



## BILLS OF SALE

### A NEW LAW FOR LOGBOOK LOANS

1. The Bills of Sale Acts are archaic Victorian statutes, unsuited for modern credit arrangements such as logbook loans. The Law Commission recommends that they should be repealed and replaced with a new Goods Mortgages Act to:
  - provide appropriate protection to borrowers, so that vehicles are not seized too readily;
  - protect innocent purchasers who buy vehicles without realising that they are subject to a bill of sale;
  - save £2m of costs caused by unnecessary registration and red tape; and
  - remove unnecessary restrictions on secured lending to small businesses.

#### Background

2. Bills of sale are a way in which an individual can use goods they already own as security for a loan, while retaining possession of those goods. They are currently regulated by the Bills of Sale Act 1878 and the Bills of Sale Act 1882.
3. The use of bills of sale has grown from under 3,000 in 2001 to over 37,000 in 2015. They are now mostly used for “**logbook loans**”. Here, the borrower transfers ownership of their existing vehicle to the lender. A borrower who keeps up the repayments may continue to use it. However, a borrower who defaults can lose the vehicle relatively easily. Unlike hire purchase, there is no need for the lender to seek a court order before repossessing the vehicle.
4. Logbook loans must be registered at the High Court. But as this register is almost impossible for prospective car buyers to search, lenders also register with a private asset finance register. This protects trade buyers, but not private ones. Private buyers are deterred by the cost of a full asset finance check, and are confused by cheaper “text checks”, which fail to provide information about logbook loans. As the loan follows the vehicle, buyers may lose cars bought in good faith.
5. In 2014, HM Treasury asked the Law Commission to examine the Bills of Sale Acts and consider how they can be reformed. In September 2016, the Law Commission published its full report, with 34 recommendations. Many are designed to reduce costs and make it easier for small businesses to give security for loans. Here we concentrate on those recommendations most relevant to logbook loans.

## Protection for borrowers

1. The Bills of Sale Acts allow lenders to repossess vehicles without a court order, even where the borrower has repaid most of the loan. The following example from Citizen's Advice highlights the problem:

A woman took out a logbook loan against her car for £1,600. Six months after the last standing order payment the company clamped the client's car saying £400 was outstanding. They asked her to pay the arrears plus a £750 clamping fee. The car has since been repossessed and the firm are asking for a further £1,600 to return the vehicle.

2. We recommend similar protections to those available under hire purchase law.
3. First, a borrower who has paid at least one third of the total amount should have the right to demand that the lender obtains a **court order** before repossessing a vehicle. This would protect borrowers who could repay the loan in full, if given more time.
4. Secondly, a borrower who has no realistic prospect of repaying the loan should have a **right of voluntary termination**, modelled on the existing Consumer Credit Trade Association code. This would allow a borrower to hand back the vehicle, with no further repayments or charges.

## Protection for private buyers

5. This example from the Citizen's Advice highlights the need to protect innocent buyers:

A client had bought a van advertised on Autotrader. Shortly after purchasing the van, it went missing. The client contacted the police and reported it stolen. The police informed the client that the vehicle had been repossessed as it had a logbook loan taken out on it by the previous owner... The client has now lost the money they paid for the van and is faced with either negotiating with the logbook lender or trying to track down the seller with very little information to find them.

6. We recommend similar protections to those in hire purchase law. **A private buyer who acts in good faith should acquire ownership of the vehicle.**
7. To protect lenders, the new Act should make clear that it is a **criminal offence** for a borrower to sell a vehicle without disclosing that it is subject to a logbook loan.

## KEY RECOMMENDATIONS:

- Repeal the outdated legislation relating to bills of sale
- Implement a new Goods Mortgages Act to regulate loans secured on goods
- Increase protection for borrowers and third party purchasers

The full report and consultation documents can be accessed online: <http://www.lawcom.gov.uk/project/bills-of-sale/>