

## CHATTELS TRANSFER AMENDMENT BILL.

### EXPLANATORY MEMORANDUM.

By section 57 of the Chattels Transfer Act, 1924, provision is made for what are there referred to as "customary hire-purchase agreements", in relation to chattels of the several descriptions mentioned in the Seventh Schedule thereto. The chattels referred to are all of kinds that are commonly bought on the hire-purchase system. For the purpose of financing hire-purchase transactions, a usage of trade has developed, by which the price of the chattel is paid to the manufacturer or dealer by a finance corporation established for that purpose, and the hire-purchase agreement is then made between the conditional purchaser and the finance corporation. It has recently been decided by the Court of Appeal that such corporations are not "dealers" within the meaning of section 57 of the Chattels Transfer Act, and that their agreements, although of precisely the same character as ordinary hire-purchase agreements, are not entitled to the benefits conferred by that section. The chief such benefit is that the agreements in question do not require to be registered as bills of sale or other instruments.

The purpose of Clause 2 of this Bill is to establish as law what, prior to the decision of the Court of Appeal above referred to, was understood to be the legal position. The Bill, if passed, will be retrospective (for the purpose of protecting existing agreements), though existing rights under any judicial decision are expressly saved, and any pending judicial proceedings are not interfered with.

Clauses 3 and 4 of the Bill effect minor amendments of the principal Act, principally for the purpose of facilitating the provision of financial assistance to farmers on the security of farm implements.

Hon. Mr. Masters.

CHATTELS TRANSFER AMENDMENT.

ANALYSIS.

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| <p>Title.</p> <p>1. Short Title.</p> <p>2. Finance corporations to be dealers for purposes of section 57 of principal Act.</p> | <p>3. Section 24 of principal Act amended.</p> <p>4. Section 26 of principal Act amended.</p> |
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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:—

1. This Act may be cited as the Chattels Transfer Amendment Act, 1931, and shall be read together with and deemed part of the Chattels Transfer Act, 1924 (hereinafter referred to as the principal Act).

Short Title.

2. (1) In this section, unless the context otherwise requires,—  
“Customary chattels” means chattels described in the Seventh Schedule to the principal Act or of a description added to that Schedule by Order in Council as provided by the principal Act:

Finance corporations to be dealers for purposes of section 57 of principal Act.

“Finance corporation” means a corporate body established for the sole or principal purpose of financing transactions in relation to purchases on hire-purchase terms, and includes a foreign corporation established for such sole or principal purpose.

(2) A finance corporation shall be deemed for all the purposes of section fifty-seven of the principal Act to be a dealer engaged in the trade or business of selling or disposing of customary chattels, and a deed or agreement of hire-purchase between a finance corporation and a conditional purchaser of a customary chattel in relation to such customary chattel shall for those purposes be deemed to be a customary hire-purchase agreement.

(3) The Money-lenders Act, 1908, except section three thereof, shall have no application in respect of any of the provisions of a customary hire-purchase agreement, and, except for the purposes of the said section, a finance corporation shall not in respect of any such agreement be deemed to be a money-lender within the meaning of that Act.

(4) Customary chattels the property of a wholesale dealer in the possession of a retail dealer for the purposes of sale, hire, or demonstration shall not be deemed to be in the order and disposition of the retail dealer with the consent of the true owner thereof within the meaning of any law relating to bankruptcy or insolvency. 5

(5) Subsection five of section fifty-seven of the principal Act shall be read subject to the provisions of section three of the Mercantile Law Act, 1908.

(6) 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. 10

Section 24 of  
principal Act  
amended.

3. Section twenty-four of the principal Act is hereby amended by adding the following proviso:— 15

“Provided that where an instrument by way of security over any chattels is therein expressed to be given as security for a loan to be expended, in whole or in part, in the purchase of those chattels, the grantor shall be deemed to have acquired the said chattels contemporaneously with the execution of the instrument.” 20

Section 26 of  
principal Act  
amended.

4. Section twenty-six of the principal Act is hereby amended by adding the following paragraph:—

“(c) Tractors, engines, machines, vehicles, implements, and farming plant of every description described in such instrument and used upon or in connection with any land or premises specified in the instrument.” 25