duly verified by affidavit, to be registered in the office of the Registrar-General, on production to the Registrar

of the original receipt and of the mortgage deed to which the receipt relates and on payment of the determined fee; and from and after the time of the registration of the verified receipt the payment shall operate as an extinction of the mortgage, and of the right and interest thereby created to all intents and purposes whatsoever, but without prejudice to any previous sale, or any conveyance in pursuance thereof, under the mortgage deed, and without prejudice to any second or subsequent mortgage affecting the same stock or any part thereof then duly registered, unless each party thereto, by writing under his or her hand at the foot of the receipt, has signified his or her assent to the registration of the receipt.

**33. Saving of rights of Commonwealth**

Nothing in this Part shall be construed to affect in any way the rights of the Commonwealth as to any of the lands of the Commonwealth described in any such lien or mortgage to which this Part relates as the lands or stations where any stock, the subject of the lien or mortgage, are depasturing.

**34. Frauds by lienor, mortgagor, or other person**

(1) Any grantor of any preferable lien on wool under this Part, whether the grantor is principal or agent, who afterwards sells or delivers to any purchaser, pawnee, or other person, the wool under any such lien without the written consent of the lienee, or sells, steams, or boils down, or causes to be sold, steamed, or boiled down, without that written consent, the sheep whereon the wool is growing, with a view to defraud the lienee of the wool or the value thereof, shall be guilty of an offence punishable, on conviction, by—

- (a) if the offender is a natural person—a fine not exceeding 100 penalty units or imprisonment for 1 year, or both; or
- (b) if the offender is a body corporate—a fine not exceeding 500 penalty units.

(2) Any mortgagor of stock and their increase and progeny under this Part, whether the mortgagor is principal or agent, who, after the due execution and registry of any such mortgage, without the written consent of the mortgagee, sells and disposes of, or steams or boils down, or causes to be sold and disposed of, or to be steamed or boiled down, any stock or their increase or progeny, mentioned or described in any such mortgage, shall be guilty of an offence punishable, on conviction, by—

- (a) if the offender is a natural person—a fine not exceeding 50 penalty units or imprisonment for 6 months, or both; or
- (b) if the offender is a body corporate—a fine not exceeding 250 penalty units.

(3) Any grantor of any preferable lien under this Part, or any mortgagor of stock and their increase and progeny under this Part, whether principal or agent, who in any way or by any means whatever or howsoever, directly or indirectly, destroys, defeats, invalidates, or impairs, or any other person who wilfully and knowingly incites, aids, or abets any such grantor or mortgagor, directly or indirectly, to defeat, destroy, invalidate or impair the right of property of any lienee in the wool of any sheep mentioned and described in any agreement registered under this Part, or the right of property of any such mortgagee in any stock or their increase and progeny, mentioned in any mortgage duly executed and registered under this Part, shall be guilty of an offence punishable, on conviction, by—

- (a) if the offender is a natural person—a fine not exceeding 50 penalty units or imprisonment for 6 months, or both; or
- (b) if the offender is a body corporate—a fine not exceeding 250 penalty units.

## **PART 6—MISCELLANEOUS**

### **35. Index of bills of sale etc registered under State Acts**

The Registrar-General may keep a book or index in which he or she shall cause to be inserted such particulars as are prescribed of all bills of sale, agreements and mortgages referred to in subsection 3 (3).

### **36. Search of registers etc**

(1) A person may, on payment of the determined fee, search any book, index or register, kept pursuant to this Act, during normal working hours.

(2) Any person shall, on payment of the determined fee for each office copy or extract, be entitled to have an office copy or extract of any instrument or document lodged or left in the office of the Registrar-General in pursuance of this Act.

### **36A. Destruction of registrable instruments**

(1) The Registrar shall keep a registrable instrument which has been registered in accordance with this Act until—

- (a) the registrable instrument has been discharged in accordance with section 14, satisfaction of the registrable instrument has been entered in accordance with section 23 or 31, or a receipt has been registered with respect to the registrable instrument in accordance with section 32; or



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(b) the Registrar believes on reasonable grounds that the personal chattels or other securities referred to in the registrable instrument are no longer affected by the instrument.

(2) Where the Registrar destroys a registrable instrument he or she shall record the date on which the instrument is destroyed in the relevant book, index or register kept under section 11, 22 or 30, as the case requires.

(3) In this section—

“bill of sale” has the same meaning as in Part 3;

“personal chattels” has the same meaning as in Part 3;

“registrable instrument” means a bill of sale, lien, mortgage or other agreement, a record of which is kept under this Act.

**37. Power of Minister to determine fees**

The Minister may, by notice in writing published in the *Gazette*, determine fees for the purposes of this Act.

**37A. Payment of determined fees**

Where a fee is payable under this Act the fee shall be paid to the Registrar-General.

**38. Regulations**

The Executive may make regulations, not inconsistent with this Act, prescribing all matters which by this Act are required or permitted to be prescribed, or which are necessary or convenient to be prescribed, for giving effect to this Act.

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**SCHEDULE 1**

Section 3

| Reference to Act  | Short title   |
|-------------------|---|
| No. 7, 1898 ..... | <i>Liens on Crops and Wool and Stock Mortgages Act 1898</i> |
| No. 10, 1898..... | <i>Bills of Sale Act 1898</i>                               |
| No. 12, 1903..... | <i>Bills of Sale (Amendment) Act 1903</i>                   |

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**SCHEDULE 2**

Section 12

I [*here fill in wife's or husband's name*], the wife (*or husband*) of [*here fill in name of maker or giver of the bill of sale*], consent to this bill of sale being effective as to the household furniture actually in use by my husband (*or wife*) and me, and which is comprised in this bill of sale.

(Signed) [*Usual signature.*]

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[Address.]

Witness to Signature— \_\_\_\_\_

**SCHEDULE 3**

Section 14

PART 1

Memorandum made this \_\_\_\_\_ day of \_\_\_\_\_ between \_\_\_\_\_ and \_\_\_\_\_ whereby it is acknowledged that the within security has been discharged and satisfied in full (*or, if in part*, to the extent of \_\_\_\_\_ dollars).

(Witnessed.)

(Signed)

[Usual signature of grantee or person claiming through grantee.]

PART 2

Memorandum made this \_\_\_\_\_ day of \_\_\_\_\_ between \_\_\_\_\_ and \_\_\_\_\_ whereby it is acknowledged that the (here set out description of bill of sale) has been discharged and satisfied in full (*or, if in part*, to the extent of \_\_\_\_\_ dollars).

(Witnessed.)

(Signed)

[Usual signature of grantee or person claiming through grantee.]

**SCHEDULE 4**

Section 17

In consideration of the advance of \_\_\_\_\_ paid to me in money by (*or* value for which I admit to have received in goods from) C.D., of \_\_\_\_\_ I do hereby give C.D. a preferable lien to the extent of the advance on the crop (*or* crops) of [*here state the nature of the produce*] of this year, growing and to grow on the land [*here describe the land*] in the Australian Capital Territory. It is further agreed that unless on or before the day of \_\_\_\_\_, 19 \_\_\_\_\_,

I pay to C.D. the sum of \_\_\_\_\_ with interest thereon at the rate of \_\_\_\_\_ % per annum, the crop (*or* crops) shall be gathered, carried away, and made marketable by me or at my expense, and shall be delivered at \_\_\_\_\_ to C.D. or his or her order, in which event he or she may sell the same by [*here state mode and conditions of sale*], and from the proceeds may pay himself or herself the sum and interest and all costs, and shall pay over to me the balance (if any), or if there be any deficiency may recover the same against me at law as any debt.

Dated the \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_.

Witness—

\_\_\_\_\_

(Signed)

A.B.

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**SCHEDULE 5**

Section 25

In consideration of \_\_\_\_\_, bona fide value for which I admit to have received in (money *or* goods *or* promissory notes, bill, or all or any of these, as the case may be) from C.D., of \_\_\_\_\_, I do hereby give C.D. a preferable lien to the extent of the advance and interest at the rate of \_\_\_\_\_ % per annum, and commission at the rate of \_\_\_\_\_ % on the wool of the ensuing clip to be shorn from my flocks of sheep consisting in number of \_\_\_\_\_ or thereabouts, and now depasturing at \_\_\_\_\_ in the Australian Capital Territory, under the superintendence of \_\_\_\_\_.

It is further agreed that the said sheep shall be shorn by me or at my expense, and that the wool thereof shall be delivered by me at \_\_\_\_\_, to the order of C.D.

Dated the \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_.

Witness—

(Signed) A.B.

N.B.—If the money, goods, promissory notes, or bills advanced be for the absolute purchase of the wool, instead of the words 'to the extent of the advance' insert the words 'for the absolute purchase and whole value thereof'.

\_\_\_\_\_

**SCHEDULE 6**

Section 27

| Date of deed | Name of mortgagor | Name of mortgagee | Consideration | Number and description of mortgaged stock and the brand or other distinctive mark and stations where the same are depasturing, as also the name of the principal superintendent or overseer |
|--------------|-------------------|-------------------|---------------|---|
|--------------|-------------------|-------------------|---------------|---|

Name of witness or witnesses—

\_\_\_\_\_

## *Instruments Act 1933*

### **ENDNOTES**

#### **Index to endnotes**

- 1 About this republication
- 2 About the republished Act
- 3 Abbreviation key
- 4 Table of legislation
- 5 Table of amendments
- 6 Table of earlier republications

#### **1 About this republication**

This is a republication of the *Instruments Act 1933* as in force on 30 April 1999. It includes all amendments up to Act 1998 No 54.

Amending laws are annotated in the table of legislation and table of amendments.

The *Legislation (Republication) Act 1996* applies to this republication. Section 13 of the Act authorises the Parliamentary Counsel, in preparing a law for republication, to make textual amendments of a formal nature which the Parliamentary Counsel considers desirable in accordance with current legislative drafting practice. The amendments do not effect a substantive change in the law.

In preparing this republication, amendments have been made under section 13. The amendments are not mentioned in the table of amendments. Full details of the amendments can be obtained from the Parliamentary Counsel's Office.

#### **2 About the republished Act**

The *Instruments Act 1933* was originally the *Instruments Ordinance 1933*. It became an ACT Act on self-government.

#### **3 Abbreviation key**

##### Key to abbreviations in tables

|   |  |
|---|--|
| am = amended                              | reg = regulation/subregulation             |
| amdt = amendment                          | renum = renumbered                         |
| ch = chapter                              | reloc = relocated                          |
| cl = clause                               | R[X] = Republication No                    |
| def = definition                          | s = section/subsection                     |
| exp = expires/expired                     | sch = schedule                             |
| Gaz = Gazette                             | sdiv = subdivision                         |
| hdg = heading                             | sub = substituted                          |
| ins = inserted/added                      | SL = Subordinate Law                       |
| LR = Legislation (Republication) Act 1996 | sp = spent                                 |
| mod = modified                            | * SL unless otherwise stated               |
| No = number                               | † Act or Ordinance unless otherwise stated |
| notfd = notified                          |  |
| o = order                                 |  |
| om = omitted/repealed                     |  |
| p = page                                  |  |
| par = paragraph                           |  |
| pres = present                            |  |
| prev = previous                           |  |
| (prev...) = previously                    |  |
| prov = provision                          |  |
| pt = part                                 |  |
| r = rule/subrule                          |  |

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**4 Table of legislation**

**Part 1—Legislation before self-government**

| Ordinance†   | Year and number† | Gazette notification | Commencement   | Transitional provisions |
|--|------------------|----------------------|--|-------------------------|
| <i>Instruments Ordinance 1933</i>  | 1933 No 25       | 16 Nov 1933          | 3 Feb 1934 (see Gaz 1934 No 4)   |                         |
| <i>Instruments Ordinance (No. 2) 1933</i>                                    | 1933 No 35       | 7 Dec 1933           | 3 Feb 1934 (see s 2)   | —                       |
| <i>Instruments Ordinance 1936</i>  | 1936 No 1        | 9 Jan 1936           | 9 Jan 1936   | —                       |
| <i>Instruments Ordinance 1949</i>  | 1949 No 10       | 29 Sept 1949         | 29 Sept 1949   | —                       |
| <i>Ordinances Revision (Decimal Currency) Ordinance 1966</i>                 | 1966 No 66       | 23 Dec 1966          | 23 Dec 1966  | —                       |
|  | as amended by    |                      |  |                         |
|  | 1967 No 36       | 30 Nov 1967          | 23 Dec 1966 (see s 2)  | —                       |
| <i>Ordinances Revision Ordinance 1977</i>                                    | 1977 No 65       | 22 Dec 1977          | 22 Dec 1977  | —                       |
| <i>Ordinances Revision Ordinance 1978</i>                                    | 1978 No 46       | 28 Dec 1978          | 28 Dec 1978  | —                       |
| <i>Instruments (Amendment) Ordinance 1982</i>                                | 1982 No 88       | 29 Oct 1982          | 29 Oct 1982  | —                       |
| <i>Administrative Arrangements (Consequential Amendments) Ordinance 1987</i> | 1987 No 37       | 24 July 1987         | s 6: 24 July 1987  | —                       |
| <i>Instruments (Amendment) Ordinance 1989</i>                                | 1989 No 5        | 8 Mar 1989           | 8 Mar 1989   | —                       |
| <i>Self-Government (Consequential Amendments) Ordinance 1989</i>             | 1989 No 38       | 10 May 1989          | ss 1 and 2: 10 May 1989<br>remainder: 11 May 1989 (see s 2 (2) and Gaz 1989 No S164) | —                       |

**Part 2—Legislation after self-government**

| Act/SL†   | Year and number† | Gazette notification | Commencement  | Transitional provisions |
|---|------------------|----------------------|---|-------------------------|
| <i>Registration of Interests in Goods (Consequential Amendments) Act 1990</i> | 1990 No 20       | 21 June 1990         | 30 June 1990 (see s 2)  | —                       |
| <i>Registrar-General (Consequential Provisions) Act 1993</i>                  | 1993 No 64       | 6 Sept 1993          | ss 1 and 2: 6 Sept 1993<br>remainder: 1 Oct 1993 (see s 2 (2) and Gaz 1993 No S207) | pt III (ss 6-13)        |
| <i>Instruments (Amendment) Act 1993</i>                                       | 1993 No 76       | 2 Nov 1993           | 2 Nov 1993  | —                       |

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**4 Table of legislation**—continued

**Part 2—Legislation after self-government**—continued

| Act/SL†  | Year and number† | Gazette notification | Commencement  | Transitional provisions |
|--|------------------|----------------------|---|-------------------------|
| <i>Legal Practitioners (Consequential Amendments) Act 1997</i> | 1997 No 96       | 1 Dec 1997           | ss 1 and 2: 1 Dec 1997<br>remainder: 1 June 1998 (see s 2 (2))              | —                       |
| <i>Statute Law Revision (Penalties) Act 1998</i>               | 1998 No 54       | 27 Nov 1998          | ss 1 and 2: 27 Nov 1998<br>remainder: 9 Dec 1998 (see Gaz 1998 No 49 p1078) | —                       |
| <i>Law Reform (Miscellaneous Provisions) Act 1999</i>          | 1999 No 66       | 10 Nov 1999          | 10 Nov 1999   | —                       |

**5 Table of amendments**

| Provision       | How affected†   |
|-----------------|---|
| s 3 .....       | am No 35, 1933; No 76, 1993   |
| s 4 .....       | om No 65, 1977  |
| s 5 .....       | am No 5, 1989; No 64, 1993  |
| s 6 .....       | om No 46, 1978  |
| s 7 .....       | am No 37, 1987<br>om No 64, 1993  |
| s 8 .....       | am No 76, 1993; 1999 No 66 s 6 sch 3                                      |
| s 8A.....       | ins 1999 No 66 s 6 sch 3  |
| s 9 .....       | am No 35, 1933; No 10, 1949; No 5, 1989; No 20, 1990; Nos 64 and 76, 1993 |
| s 11 .....      | am Nos 64 and 76, 1993  |
| s 12 .....      | am Nos 64 and 76, 1993; No 96, 1997                                       |
| s 13 .....      | am No 5, 1989; Nos 64 and 76, 1993  |
| s 14 .....      | sub No 1, 1936<br>am Nos 64 and 76, 1993; No 96, 1997                     |
| s 15 .....      | am No 10, 1949  |
| s 17 .....      | am No 10, 1949; No 5, 1989; Nos 64 and 76, 1993                           |
| ss 18-20 .....  | am No 76, 1993  |
| s 21 .....      | am No 5, 1989; Nos 64 and 76, 1993  |
| ss 22, 23 ..... | am Nos 64 and 76, 1993  |
| s 24 .....      | am No 76, 1993; No 54, 1998   |
| s 24A.....      | ins No 10, 1949   |
| s 25 .....      | am No 10, 1949; No 5, 1989; Nos 64 and 76, 1993                           |
| s 26 .....      | am No 76, 1993  |
| s 27 .....      | am No 10, 1949; No 5, 1989; Nos 64 and 76, 1993                           |
| s 29 .....      | am No 10, 1949; No 5, 1989; Nos 64 and 76, 1993                           |
| s 30 .....      | am No 10, 1949; Nos 64 and 76, 1993                                       |
| s 31 .....      | am No 64, 1993<br>sub No 76, 1993   |
| s 32 .....      | am No 10, 1949; No 5, 1989; Nos 64 and 76, 1993                           |
| s 33 .....      | am No 10, 1949  |
| s 34 .....      | am No 10, 1949; No 76, 1993; No 54, 1998                                  |
| s 35 .....      | am Nos 64 and 76, 1993  |

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**5 Table of amendments—continued**

| Provision                  | How affected†  |
|----------------------------|--|
| s 36 .....                 | am No 5, 1989; No 64, 1993                                   |
| s 36A.....                 | ins No 76, 1993  |
| s 37 .....                 | sub No 5, 1989   |
| s 37A.....                 | ins No 5, 1989<br>am No 64, 1993                             |
| s 38 .....                 | am No 37, 1987; Nos 5 and 38, 1989                           |
| hdg to The sch .....       | om No 76, 1993   |
| hdg to The First sch ..... | om No 76, 1993   |
| hdg to sch 1 .....         | ins No 76, 1993  |
| hdg to The Second sch..... | om No 76, 1993   |
| hdg sch 2 .....            | ins No 76, 1993  |
| hdg to The Third sch.....  | om No 76, 1993   |
| hdg to sch 3 .....         | ins No 76, 1993  |
| The Third sch.....         | sub No 1, 1936<br>am No 10, 1949; No 19, 1966                |
| sch 3 .....                | am No 76, 1993   |
| hdg to The Fourth sch..... | om No 76, 1993   |
| hdg to sch 4 .....         | ins No 76, 1993  |
| The Fourth sch.....        | am No 19, 1966   |
| sch 4 .....                | am No 76, 1993   |
| hdg to The Fifth sch ..... | om No 76, 1993   |
| hdg to sch 5 .....         | ins No 76, 1993  |
| The Fifth sch .....        | am No 19, 1966   |
| hdg toThe Sixth sch .....  | om No 76, 1993   |
| hdg to sch 6 .....         | ins No 76, 1993  |
| The Sixth sch .....        | am No 10, 1949   |
| The Seventh sch.....       | am No 19, 1966 (as amended by No 36, 1967)<br>om No 88, 1982 |

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**5 Table of amendments—continued**

| Provision   | How affected†                    |
|-------------|----------------------------------|
| sch 7 ..... | ins No 88, 1982<br>om No 5, 1989 |

**6 Table of earlier republications**

| Republication No | Amendments to  | Republication date |
|------------------|----------------|--------------------|
| (1)              | Act 1990 No 20 | 28 February 1991   |
| (2)              | Act 1993 No 76 | 31 January 1994    |

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