



Australian Capital Territory

Instruments Act 1933

A1933-25

Republication No 8

Effective: 24 November 2005 – 18 May 2008

Republication date: 24 November 2005

Last amendment made by A2005-54

Authorised by the ACT Parliamentary Counsel

About this republication

The republished law

This is a republication of the *Instruments Act 1933* (including any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes)) as in force on 24 November 2005. It also includes any amendment, repeal or expiry affecting the republished law to 24 November 2005.

The legislation history and amendment history of the republished law are set out in endnotes 3 and 4.

Kinds of republications

The Parliamentary Counsel's Office prepares 2 kinds of republications of ACT laws (see the ACT legislation register at www.legislation.act.gov.au):

- authorised republications to which the *Legislation Act 2001* applies
- unauthorised republications.

The status of this republication appears on the bottom of each page.

Editorial changes

The *Legislation Act 2001*, part 11.3 authorises the Parliamentary Counsel to make editorial amendments and other changes of a formal nature when preparing a law for republication. Editorial changes do not change the effect of the law, but have effect as if they had been made by an Act commencing on the republication date (see *Legislation Act 2001*, s 115 and s 117). The changes are made if the Parliamentary Counsel considers they are desirable to bring the law into line, or more closely into line, with current legislative drafting practice.

This republication does not include amendments made under part 11.3 (see endnote 1).

Uncommenced provisions and amendments

If a provision of the republished law has not commenced or is affected by an uncommenced amendment, the symbol **U** appears immediately before the provision heading. The text of the uncommenced provision or amendment appears only in the last endnote.

Modifications

If a provision of the republished law is affected by a current modification, the symbol **M** appears immediately before the provision heading. The text of the modifying provision appears in the endnotes. For the legal status of modifications, see *Legislation Act 2001*, section 95.

Penalties

The value of a penalty unit for an offence against this republished law at the republication date is—

- (a) if the person charged is an individual—\$100; or
- (b) if the person charged is a corporation—\$500.



Australian Capital Territory

Instruments Act 1933

Contents

	Page
Part 1	Preliminary
1	Name of Act 2
2	Notes 2
3	Offences against Act—application of Criminal Code etc 2
Part 3	Bills of sale
8	Definitions for pt 3 3
8A	Meaning of apparent possession in pt 3 4
9	Bills of sale—registration 4
10	Defeasance or condition of bill of sale 6
11	Records of each bill of sale 6
12	Household furniture 6
13	Bill of sale—transferable 7
14	Discharge of bill of sale 8
15	Not to affect liens on crops, wool etc 8

R8
24/11/05

Instruments Act 1933
Effective: 24/11/05-18/05/08

contents 1

	Page
Part 4	Liens on crops
16	Definitions for pt 4 9
17	Lien on yearly crops 9
18	Lien not affected by sale etc of land 9
19	Lienee to pay rent of leased land before selling crop 10
20	Lienee to pay interest to mortgagee of land before selling crop 11
21	Lien on crops—transferable 11
22	List in registry open to inspection 11
23	Duration of lien 11
24	Protection of lienee—lien on crop 12
Part 5	Liens on wool and stock mortgages
24A	Meaning of <i>stock</i> in pt 5 13
25	Right of lienee to wool as security etc 13
26	Right of lienee to ensuing clip of wool 14
27	Right of mortgagor if mortgagee in possession 15
28	Mortgagor of sheep may with consent of mortgagee give lien 15
29	Liens on wool and stock mortgages—transferable 15
30	Particulars of registration by registrar-general 16
31	Cancelling of liens 16
32	Registration of satisfaction of mortgage 16
33	Saving of rights of Commonwealth 17
34	Protection of lienee—preferable lien on wool 17
35	Protection of mortgagee—stock mortgage 18
Part 6	Miscellaneous
36	Search of registers etc 19
36A	Destruction of registrable instruments 19
37	Determination of fees 20
38	Approved forms 20
39	Regulation-making power 20
Endnotes	
1	About the endnotes 21

Contents

		Page
2	Abbreviation key	21
3	Legislation history	22
4	Amendment history	25
5	Earlier republications	28



Australian Capital Territory

Instruments Act 1933

An Act relating to instruments and securities

Part 1 Preliminary

1 Name of Act

This Act is the *Instruments Act 1933*.

2 Notes

A note included in this Act is explanatory and is not part of this Act.

Note See the Legislation Act, s 127 (1), (4) and (5) for the legal status of notes.

3 Offences against Act—application of Criminal Code etc

Other legislation applies in relation to offences against this Act.

Note 1 Criminal Code

The Criminal Code, ch 2 applies to all offences against this Act (see Code, pt 2.1).

The chapter sets out the general principles of criminal responsibility (including burdens of proof and general defences), and defines terms used for offences to which the Code applies (eg *conduct*, *intention*, *recklessness* and *strict liability*).

Note 2 Penalty units

The Legislation Act, s 133 deals with the meaning of offence penalties that are expressed in penalty units.

Part 3 Bills of sale

8 Definitions for pt 3

In this part:

Note A definition applies except so far as the contrary intention appears (see *Legislation Act 2001*, s 155).

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 of a ship or vessel; 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 endorsement 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 things in action, or any stock or produce on any farm or lands if under 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.

Note A ***thing*** in action is an intangible personal property right recognised and protected by the law. Examples include debts, money held at a bank,

shares, rights under a trust, copyright, and the right to sue for breach of contract.

8A Meaning of apparent possession in pt 3

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 under which the grantee or holder 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 annexed to or referred to in the bill of sale, or a true copy of the bill of sale and every such schedule or inventory, and of every attestation of the execution of the bill of sale; and
 - (b) a statutory declaration or an affidavit of the time of the bill of sale being made or given; and
 - (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 if 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.

Note A fee may be determined under s 37 (Determination of fees) for registration under this subsection of a bill of sale.

- (2) In default of registration under this section, but subject to subsection (3) the bill of sale shall, as against—

- (a) the official receiver or trustee in bankruptcy, if a sequestration order is made against the grantor under the *Bankruptcy Act 1966* (Cwlth), 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, that 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 end 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) If the interest of a grantee or holder of a bill of sale is registered under the *Registration of Interests in Goods Act 1986* (NSW), 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 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 under 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 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 is left for registration, the name, addition, and description of the person making or giving the bill of sale, or, if 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, 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 of the bill of sale or copy.

12 Household furniture

- (1) If, at the time any person makes or gives a bill of sale, that person is in a domestic partnership and living with his or her domestic partner, and the bill of sale comprises any household furniture, the bill of sale shall not be enforced by seizure or sale of the furniture that then is actually in use by the person making or giving the bill of sale or his or her domestic partner, unless at the time of execution it is endorsed by the domestic partner of the maker or giver of the bill of sale, and the endorsement is attested by the registrar-general, a

lawyer, a justice of the peace or a person prescribed for the *Statutory Declarations Act 1959* (Cwlth), section 8 (b).

- (2) This section does not apply after—
- (a) the death of the domestic partner of the person making or giving the bill of sale; or
 - (b) the permanent separation of the domestic partners since the bill of sale was made or given.

Note 1 If a form is approved under s 38 for the endorsement under this section of a bill of sale, the form must be used.

Note 2 For the meanings of *domestic partner* and *domestic partnership*, see Legislation Act, s 169.

13 Bill of sale—transferable

- (1) A bill of sale shall be transferable by writing, and every transferee may bring an action on or in respect of the bill of sale 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, must register the 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.

Note A fee may be determined under s 37 (Determination of fees) for registration under this subsection of a transfer.

14 Discharge of bill of sale

- (1) A bill of sale may be discharged or partly discharged by a memorandum endorsed on the bill of sale or a copy of it, held by the grantee or person claiming through the grantee, acknowledging that the bill of sale has been or is discharged or, for part discharge, the extent to which it has been or is so discharged.

Note If a form is approved under s 38 (Approved forms) for the endorsement of discharge or partial discharge under subsection (1) of a bill of sale, the form must be used.

- (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 acknowledging that the bill of sale has been or is discharged or, for a part discharge, the extent to which it has been or is so discharged.

Note If a form is approved under s 38 (Approved forms) for a memorandum of discharge or partial discharge under subsection (2) of a bill of sale, the form must be used.

- (3) The signature to any memorandum acknowledging the discharge or part discharge shall be witnessed by a lawyer, justice of the peace, or person prescribed for the *Statutory Declarations Act 1959*, (Cwlth), section 8 (b).
- (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 on 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 under this Act.

Part 4 Liens on crops

16 Definitions for pt 4

In this part:

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

If any person makes any genuine 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 the land, and if the agreement relating to the security 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 of the agreement 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 on, and be entitled to the whole of the crop and its whole produce, and the possession of the crop and produce 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.

Note 1 A fee may be determined under s 37 (Determination of fees) for registration under this section of a lien.

Note 2 If a form is approved under s 38 (Approved forms) for an agreement mentioned in this subsection, the form must be used.

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 on the land on which the 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 on, or to give up the crop to the lienee under 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, and all expenses of gathering, carrying away, making marketable, and selling the 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 is a leaseholder then the lienee shall, before selling the crop, pay to the landlord of the land where the crop is growing the 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 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, if the leaseholder holds the land under a lease from the Commonwealth, means the Commonwealth, and, if 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 when the lien is made there is in force a mortgage of the land where 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 the crop, pay to the mortgagee the amount of interest (not exceeding 12 months interest) due on 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 may bring an action on or in respect of the lien 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, must register the 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.

Note A fee may be determined under s 37 (Determination of fees) for registration under this subsection of a 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 of the lien, and the registrar-general, at the

request of both parties, shall at any time enter satisfaction on the lien.

24 Protection of lienee—lien on crop

- (1) A lienor of a crop must not do something that directly or indirectly defeats, invalidates or impairs the lienee's property rights in the crop.

Maximum penalty: 100 penalty units, imprisonment for 1 year or both.

Example of conduct

selling the crop subject to the lien

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

- (2) This section does not apply to conduct if the lienee has consented in writing to the conduct.

Part 5 Liens on wool and stock mortgages

24A Meaning of *stock* in pt 5

In this part:

stock means horses, cattle, sheep or swine.

25 Right of lienee to wool as security etc

If any person makes any genuine 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, the wool of the then next ensuing clip of the proprietor, and if the agreement relating to the purchase or security 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, 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 the 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 the interest and commission as is specified in the agreement, the possession and property of the wool shall revert in the proprietor.

Note 1 A fee may be determined under s 37 (Determination of fees) for registration under this section of a lien.

Note 2 If a form is approved under s 38 (Approved forms) for an agreement mentioned in this subsection, the form must be used.

26 Right of lienee to ensuing clip of wool

- (1) If any person makes any genuine 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 of the sheep mentioned and described in the registered agreement relating to the preferable lien, but shall be as valid and effectual to all intents and purposes against the subsequent purchaser, mortgagee, incumbrancer, or other claimant or possessor of the sheep, as against the original proprietor who granted the preferable lien.
- (2) If the 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 the preferable lien has been granted under 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 if mortgagee in possession

Any mortgage of stock that is made genuinely 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 of the mortgage in the office of the registrar-general 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 before, in the possession, order, and disposition of the mortgagor.

Note 1 A fee may be determined under s 37 (Determination of fees) for registration under this section of stock.

Note 2 If a form is approved under s 38 (Approved forms) for registration of a mortgage of stock under this section, the form must be used.

28 Mortgagor of sheep may with consent of mortgagee give lien

Any mortgagor of sheep may, with the written consent of the mortgagee, 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 may bring an action on or in respect of the lien or mortgage 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, must register the 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.

Note A fee may be determined under s 37 (Determination of fees) for registration under this subsection of a 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 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-general 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

If the amount of principal and interest, or of the balance of principal and interest due on 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-general of the original receipt and of the mortgage deed to which the receipt relates; 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 it created to all intents and purposes, but without prejudice to any previous sale, or any consequential

conveyance, under the mortgage deed, and without prejudice to any second or subsequent mortgage affecting the stock or any part of it then duly registered, unless each party, by signed writing at the foot of the receipt, has signified his or her assent to the registration of the receipt.

Note A fee may be determined under s 37 (Determination of fees) for registration under this subsection of a satisfaction of a mortgage.

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 a 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 Protection of lienee—preferable lien on wool

- (1) A grantor of a preferable lien on wool under this part must not do something that directly or indirectly defeats, invalidates or impairs the lienee's property rights in the wool.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

Examples of conduct for s (1)

- 1 selling wool subject to the lien
- 2 killing sheep growing wool subject to the lien

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

- (2) This section does not apply to conduct if the lienee has consented in writing to the conduct.

35 Protection of mortgagee—stock mortgage

- (1) A mortgagor of stock must not do something that directly or indirectly defeats, invalidates or impairs the mortgagee's property rights in the stock.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

Examples of conduct for s (1)

- 1 selling stock subject to the mortgage
- 2 killing stock subject to the mortgage

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

- (2) This section does not apply to conduct if the mortgagee has consented in writing to the conduct.

- (3) In this section:

stock includes stock increase and progeny.

Part 6 Miscellaneous

36 Search of registers etc

- (1) A person may search any book, index or register, kept under this Act, during normal working hours.
- (2) Any person is entitled to have an office copy or extract of any instrument or document lodged or left in the office of the registrar-general under this Act.

Note A fee may be determined under s 37 (Determination of fees) for searching under this section a book, index or register or for the supply under this section of an office copy or extract.

36A Destruction of registrable instruments

- (1) The registrar-general shall keep a registrable instrument that has been registered in accordance with this Act until—
 - (a) the registrable instrument has been discharged under section 14, satisfaction of the registrable instrument has been entered under section 23 or 31, or a receipt has been registered with respect to the registrable instrument under section 32; or
 - (b) the registrar-general 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) If the registrar-general destroys a registrable instrument he or she shall record the date when the instrument is destroyed in the relevant book, index or register kept under section 11, 22 or 30.
- (3) In this section:

bill of sale—see part 3.

personal chattels—see part 3.

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

37 Determination of fees

- (1) The Minister may, in writing, determine fees for this Act.

Note The *Legislation Act 2001* contains provisions about the making of determinations and regulations relating to fees (see pt 6.3).

- (2) A determination is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the *Legislation Act 2001*.

38 Approved forms

- (1) The registrar-general may, in writing, approve forms for this Act.
- (2) If the registrar-general approves a form for a particular purpose, the form must be used for that purpose.
- (3) An approved form is a notifiable instrument.

Note A notifiable instrument must be notified under the *Legislation Act 2001*.

39 Regulation-making power

The Executive may make regulations for this Act.

Note Regulations must be notified, and presented to the Legislative Assembly, under the *Legislation Act 2001*.

Endnotes

1 About the endnotes

Amending and modifying laws are annotated in the legislation history and the amendment history. Current modifications are not included in the republished law but are set out in the endnotes.

Not all editorial amendments made under the *Legislation Act 2001*, part 11.3 are annotated in the amendment history. Full details of any amendments can be obtained from the Parliamentary Counsel's Office.

Uncommenced amending laws and expiries are listed in the legislation history and the amendment history. These details are underlined. Uncommenced provisions and amendments are not included in the republished law but are set out in the last endnote.

If all the provisions of the law have been renumbered, a table of renumbered provisions gives details of previous and current numbering.

The endnotes also include a table of earlier republications.

2 Abbreviation key

am = amended	ord = ordinance
amdt = amendment	orig = original
ch = chapter	par = paragraph/subparagraph
cl = clause	pres = present
def = definition	prev = previous
dict = dictionary	(prev...) = previously
disallowed = disallowed by the Legislative Assembly	pt = part
div = division	r = rule/subrule
exp = expires/expired	reg = regulation/subregulation
Gaz = Gazette	renum = renumbered
hdg = heading	reloc = relocated
IA = Interpretation Act 1967	R[X] = Republication No
ins = inserted/added	RI = reissue
LA = Legislation Act 2001	s = section/subsection
LR = legislation register	sch = schedule
LRA = Legislation (Republication) Act 1996	sdiv = subdivision
mod = modified/modification	sub = substituted
o = order	SL = Subordinate Law
om = omitted/repealed	<u>underlining</u> = whole or part not commenced or to be expired

Endnotes

3 Legislation history

3 Legislation history

This Act was originally a Commonwealth ordinance—the *Instruments Ordinance 1933 No 25* (Cwlth).

The *Australian Capital Territory (Self-Government) Act 1988* (Cwlth), s 34 (4) converted most former Commonwealth ordinances in force in the ACT into ACT enactments. This allowed the ACT Legislative Assembly to amend and repeal the laws. This Act was converted into an ACT enactment on 11 May 1989 (self-government day).

As with most ordinances in force in the ACT, the name was changed from *Ordinance to Act* by the *Self-Government (Citation of Laws) Act 1989 No 21*, s 5 on 11 May 1989 (self-government day).

Before 11 May 1989, ordinances commenced on their notification day unless otherwise stated (see *Seat of Government (Administration) Act 1910* (Cwlth), s 12).

Legislation before becoming Territory enactment

Instruments Act 1933 No 25

notified 16 November 1933

commenced 3 February 1934 (Cwlth Gaz 1934 No 4)

as amended by

Instruments Ordinance (No 2) 1933 No 35

notified 7 December 1933

commenced 3 February 1934 (s 2)

Instruments Ordinance 1936 No 1

notified 9 January 1936

commenced 9 January 1936

Instruments Ordinance 1949 No 10

notified 29 September 1949

commenced 29 September 1949

Ordinances Revision (Decimal Currency) Ordinance 1966 No 66 (as am by 1967 No 36)

notified 23 December 1966

commenced 23 December 1966

Ordinances Revision (Decimal Currency) Ordinance 1967 No 36

notified 30 November 1967

commenced 23 December 1966 (s 2)

Note This ordinance only amends ord 1966 No 66.

Ordinances Revision Ordinance 1977 No 65

notified 22 December 1977

commenced 22 December 1977

Ordinances Revision Ordinance 1978 No 46

notified 28 December 1978

commenced 28 December 1978

Instruments (Amendment) Ordinance 1982 No 88

notified 29 October 1982

commenced 29 October 1982

**Administrative Arrangements (Consequential Amendments)
Ordinance 1987 No 37 sch 2**

notified 24 July 1987

sch 2 commenced 24 July 1987 (s 2 (2))

Instruments (Amendment) Ordinance 1989 No 5

notified 8 March 1989 (Cwlth Gaz 1989 No S137)

commenced 8 March 1989

**Self-Government (Consequential Amendments) Ordinance 1989
No 38 sch 1**

notified 10 May 1989 (Cwlth Gaz 1989 No S164)

s 1, s 2 commenced 10 May 1989 (s 2 (1))

sch 1 commenced 11 May 1989 (s 2 (2) and see Cwlth Gaz 1989
No S164)

Legislation after becoming Territory enactment**Registration of Interests in Goods (Consequential Amendments) Act
1990 No 20 s 3**

notified 21 June 1990 (Gaz 1990 No S30)

commenced 30 June 1990 (s 2 and see Gaz 1990 No S46)

Endnotes

3 Legislation history

Registrar-General (Consequential Provisions) Act 1993 No 64 sch 1

notified 6 September 1993 (Gaz 1993 No S172)

s 1, s 2 commenced 6 September 1993 (s 2 (1))

sch 1 commenced 1 October 1993 (s 2 (2) and see Gaz 1993 No S207)

Instruments (Amendment) Act 1993 No 76

notified 2 November 1993 (Gaz 1993 No S218)

commenced 2 November 1993 (s 2)

Legal Practitioners (Consequential Amendments) Act 1997 No 96 sch 1

notified 1 December 1997 (Gaz 1997 No S380)

s 1, s 2 commenced 1 December 1997 (s 2 (1))

sch 1 commenced 1 June 1998 (s 2 (2))

Statute Law Revision (Penalties) Act 1998 No 54 sch

notified 27 November 1998 (Gaz 1998 No S207)

s 1, s 2 commenced 27 November 1998 (s 2 (1))

sch commenced 9 December 1998 (s 2 (2) and Gaz 1998 No 49)

Law Reform (Miscellaneous Provisions) Act 1999 No 66 sch 3

notified 10 November 1999 (Gaz 1999 No 45)

commenced 10 November 1999 (s 2)

Statute Law Amendment Act 2001 No 11 sch 1

notified 29 March 2001 (Gaz 2001 No 13)

commenced 29 March 2001 (s 2)

Legislation (Consequential Amendments) Act 2001 No 44 pt 193

notified 26 July 2001 (Gaz 2001 No 30)

s 1, s 2 commenced 26 July 2001 (IA s 10B)

pt 193 commenced 12 September 2001 (s 2 and see Gaz 2001 No S65)

Justice and Community Safety Legislation Amendment Act 2003 A2003-2 pt 8

notified LR 3 March 2003

s 1, s 2 commenced 3 March 2003 (LA s 75 (1))

pt 8 commenced 31 March 2003 (s 2 (2))

**Sexuality Discrimination Legislation Amendment Act 2004 A2004-2
sch 1 pt 1.8**

notified LR 18 February 2004
s 1, s 2 commenced 18 February 2004 (LA s 75 (1))
sch 1 pt 1.8 commenced 22 March 2004 (s 2 and CN2004-4)

Criminal Code Harmonisation Act 2005 A2005-54 sch 1 pt 1.25

notified LR 27 October 2005
s 1, s 2 commenced 27 October 2005 (LA s 75 (1))
sch 1 pt 1.25 commenced 24 November 2005 (s 2)

4 Amendment history

Notes

s 2 om 2001 No 11 amdt 1.2
ins A2005-54 amdt 1.170

Offences against Act—application of Criminal Code etc

s 3 am 1933 No 35; 1993 No 76 sch
om 2001 No 44 amdt 1.2173
ins A2005-54 amdt 1.170

Parts

s 4 om 1977 No 65

Interpretation

s 5 om 2001 No 44 amdt 1.2173
def **determined fee** ins 1989 No 5 s 3
def **registrar** om 1993 No 64 sch 1

Administration

s 6 om 1978 No 46

Registrar and deputy registrars

s 7 am 1987 No 37 sch 2
om 1993 No 64 sch 1

Definitions for pt 3

s 8 am 1993 No 76 sch; 1999 No 66 sch 3

Meaning of *apparent possession* in pt 3

s 8A ins 1999 No 66 sch 3

Bills of sale—registration

s 9 am 1933 No 35; 1949 No 10; 1989 No 5 s 4; 1990 No 20 s 3;
1993 No 64 sch 1; 1993 No 76 sch; 2001 No 44 amdt 1.2174,
amdt 1.2175

Endnotes

4 Amendment history

Records of each bill of sale

s 11 am 1993 No 64 sch 1; 1993 No 76 sch

Household furniture

s 12 am 1993 No 64 sch 1; 1993 No 76 sch; 1997 No 96 sch 1;
2001 No 44 amdt 1.2176, amdt 1.2177; A2004-2 amdts
1.28-1.30

Bill of sale—transferable

s 13 am 1989 No 5 s 5; 1993 No 64 sch 1; 1993 No 76 sch; 2001
No 44 amdt 1.2178, amdt 1.2179

Discharge of bill of sale

s 14 sub 1936 No 1
am 1993 No 64 sch 1; 1993 No 76 sch; 1997 No 96 sch 1;
2001 No 44 amdts 1.2180-1.2183

Not to affect liens on crops, wool etc

s 15 am 1949 No 10

Lien on yearly crops

s 17 am 1949 No 10; 1989 No 5 s 6; 1993 No 64 sch 1; 1993 No 76
sch; 2001 No 44 amdts 1.2184-1.2187

Lien not affected by sale etc of land

s 18 am 1993 No 76 sch

Lienee to pay rent of leased land before selling crop

s 19 am 1993 No 76 sch

Lienee to pay interest to mortgagee of land before selling crop

s 20 am 1993 No 76 sch

Lien on crops—transferable

s 21 am 1989 No 5 s 7; 1993 No 64 sch 1; 1993 No 76 sch; 2001
No 44 amdt 1.2188, amdt 1.2189

List in registry open to inspection

s 22 am 1993 No 64 sch 1; 1993 No 76 sch

Duration of lien

s 23 am 1993 No 64 sch 1; 1993 No 76 sch

Protection of lienee—lien on crop

s 24 am 1993 No 76 sch; 1998 No 54 sch
sub A2005-54 amdt 1.171

Meaning of stock in pt 5

s 24A ins 1949 No 10

Right of lienee to wool as security etc

s 25 am 1949 No 10; 1989 No 5 s 8; 1993 No 64 sch 1; 1993 No 76
sch; 2001 No 44 amdts 1.2190-1.2193

Right of lienee to ensuing clip of wool

s 26 am 1993 No 76 sch

Right of mortgagor if mortgagee in possession

s 27 am 1949 No 10; 1989 No 5 s 9; 1993 No 64 sch 1; 1993 No 76 sch; 2001 No 44 amdts 1.2194-1.2197

Liens on wool and stock mortgages—transferable

s 29 am 1949 No 10; 1989 No 5 s 10; 1993 No 64 sch 1; 1993 No 76 sch; 2001 No 44 amdt 1.2198, amdt 1.2199

Particulars of registration by registrar-general

s 30 am 1949 No 10; 1993 No 64 sch 1; 1993 No 76 sch

Cancelling of liens

s 31 am 1993 No 64 sch 1
sub 1993 No 76 s 4

Registration of satisfaction of mortgage

s 32 am 1949 No 10; 1989 No 5 s 11; 1993 No 64 sch 1; 1993 No 76 sch; 2001 No 44 amdt 1.2200, amdt 1.2201

Saving of rights of Commonwealth

s 33 am 1949 No 10

Protection of lienee—preferable lien on wool

s 34 am 1949 No 10; 1993 No 76 sch; 1998 No 54 sch
sub A2005-54 amdt 1.172

Protection of mortgagee—stock mortgage

s 35 am 1993 No 64 sch 1; 1993 No 76 sch
om 2001 No 44 amdt 1.2202
ins A2005-54 amdt 1.172

Search of registers etc

s 36 am 1989 No 5 s 12; 1993 No 64 sch 1; 2001 No 44 amdts 1.2203-1.2205

Destruction of registrable instruments

s 36A ins 1993 No 76 s 5

Determination of fees

s 37 sub 1989 No 5 s 13; 2001 No 44 amdt 1.2206

Payment of determined fees

s 37A ins 1989 No 5 s 13
am 1993 No 64 sch 1
om A2003-2 s 47

Approved forms

s 38 am 1987 No 37 sch 2; 1989 No 5 s 14; 1989 No 38 sch 1
sub 2001 No 44 amdt 1.2207
(4)-(7) exp 12 September 2002 (s 38 (7))

Endnotes

5 Earlier republications

Regulation-making power

s 39 ins 2001 No 44 amdt 1.2207

The schedules

sch hdg om 1993 No 76 sch

Schedule 1

sch 1 hdg sub 1993 No 76 sch
om 2001 No 44 amdt 1.2208

Schedule 2

sch 2 hdg sub 1993 No 76 sch
om 2001 No 44 amdt 1.2208

Schedule 3

sch 3 hdg sub 1993 No 76 sch
sch 3 sub 1936 No 1
am 1949 No 10; 1966 No 19
am 1993 No 76 sch
om 2001 No 44 amdt 1.2208

Schedule 4

sch 4 hdg sub 1993 No 76 sch
sch 4 am 1966 No 19
am 1993 No 76
om 2001 No 44 amdt 1.2208

Schedule 5

sch 5 hdg sub 1993 No 76 sch
sch 5 am 1966 No 19
om 2001 No 44 amdt 1.2208

Schedule 6

sch 6 hdg sub 1993 No 76 sch
sch 6 am 1949 No 10
om 2001 No 44 amdt 1.2208

Schedule 7

sch 7 hdg am 1966 No 19 (as amended by 1967 No 36)
om 1982 No 88
sch 7 ins 1982 No 88
om 1989 No 5 s 15

5 Earlier republications

Some earlier republications were not numbered. The number in column 1 refers to the publication order.

Since 12 September 2001 every authorised republication has been published in electronic pdf format on the ACT legislation register. A selection of authorised republications have also been published in printed format. These republications

are marked with an asterisk (*) in column 1. Electronic and printed versions of an authorised republication are identical.

Republication No	Amendments to	Republication date
1	Act 1990 No 20	28 February 1991
2	Act 1993 No 76	31 January 1994
3	Act 1998 No 54	30 April 1999
4	Act 2001 No 44	12 April 2002
5	Act 2001 No 44	13 September 2002
6	A2003-2	31 March 2003
7	A2004-2	22 March 2004

© Australian Capital Territory 2005