

RESPONSES TO CONSULTATION PAPER NO 225 ON BILLS OF SALE: KEY POINTS

- 1.1 This paper sets out a number of the key points arising from the responses to the Law Commission's consultation paper no 225 on bills of sale. Interested parties should refer to the summary of responses available at <http://www.lawcom.gov.uk/project/bills-of-sale/> for more information.

CURRENT LAW: THE NEED FOR REFORM

- 1.2 29 out of 33 consultees (88%) thought that bills of sale should not be "banned". Many, though, were critical of the current legislation regulating bills of sale. Consultees noted that the Victorian legislation is complex and clearly not fit for purpose. There was strong support – 29 out of 34 consultees (85%) – for wholesale reform of this Victorian legislation. As one consultee put it "the existing legislation is bad beyond the possibility of tinkering".

LOGBOOK LOANS: THE NEED FOR CONSUMER PROTECTION

- 1.3 One of the areas in which consultees felt the current law is deficient is the lack of borrower protection. The responses to our proposal for a court order were encouraging, among consumer groups as well as some logbook lenders. 21 of out 23 consultees (91%) felt that borrowers should have a statutory right of voluntary termination.
- 1.4 As to innocent private purchasers, there was similar feeling that the current law is inadequate. As one logbook lender put it "We recognise the impact acting under the current legislation can bring about on innocent third parties. Such powers are inappropriate in a modern marketplace". Three other logbook lenders also accepted the principle of protecting innocent private purchasers.

REGISTRATION

- 1.5 Registration was a key issue in the consultation paper. In respect of logbook loans, there was very strong agreement – 21 out of 23 consultees (91%) – that they should no longer be registered at the High Court.
- 1.6 For other goods mortgages, we proposed that registration should continue at the High Court by way of a simplified regime. While consultees favoured simplification, there was suggestion that more radical reform would lead to greater use of other goods as security, particularly in the art market. One consultee noted "We have spoken to several major lenders in this field who have expressed interest in this consultation and the possibilities that it might open up. Given its share of the global art market, it is surprising that the UK does not have a stronger art lending market".
- 1.7 The simplified regime we proposed would also apply to general assignments of book debts. Though consultees called for much more radical reform, there was unanimous agreement that registration of such transactions serves, in principle, a valuable purpose.