

Version No. 033
Chattel Securities Act 1987
No. 15 of 1987

Version incorporating amendments as at 1 December 2008

TABLE OF PROVISIONS

<i>Section</i>	<i>Page</i>
PART 1—PRELIMINARY	1
1 Purpose	1
2 Commencement	1
3 Definitions	1
PART 2—SECURITY INTERESTS	10
4 Application of Part	10
5 Agreement that security interest is legal interest	11
6 Fixtures	11
7 Extinguishing of security interest	12
8 Purchase for value in good faith	16
9 Extinguishing of subsequent security interests	17
10 Priority of security interests	18
11 Extinguishing etc. of security interest under corresponding law	19
12 Regulations	19
PART 3—REGISTRATION	20
13 Application of Part	20
14 Delegation	21
15 The register	21
15A Interstate arrangements	21
16 Registration of security interest	22
16A Entry of information relating to security interests in interstate registrable goods	23
16B Corporation may enter into agreement with sheriff about registration fees	23
17 Offence	23
18 Cancellation of registration	24
19 Discharge of registered security interest	24
20 Corporation to cancel registration	25
21 Change in particulars	25

<i>Section</i>	<i>Page</i>	
22	Variation of particulars	25
22A	Correction of inaccuracies in the register	26
23	Corporation may cancel registration	26
24	Certificate	27
24A	Provision of information other than by certificate	29
25	Compensation for extinguishment of security interest	29
26	<i>Repealed</i>	32
27	Offence	32
28	Regulations	33
 PART 4—CONSEQUENTIAL AMENDMENTS AND TRANSITIONAL PROVISIONS		 36
29	Repeal of Chattel Securities Act 1981	36
30	Transitional provisions	36
31	Transitional provision—vehicle identification numbers	37
32	Transitional provision— Magistrates' Court (Infringements) Act 2000	37
<hr style="border-top: 3px double #000;"/>		
ENDNOTES		38
1.	General Information	38
2.	Table of Amendments	39
3.	Explanatory Details	41

Version No. 033
Chattel Securities Act 1987
No. 15 of 1987

Version incorporating amendments as at 1 December 2008

The Parliament of Victoria enacts as follows:

PART 1—PRELIMINARY

1 Purpose

The purpose of this Act is to re-enact with amendments the **Chattel Securities Act 1981**.

2 Commencement

This Act comes into operation on a day to be proclaimed.

3 Definitions

(1) In this Act—

agricultural implement means a vehicle without its own motive power, built to perform agricultural tasks;

S. 3(1) def. of *agricultural implement* inserted by No. 88/1998 s. 5(a).

agricultural machine means a machine with its own motive power, built to perform agricultural tasks;

S. 3(1) def. of *agricultural machine* inserted by No. 88/1998 s. 5(a).

agricultural tasks includes the cultivation of land, the growing and harvesting of crops and the rearing of livestock;

S. 3(1) def. of *agricultural tasks* inserted by No. 88/1998 s. 5(a).

Chattel Securities Act 1987
No. 15 of 1987
Part 1—Preliminary

s. 3

S. 3(1) def. of *Authority* repealed by No. 44/1989 s. 41(Sch. 2 item 4.1(a)).

* * * * *

commercial vehicle has the same meaning as in the **Credit Act 1984**;

S. 3(1) def. of *Corporation* inserted by No. 44/1989 s. 41(Sch. 2 item 4.1(b)).

Corporation means the Roads Corporation;

S. 3(1) def. of *corresponding Authority* inserted by No. 106/1993 s. 3(1)(a).

corresponding Authority means a person or body declared by Order made under section 3(8) to be a corresponding Authority;

S. 3(1) def. of *corresponding law* inserted by No. 106/1993 s. 3(1)(a).

corresponding law means the provisions of a law of another State or of a Territory declared to be a corresponding law under section 3(8);

dealer with respect to any goods means a person who carries on a business in which the person deals in goods of that kind;

S. 3(1) def. of *debtor* amended by No. 33/1994 s. 26(a), substituted by No. 32/2006 s. 78(a).

debtor in relation to a security interest means the person who created the security interest or against whom the infringement warrant giving rise to the security interest is issued under the **Infringements Act 2006** and includes—

- (a) the lessee in relation to a lease of goods; and
- (b) the hirer in relation to a hire-purchase agreement;

farm machinery has the same meaning as in the **Credit Act 1984**;

goods includes all chattels personal and fixtures other than—

- (a) things in action and money; and
- (b) ships registered in an official register kept under a law in force in Victoria relating to title to ships; and
- (c) aircraft; and
- (d) livestock, unshorn wool and growing crops; and
- (e) to the extent of rights expressly conferred on a registered security under Part VII or VIII of the **Instruments Act 1958**—shorn wool and harvested crops; and
- (f) documents of title;

hire-purchase agreement has the same meaning as in the **Fair Trading Act 1999**;

S. 3(1) def. of *hire-purchase agreement* substituted by No. 2/2008 s. 55(a).

hirer means the person to whom goods are let, hired or agreed to be sold under a hire-purchase agreement and includes a person to whom the hirer's rights or liabilities under the agreement have passed by assignment or by operation of law;

S. 3(1) def. of *hirer* substituted by No. 2/2008 s. 55(b).

interstate registrable goods means goods of a class or category declared by Order made under section 3(8) to be interstate registrable goods;

S. 3(1) def. of *interstate registrable goods* inserted by No. 106/1993 s. 3(1)(b).

inventory security interest means a security interest—

- (a) given by a dealer in or over goods of a kind in which the dealer deals in the course of the dealer's business; or
- (b) reserved in or over goods in the possession or control of a dealer, being goods of a kind in which the dealer deals in the course of the dealer's business;

S. 3(1) def. of *lease* substituted by No. 88/1998 s. 5(b).

lease means a contract for the hiring of goods or for the grant of a licence to use goods and a contract for the hiring or bailment of goods for display purposes but does not include—

- (a) a hire-purchase agreement; or
- (b) a contract for the hiring of or for the grant of a licence to use a vehicle within the meaning of the **Road Safety Act 1986** of which the lessor is the registered operator or an applicant for registration as the registered operator under that Act or a corresponding Act of the Commonwealth or of another State or of a Territory; or
- (c) a contract for the hiring of or for the grant of a licence to use goods under which the lessor does not effectively transfer from the lessor to the lessee substantially all the risks and benefits incident to ownership of the goods;

lessee in relation to a lease of goods, means the person to whom the goods are hired under the lease or to whom a licence to use the goods is granted under the lease;

lessor in relation to a lease of goods, means the person who hires the goods to another person under the lease or grants to another person under the lease a licence to use the goods;

owner means the person letting, hiring or agreeing to sell goods under a hire-purchase agreement and includes a person to whom the owner's property in the goods or any of the owner's rights or liabilities under the agreement have passed by assignment or operation of law;

S. 3(1) def. of **owner** substituted by No. 2/2008 s. 55(c).

prescribed means prescribed by the regulations;

purchase with respect to goods, means acquire an interest in the goods by way of purchase, exchange, lease or hire-purchase;

purchase price with respect to goods purchased by a purchaser, means the consideration paid or payable by the purchaser or, if the purchaser is a lessee under a lease or a hirer under a hire-purchase agreement, the consideration paid or payable by the lessor or owner;

purchaser means a person who purchases goods but excludes—

S. 3(1) def. of **purchaser** substituted by No. 88/1998 s. 5(c).

(a) a secured party not being a lessor, owner or other supplier of the goods under a lease, hire-purchase agreement or other contract for the supply of goods; and

(b) in relation to unregistrable goods, a dealer;

recognised State means a State or Territory of the Commonwealth of Australia declared by Order made under section 3(8) to be a recognised State;

S. 3(1) def. of **recognised State** inserted by No. 106/1993 s. 3(1)(c).

S. 3(1) def. of *registrable goods* substituted by No. 106/1993 s. 3(1)(d).

register means the register kept under Part 3;

registrable goods means goods referred to in section 13;

S. 3(1) def. of *registered* substituted by No. 106/1993 s. 3(1)(e).

registered, in relation to a security interest, means registered under section 16 or 16A;

S. 3(1) def. of *repairer's lien* inserted by No. 88/1998 s. 5(a).

repairer's lien means a lien on goods in the possession of a person as security for payment for services or materials furnished in respect of those goods by that person in the ordinary course of business;

secured party means the holder of a security interest and includes the lessor in relation to a lease of goods and the owner in relation to a hire-purchase agreement;

S. 3(1) def. of *security interest* amended by Nos 33/1994 s. 26(b), 88/1998 s. 5(d), 99/2000 s. 17, 32/2006 s. 78(b).

security interest means an interest in or a power over goods (whether arising by or pursuant to an instrument or transaction or arising on the execution of a warrant issued under the **Magistrates' Court Act 1989**, an infringement warrant under the **Infringements Act 2006** or a direction under section 116 of that Act (including a deemed direction under section 114(4) of that Act)) which secures payment of a debt or other pecuniary obligation or the performance of any other obligation and includes any interest in or power over goods of a lessor, owner or other supplier of goods;

supply in relation to goods, means dispose of an interest in the goods by way of sale, exchange, lease or hire-purchase;

Tribunal means Victorian Civil and Administrative Tribunal established by the **Victorian Civil and Administrative Tribunal Act 1998**;

S. 3(1) def. of *Tribunal* substituted by Nos 4/1989 s. 8(2), 88/1998 s. 4(a).

unregistrable goods means goods to which Part 3 does not apply;

unregistered security interest means a security interest which is not registered under Part 3.

- (2) This Act applies to a person to whom the rights and obligations of—
- (a) a secured party; or
 - (b) a debtor—
- have passed by operation of law in the same manner as this Act applies to the person from whom the rights and obligations have passed by operation of law.
- (3) For the purposes of this Act, a hirer or lessee of goods or a buyer of goods under a conditional sale is deemed to have an interest in the goods notwithstanding that title or general property in the goods has not passed to the hirer, lessee or buyer.
- (4) For the purposes of this Act—
- (a) a security interest attaches at the time at which value is given by the secured party and the debtor has rights in the goods or at such later time as the secured party and the debtor intend; and
 - (b) an agreement to which a debtor is party which contains a provision to the effect that the debtor takes the goods on lease or hire-purchase or creates a security interest over

the goods shall be deemed to give value to the debtor.

- (5) For the purposes of this Act, a person has notice of a security interest in goods—
- (a) if the person has actual notice of the security interest; or
 - (b) if the person has been put upon inquiry as to the existence of the security interest and has deliberately abstained from inquiry or further inquiry when the person might reasonably have expected the inquiry or further inquiry to reveal the security interest.
- (6) For the purposes of this Act, a person has notice of a security interest in goods affixed to land if the person would have had, or would have been deemed to have had, notice of that interest if subsection (5) had not been enacted.
- (7) If an amount, other than the sum of \$15 000 but not exceeding the sum of \$50 000, is prescribed by the regulations as the purchase price for the purposes of section 7, a reference in this Act to \$15 000 is a reference to the prescribed amount.
- (8) If the Governor in Council is satisfied that the provisions of a law of another State or of a Territory correspond to provisions of this Act, the Governor in Council may by Order in Council published in the Government Gazette declare that for the purposes of this Act—
- (a) that State or Territory is a recognised State; and
 - (b) those provisions are a corresponding law; and
 - (c) goods of a class or category specified are interstate registrable goods; and

S. 3(8)
substituted by
No. 106/1993
s. 3(2).

Chattel Securities Act 1987
No. 15 of 1987
Part 1—Preliminary

s. 3

(d) that a person or body specified is a
corresponding Authority.

PART 2—SECURITY INTERESTS

4 Application of Part

- (1) The provisions of this Part (other than section 5) apply (notwithstanding anything to the contrary in any other Act or law) to and in respect of a security interest (whether created within or outside Victoria) if the goods the subject of the security interest—

S. 4(1)(a)
repealed by
No. 88/1998
s. 6.

* * * * *

(b) are for the time being situated in Victoria.

- (2) Section 5 applies (notwithstanding anything to the contrary in any other Act or law) to and in respect of a security interest (whether created within or outside Victoria) if the goods the subject of the security interest are at the date of attachment of the security interest situated in Victoria.
- (3) Subject to subsection (4), a reference in this Part to a security interest does not include a reference to a security interest which attaches before the date of commencement of this section.
- (4) Sections 7 and 10 have effect in relation to a security interest relating to registrable goods or interstate registrable goods as if in those sections a reference to a security interest were a reference to a security interest which attaches before, upon or after the commencement of this section.

S. 4(4)
amended by
No. 106/1993
s. 4(1).

5 Agreement that security interest is legal interest

The parties to a security interest may agree that the security interest shall be a legal interest in the goods subject to the security interest and, if the parties so agree, the security interest is a legal interest in the goods.

6 Fixtures

- (1) If, after a security interest attaches, goods subject to the security interest are affixed to land and become fixtures, the fixtures, for the purposes of the exercise of the secured party's right to take possession of, remove or sell the goods, shall be deemed not to have become fixtures.
- (2) A secured party who removes fixtures to which subsection (1) applies is liable to make good damage done to the land in removing the fixtures.
- (3) If, after a lease of goods is made, goods subject to the lease are affixed to land and become fixtures, the fixtures, for the purposes of the exercise of the lessor's right to take possession of the goods, shall be deemed not to have become fixtures.
- (4) A lessor who removes fixtures to which subsection (3) applies is liable to make good damage done to the land in removing fixtures.
- (5) If, after a hire-purchase agreement is made, goods subject to the agreement are affixed to land and become fixtures, the fixtures, for the purposes of the exercise of the owner's right to take possession of the goods, shall be deemed not to have become fixtures.
- (6) An owner who removes fixtures to which subsection (5) applies is liable to make good damage done to the land in removing the fixtures.

-
- (7) Despite this section, a secured party is not entitled to take possession of goods that have become affixed to land and become fixtures if, after the goods have become so affixed, a person other than the secured party has acquired an interest in the land for value in good faith and without notice of the security interest of the secured party.
- (8) If goods subject to a security interest were affixed to land after an offer to enter into the agreement giving rise to the interest was made, but before the offer was accepted, the goods, for the purposes of this section, shall be deemed to have been affixed to the land after the agreement was made.

7 Extinguishing of security interest

- (1) Subject to section 8, if a secured party has—

(a) an unregistered security interest (whether or not over registrable goods or interstate registrable goods); or

(b) a registered inventory security interest—

in goods but is not in possession of the goods and a purchaser purchases or purports to purchase an interest in the goods (otherwise than at a sale in pursuance of a process of execution issued by or on behalf of a judgment creditor) for value in good faith and without notice when the purchase price is paid (or, if the price is not paid at one time, when the first part of the purchase price is paid) of the security interest from a supplier being—

(c) the debtor; or

S. 7(1)(a)
amended by
No. 106/1993
s. 4(1).

-
- (d) another person who is in possession of the goods in circumstances where the debtor has lost the right to possession of the goods or is estopped from asserting an interest in the goods against the purchaser—

the security interest of the secured party is extinguished.

(1A) Subject to section 8, if—

- (a) a secured party has a registered security interest in goods but is not in possession of the goods; and
- (b) a purchaser purchases or purports to purchase an interest in the goods (otherwise than at a sale in pursuance of a process of execution issued by or on behalf of a judgment creditor) for value in good faith and without notice when the purchase price is paid (or, if the purchase price is not paid at one time, when the first part of the purchase price is paid) of the security interest from a supplier being—
- (i) the debtor; or
- (ii) another person who is in possession of the goods in circumstances where the debtor has lost the right to possession of the goods or is estopped from asserting an interest in the goods against the purchaser; and
- (c) on the day of the purchase or purported purchase or on the preceding day a certificate was issued under section 24 in respect of the goods; and

S. 7(1A)
inserted by
No. 88/1998
s. 7(1).

(d) the certificate did not contain the particulars of an entry in the register relating to the goods at the time of the issue of the certificate—

the security interest of the secured party is extinguished¹.

S. 7(1B)
inserted by
No. 88/1998
s. 7(1).

(1B) A reference in subsection (1A)(c) to the day of the purchase or purported purchase is a reference to the day on which the purchase price is paid or, if the purchase price is not paid on one day, the day on which the first part of the purchase price is paid.

(2) Subject to section 8, if a secured party has a security interest in a motor car within the meaning of the **Motor Car Traders Act 1986** but is not in possession of the motor car and a purchaser purchases or purports to purchase an interest in the motor car (otherwise than at a sale in pursuance of a process of execution issued by or on behalf of a judgment creditor) for value in good faith and without notice when the purchase price is paid (or, if the price is not paid at one time, when the first part of the purchase price is paid) of the security interest from a licensed motor car trader within the meaning of the **Motor Car Traders Act 1986**, the security interest of the secured party is extinguished.

(3) The onus of proving that a person has purchased an interest in goods free from a security interest is on the person asserting that the interest was so purchased.

S. 7(4)
amended by
No. 88/1998
s. 7(2)(a).

(4) A reference in subsection (1), (1A), (1B) or (2) to payment of the purchase price or to payment of part of the purchase price includes a reference to the giving of any valuable consideration in satisfaction of the purchase price or of part of the purchase price.

(5) The provisions of subsection (1) do not apply to or in respect of—

(a) a purchase or purported purchase of an interest in unregistrable goods, other than a commercial vehicle or farm machinery, if the purchase price exceeds \$15 000;

S. 7(5)(a) amended by No. 106/1993 s. 4(2).

* * * * *

S. 7(5)(b) repealed by No. 106/1993 s. 4(2).

(6) Section 31 of the **Goods Act 1958** has no effect in relation to the delivery or transfer of goods or documents of title to goods if—

(a) the goods are registrable goods or interstate registrable goods; or

S. 7(6)(a) amended by No. 106/1993 s. 4(1).

(b) the purchase price of the goods does not exceed \$15 000; or

(c) the goods are a commercial vehicle or farm machinery;

S. 7(6)(c) amended by No. 106/1993 s. 4(3).

* * * * *

S. 7(6)(d) repealed by No. 106/1993 s. 4(3).

(7) If a security interest is extinguished under subsection (1), (1A) or (2), the secured party shall be subrogated to the rights (if any) of the supplier and any predecessor in title of the supplier in and in respect of the goods, including the right to receive any part of the purchase price for the goods which has not been paid.

S. 7(7) amended by No. 88/1998 s. 7(2)(b).

S. 7(9)
amended by
No. 88/1998
s. 7(2)(b).

- (8) A person liable to pay the purchase price of any goods obtains a good discharge for any payment made by the person before the person receives notice of the rights of any secured party under subsection (7).
- (9) If, by reason of any purchase of goods, a security interest is extinguished under subsection (1), (1A) or (2) or under section 9 and a contract which is or includes the purchase is rescinded, the security interest shall revive and have effect as if the purchase had not occurred.
- (10) A reference in subsection (9) to rescission of a contract includes a reference to termination of an agreement under section 43 of the **Motor Car Traders Act 1986**.

8 Purchase for value in good faith

S. 8(1)(b)
amended by
Nos 88/1998
s. 8(1)(a),
44/2001
s. 3(Sch.
item 14).

- (1) For the purposes of section 7, a purchase or purported purchase of goods by a purchaser is not a purchase or purported purchase for value in good faith and without notice of a security interest if—
- (a) the purchaser is a member of the same household as is the supplier or purported supplier of the goods; or
- (b) the purchaser and the supplier or purported supplier of the goods are bodies corporate that are related to each other within the meaning of section 50 of the Corporations Act; or

- (c) one of the purchaser and the supplier or purported supplier of the goods is a body corporate and the other a natural person who, within the meaning of the Corporations Act, is a director or officer of the body corporate—

S. 8(1)(c)
amended by
Nos 88/1998
s. 8(1)(b),
44/2001
s. 3(Sch.
item 14).

unless the person asserting that it is such a purchase or purported purchase proves beyond reasonable doubt that it is such a purchase or purported purchase.

- (2) For the purposes of section 7, if—
- (a) a purchaser of goods is a lessor, owner or the supplier of the goods under a lease, hire-purchase agreement or other contract for the supply of the goods or is a person who purchases goods with the intention of entering into such a lease, hire-purchase agreement or other contract; and
- (b) the lessee, hirer or buyer under such a lease, hire-purchase agreement or other contract has participated in negotiations with the supplier of the goods—

S. 8(2)
substituted by
No. 88/1998
s. 8(2).

the purchase or purported purchase of the goods by the purchaser is not a purchase or purported purchase in good faith and without notice of a security interest if the lessee, hirer or buyer has not acted in good faith and without notice of the security interest.

9 Extinguishing of subsequent security interests

- (1) If a purchaser purchases goods from a secured party, all security interests which rank subsequently to the security interest of the secured party are extinguished without prejudice to the rights of the secured parties in respect of the interests to, or to call for, an accounting of such part of the consideration for the purchase as

exceeds the entitlement of the first-mentioned secured party.

- (2) Nothing in subsection (1) prejudices the right of a debtor or other secured party to damages if a secured party wrongly exercises a power to sell goods subject to a security interest held by the person.

10 Priority of security interests

- (1) If there are two or more security interests in respect of the same goods and one or more of those security interests is registered under Part 3, those interests, subject to this section, rank in priority with respect to all debts or other pecuniary obligations (including contingent obligations) and all other obligations respectively secured under them whenever arising in the order in which they are so registered.

S. 10(2)
amended by
Nos 88/1998
s. 9(1),
44/2001
s. 3(Sch.
item 14).

- (2) The order of priority of security interests in subsection (1) is subject to any express contrary provision in the Corporations Act and to any agreement between the holders of the security interests.
- (3) If, before the registration of a security interest, the secured party in respect of any other security interest in the same goods takes possession of the goods, the second-mentioned security interest, subject to subsection (2), ranks in priority to the registered security interest with respect to those goods.

S. 10(4)
inserted by
No. 88/1998
s. 9(2).

- (4) A repairer's lien on goods, whether or not registered under Part 3, ranks in priority to any registered security interest in respect of those goods irrespective of the date and time of the registration of that registered security interest.

11 Extinguishing etc. of security interest under corresponding law

- (1) If a security interest over goods situated in another State or in a Territory is extinguished or loses priority under the provisions of a law of that State or Territory declared under section 3(8) to be a corresponding law of that State or Territory for the purposes of this Act, that interest is also extinguished or loses priority for the purposes of the law of Victoria.
- (2) The provisions of subsection (1) are in addition to the provisions of any other law or rule of law relating to the extinguishing or loss of priority of security interests.

12 Regulations

The Governor in Council may make regulations for or with respect to prescribing any matter or thing which is authorised or required to be prescribed for carrying out or giving effect to this Part.

Pt 3 (Heading)
amended by
No. 106/1993
s. 5(1).

PART 3—REGISTRATION

13 Application of Part

S. 13(1)
amended by
No. 106/1993
s. 5(2).

(1) The goods which are registrable goods are—

S. 13(1)(a)
substituted by
No. 88/1998
s. 10,
amended by
No. 92/2001
s. 30.

(a) motor vehicles within the meaning of the **Road Safety Act 1986** that are or have been registered or eligible for registration under that Act or that are written-off vehicles within the meaning of that Act; and

S. 13(1)(b)
substituted by
No. 88/1998
s. 10,
amended by
No. 92/2001
s. 30.

(b) trailers within the meaning of the **Road Safety Act 1986** that are or have been registered or eligible for registration under that Act or that are written-off vehicles within the meaning of that Act; and

S. 13(1)(ba)
inserted by
No. 88/1998
s. 10.

(ba) agricultural machines and agricultural implements; and

(c) motor vehicles and trailers within the meaning of the Interstate Road Transport Act 1985 of the Commonwealth as amended and in force for the time being, being vehicles and trailers that are registered in Victoria under that Act;

S. 13(1)(d)
amended by
No. 52/1988
s. 161(Sch. 6
items 1.1, 1.2)
(as amended
by No.
20/1993
s. 27(1)(a)).

(d) if an order is made under subsection (2), on and after the date specified in that order, vessels within the meaning of the **Marine Act 1988** which have engines and do not exceed 20 metres in length, being vessels that are, or have been, registered under that Act; and

(e) prescribed goods.

- (2) The Governor in Council may by Order published in the Government Gazette declare that on and after a date specified in the Order, this Part applies to vessels within the meaning of the **Marine Act 1988** which have engines and do not exceed 20 metres in length.

S. 13(2)
amended by
No. 52/1988
s. 161(Sch. 6
item 1.3) (as
amended by
No. 20/1993
s. 27(1)(a)).

14 Delegation

The Corporation may, either generally or as otherwise provided in the instrument of delegation, by writing delegate to any employee of the public service or of the Corporation all or any of its functions or powers under this Part, except this power of delegation.

S. 14
amended by
Nos 44/1989
s. 41(Sch. 2
item 4.2),
46/1998
s. 7(Sch. 1).

15 The register

- (1) The Corporation must keep a register of information relating to security interests in registrable goods and interstate registrable goods.
- (2) Goods must be defined in the register as being either registrable goods or interstate registrable goods.

S. 15
amended by
No. 44/1989
s. 41(Sch. 2
item 4.2),
substituted by
No. 106/1993
s. 6.

15A Interstate arrangements

- (1) The Corporation may enter into an arrangement with a corresponding Authority for or with respect to—
- (a) the transmission, storage, retrieval and dissemination of information relating to security interests; and
 - (b) the sharing of funding responsibility for compensation payments under this Act or a corresponding law; and
 - (c) administrative arrangements and matters, including provision for the sharing of any fees and charges and the use of facilities and staff; and

S. 15A
inserted by
No. 106/1993
s. 7.

s. 16

(d) any other matter relating to the operation of this Act or a corresponding law.

(2) An arrangement under this section may be entered into before or after the relevant Order in Council is made under section 3(8).

16 Registration of security interest

S. 16(1)
amended by
No. 44/1989
s. 41(Sch. 2
item 4.2).

(1) A person may make application to the Corporation for registration of a security interest in registrable goods.

S. 16(2)
substituted by
No. 106/1993
s. 8(1).

(2) For the purposes of this Act, an application has not been made until it has been lodged with the Corporation.

S. 16(2A)
inserted by
No. 106/1993
s. 8(1).

(2A) The Corporation must reject an application unless—

- (a) it is made in a manner approved by the Corporation; and
- (b) it is in a form approved by the Corporation and contains the information required by the Corporation; and
- (c) the prescribed fee has been paid or arrangements for payment of the fee have been made with the Corporation.

S. 16(3)
amended by
No. 44/1989
s. 41(Sch. 2
item 4.2).

(3) The Corporation in relation to each application under this section, must enter in the register the security interest and other particulars of the application and the date on which, and time at which, the entry is made.

S. 16(4)
repealed by
No. 106/1993
s. 8(2).

* * * * *

16A Entry of information relating to security interests in interstate registrable goods

S. 16A
inserted by
No. 106/1993
s. 9.

- (1) The Corporation in relation to information received under an arrangement made under section 15A must enter in the register particulars of the registration under a corresponding law of a security interest in interstate registrable goods and the date on which, and time at which, the entry is made.
- (2) The making of an entry of a security interest in interstate registrable goods constitutes the registration of a security interest in interstate registrable goods for the purposes of this Act.

16B Corporation may enter into agreement with sheriff about registration fees

S. 16B
inserted by
No. 74/2007
s. 30.

The Corporation may enter into an agreement with the sheriff for the registration of security interests arising because of the making of directions by the sheriff under section 116 of the **Infringements Act 2006** (including a deemed direction under section 114(4) of that Act) for fees that—

- (a) are less than the prescribed fee; and
- (b) do not exceed the costs of registering the security interests.

17 Offence

- (1) A person must not make an application under section 16 for the registration of a security interest if that person is not the holder of the interest.

Penalty: 5 penalty units.

- (2) It is a defence to a prosecution of a person for an offence under subsection (1) if the person proves that when the application was made the person believed on reasonable grounds that the person was the holder of the security interest.

s. 18

S. 18
amended by
No. 44/1989
s. 41(Sch. 2
item 4.2),
substituted by
No. 74/2007
s. 31.

18 Cancellation of registration

- (1) A person who is the holder of a registered security interest may apply to the Corporation for the cancellation of the registration.
- (2) For the purposes of this Act, an application has not been made until it has been lodged with the Corporation.
- (3) The Corporation must reject an application unless—
 - (a) it is made in a manner approved by the Corporation; and
 - (b) it is in a form approved by the Corporation and contains the information required by the Corporation.

S. 19
amended by
Nos 44/1989
s. 41(Sch. 2
item 4.2),
106/1993
s. 8(3),
110/2004
s. 3(1)(a)(b)(2)
(ILA s. 39B(1)).

19 Discharge of registered security interest

- (1) If a registered security interest is discharged or extinguished, the person who was the holder immediately before the discharge or extinguishment, not later than 7 days after the person knows or ought to reasonably know that he or she has ceased to be the holder of that security interest, must make application to the Corporation in a form approved by the Corporation for the cancellation of the registration.

Penalty: 5 penalty units.

S. 19(2)
inserted by
No. 110/2004
s. 3(2).

- (2) If a registered security interest is to be discharged or extinguished by a payment made by cheque or a credit facility, for the purposes of this section the discharge or extinguishment only occurs when the cheque is honoured or the person to whom the credit payment is made receives the amount of the payment in a form that the person can use.

20 Corporation to cancel registration

If an application is made under section 18 or 19 and not rejected by the Corporation, the Corporation must cancel the particulars in the register to which the application relates and must note in the register the date on which, and the time at which, the particulars were cancelled.

S. 20
amended by
Nos 44/1989
s. 41(Sch. 2
item 4.2),
74/2007 s. 32.

21 Change in particulars

(1) If there is a change in the particulars of a registered security interest (other than by reason that the security interest is discharged or extinguished), the secured party may make application in a form approved by the Corporation for the variation of those particulars.

S. 21(1)
amended by
No. 106/1993
s. 8(4).

(1A) An application made under subsection (1) must be accompanied by the prescribed fee (if any).

S. 21(1A)
inserted by
No. 74/2007
s. 33.

(2) If an application is made under subsection (1), the Corporation must vary the particulars in the register and note in the register the date on which, and time at which, the particulars are varied.

S. 21(2)
amended by
No. 44/1989
s. 41(Sch. 2
item 4.2).

22 Variation of particulars

(1) If a prescribed change occurs in the particulars entered in the register, the Corporation may vary the particulars in the entry in the register and note in the register the date on which, and the time at which, the particulars are varied.

S. 22
amended by
Nos 44/1989
s. 41(Sch. 2
item 4.2),
74/2007 s. 34
(ILA s. 39B(1)).

(2) The Corporation may charge the holder of the registered security interest to whom the particulars relate the prescribed fee (if any) for varying the particulars in accordance with this section.

S. 22(2)
inserted by
No. 74/2007
s. 34.

s. 22A

S. 22A
(Heading)
inserted by
No. 74/2007
s. 35(1).
S. 22A
inserted by
No. 106/1993
s. 10.

22A Correction of inaccuracies in the register

- (1) If the Corporation considers that there is an inaccuracy in the information in the register in respect of registrable goods, the Corporation may by notice in writing require the holder of the registered security interest in the goods to advise the Corporation in writing within the period specified in the notice as to whether the information in the register should be varied as specified in the notice.
- (2) If the holder of the registered security interest fails to advise or inadequately advises the Corporation in writing within the period specified in the notice, the Corporation may upon the expiry of that period vary the information in the register as specified in the notice.
- (3) The Corporation may charge the holder of the registered security interest the prescribed fee (if any) for varying the information in the register in accordance with this section.

S. 22A(3)
inserted by
No. 74/2007
s. 35(2).

23 Corporation may cancel registration

- (1) If a person is registered under section 16 as the holder of a security interest in respect of registrable goods and it appears to the Corporation that any of the circumstances specified in subsection (1A) apply, the Corporation may by notice in writing given to that person require that person to show cause within the period specified in the notice, being not less than 14 days after the notice is given, why the registration should not be cancelled.

S. 23(1)
amended by
No. 44/1989
s. 41(Sch. 2
item 4.2),
substituted by
No. 106/1993
s. 11.

- (1A) The circumstances are—
 - (a) the person was not the holder of such a security interest when the application for registration was made;

S. 23(1A)
inserted by
No. 106/1993
s. 11.

- (b) the security interest has been discharged or extinguished and the person has failed to comply with section 19;
 - (c) a period of 7 years has elapsed since the security interest was last registered;
 - (d) the expiry date as nominated by the applicant on the initial application or as subsequently varied has elapsed;
 - (e) the person has failed to respond to a notice under section 22A;
 - (f) the person has failed to provide any information requested by notice in writing by the Corporation so as to enable the Corporation to discharge its functions under the Act within the time specified in the notice.
- (2) If a person fails to show cause as required by a notice under subsection (1), the Corporation, in its discretion, may cancel the registration of the person and must note in the register the date on which, and time at which, the registration was cancelled.
- (3) For the purposes of subsection (1), a notice shall be deemed to have been given to a person when it is posted by prepaid post to the person at the person's address shown in the register.

S. 23(2)
amended by
No. 44/1989
s. 41(Sch. 2
item 4.2).

24 Certificate

- (1) A person may apply to the Corporation in a form approved by the Corporation for a certificate containing particulars of the information contained in the register in respect of registrable goods and interstate registrable goods or if there is no information in respect of either registrable goods or interstate registrable goods, a certificate containing a statement to that effect.

S. 24
amended by
No. 44/1989
s. 41(Sch. 2
item 4.2),
substituted by
No. 106/1993
s. 12.

Chattel Securities Act 1987
No. 15 of 1987
Part 3—Registration

s. 24

- (2) In addition to the information referred to in subsection (1), the Corporation may provide with the certificate any other information relating to—
- (a) goods whether or not there is any information in the register (including information about security interests in respect of those goods) being information provided in writing to the Corporation for the purposes of this paragraph; or
 - (b) goods which a member of the police force has advised the Corporation have been reported to a member of the police force as being stolen or otherwise illegally obtained; or
 - (c) goods which are specified in a notice served under section 84W(1) or 84Y(1) of the **Road Safety Act 1986**.

S. 24(2)(b) amended by No. 81/2006 s. 33(1), substituted by No. 74/2007 s. 36(1).

S. 24(2)(c) inserted by No. 81/2006 s. 33(2).

Note

Sections 84W(1) and 84Y(1) of the **Road Safety Act 1986** provide that the Chief Commissioner of Police must notify certain persons if he or she intends to make an application for an order for the impoundment, immobilisation or forfeiture of a motor vehicle. Sections 84X and 84Y(4) of that Act prohibit a person from selling or disposing of an interest in that motor vehicle before such an application is made and determined.

S. 24(3) substituted by No. 74/2007 s. 36(2).

- (3) Neither the Corporation nor any other person incurs any liability in respect of a certificate issued under subsection (1) or information provided under subsection (2) if—
- (a) the certificate or information contains or is accompanied by a disclaimer that the certificate or information is provided without liability and without any responsibility for the accuracy of the certificate or information; and

-
- (b) the certificate or information is provided in good faith.
 - (4) The applicant must pay the prescribed fee (if any).
 - (5) A certificate must be in a form approved by the Corporation.

24A Provision of information other than by certificate

S. 24A
inserted by
No. 74/2007
s. 37.

- (1) The Corporation may, on payment of the prescribed fee (if any), provide information of the type referred to in sections 24(1) and 24(2) to a person without providing a certificate under that section in the approved form.
- (2) To remove any doubt, if the Corporation provides information under subsection (1) to a person who purchases or purports to purchase an interest in goods, the provision of the information does not, under section 7(1A), extinguish a registered interest a secured party has in the goods.

25 Compensation for extinguishment of security interest

- (1) A person who suffers loss or damage by reason that a security interest in registrable goods of which the person is the holder is extinguished by the operation of section 7(1), being a security interest—
 - (a) for the registration of which application had been made under section 16; and
 - (b) which at the time the loss or damage was suffered—
 - (i) had not been entered in the register; or
 - (ii) was entered in the register but not correctly entered; or

S. 25(1)
amended by
No. 88/1998
s. 4(b)(i).

Chattel Securities Act 1987
No. 15 of 1987
Part 3—Registration

s. 25

S. 25(1)(b)(iii)
amended by
No. 106/1993
s. 13(1).

- (iii) having been entered in the register after the application was made, was no longer entered by reason of the deletion of the entry other than by way of cancellation in accordance with section 23—

may apply to the Tribunal for an order for the payment of compensation to the applicant.

S. 25(1A)
inserted by
No. 106/1993
s. 13(2),
amended by
No. 88/1998
s. 4(b)(i).

- (1A) A person who suffers loss or damage by reason that a security interest in interstate registrable goods of which the person is the holder is extinguished by the operation of section 7(1), being a security interest—
 - (a) for the registration of which application had been made under a corresponding law; and
 - (b) which at the time the loss or damage was suffered—
 - (i) had not been entered in the register under a corresponding law; or
 - (ii) was entered in the register under a corresponding law and had been so registered for a continuous period of at least 24 hours but had not been registered under section 16A; or
 - (iii) was entered in the register under a corresponding law and had been so registered for a continuous period of at least 24 hours but had not been correctly registered under section 16A; or
 - (iv) was entered in the register under a corresponding law and had been so registered for a continuous period of at least 24 hours but was no longer registered under section 16A by reason of the deletion of the entry other than

by way of cancellation in accordance with the provision of a corresponding law which corresponds to section 23—

may apply to the Tribunal for an order for the payment of compensation to the applicant.

(1B) If—

- (a) a person suffers loss or damage because a registered security interest of which the person is the holder is extinguished by the operation of section 7(1A); and
- (b) the security interest was registered before the certificate referred to in section 7(1A)(c) was issued in respect of the goods the subject of the security interest—

the person may apply to the Tribunal for an order for the payment of compensation to the person.

- (2) If an application is made under subsection (1), (1A) or (1B), the Tribunal must determine whether or not compensation should be paid to the applicant and, if it determines that compensation should be paid, must make an order for the payment to the applicant of such amount as the Tribunal determines.
- (3) The Tribunal must not make an order under this section in relation to an application arising by reason of loss or damage suffered after the cancellation under section 23 of an entry in the register if the applicant did not show cause in accordance with that section unless the Tribunal is satisfied that the applicant did not show cause in accordance with that section why the registration should not be cancelled—
 - (a) because of circumstances beyond the applicant's control; or

S. 25(1B)
inserted by
No. 88/1998
s. 11(1).

S. 25(2)
amended by
Nos 106/1993
s. 13(3),
88/1998
s. 11(2)(a).

s. 27

(b) for reasons that ought to be reasonably to be excused.

(4) Compensation paid in respect of a claim under this section must not exceed—

(a) the amount of the debt or other pecuniary obligation or the value of any other obligation secured by the security interest; or

(b) the value of the registrable goods or interstate registrable goods in respect of which the application is made—

at the time the loss or damage is suffered, whichever is the lesser.

(5) Compensation payable under an order of the Tribunal under this section must be paid by the Corporation.

S. 25(4)(b)
amended by
No. 106/1993
s. 13(4).

S. 25(5)
amended by
Nos 44/1989
s. 41(Sch. 2
item 4.2),
88/1998
s. 4(b)(ii).

S. 26
amended by
Nos 44/1989
s. 41(Sch. 2
item 4.2),
106/1993
s. 13(5)–(7),
88/1998
s. 4(c)(i)–(iii),
repealed by
No. 88/1998
s. 11(2)(b).

* * * * *

27 Offence

(1) A dealer must not supply any goods in the course of a business without first procuring the discharge of any inventory security interest created by the dealer in the goods.

Penalty: 25 penalty units.

(2) A dealer must not supply any goods in the course of a business without first procuring the discharge of—

-
- (a) any security interest of which the dealer has notice; and
 - (b) any registered security interest whether or not the dealer has notice of the interest; and
 - (c) if the motor car is not registered under the **Motor Car Act 1958** or the **Road Safety Act 1986** but is registered under the law of another State or a Territory, any security interest in the motor car registered under the provisions of a law of that State or Territory corresponding to the provisions of this Act (whether or not those provisions are declared under section 3(8) to be a corresponding law of that State or Territory for the purposes of this Act).

Penalty: 25 penalty units.

- (3) Subsections (1) and (2) do not apply to the extent or in circumstances prescribed by the regulations.
- (4) Subsections (1) and (2) do not apply to the supply of a motor vehicle within the meaning of the **Road Safety Act 1986** by a motor car trader within the meaning of the **Motor Car Traders Act 1986**.

28 Regulations

- (1) The Governor in Council may make regulations for or with respect to prescribing any matter or thing which is authorised or required to be prescribed for carrying out or giving effect to this Part.
- (2) Without limiting subsection (1), the regulations may provide for the payment of fees including—
 - (a) the matters for which fees are payable; and
 - (b) the amount of the fees; and
 - (c) the persons by whom the fees are payable.

S. 28(2)
substituted by
No. 74/2007
s. 38.

Chattel Securities Act 1987
No. 15 of 1987
Part 3—Registration

s. 28

S. 28(3)
inserted by
No. 74/2007
s. 38.

- (3) A power conferred by this Act to make regulations providing for the imposition of fees may be exercised by providing for all or any of the following matters—
- (a) specific fees;
 - (b) maximum or minimum fees;
 - (c) maximum and minimum fees;
 - (d) ad valorem fees;
 - (e) the payment of fees either generally or under specified conditions or in specified circumstances;
 - (f) the reduction, waiver or refund, in whole or in part, of the fees.

S. 28(4)
inserted by
No. 74/2007
s. 38.

- (4) If under subsection (3)(f) regulations provide for a reduction, waiver or refund, in whole or in part, of a fee, the reduction, waiver or refund may be expressed to apply either generally or specifically—
- (a) in respect of certain matters or transactions or classes of matters or transactions; or
 - (b) in respect of certain documents or classes of documents; or
 - (c) when an event happens; or
 - (d) in respect of certain persons or classes of persons; or
 - (e) in respect of any combination of such matters, transactions, documents, events or persons; or
 - (f) subject to specified conditions or in the discretion of any specified person or body.

Chattel Securities Act 1987
No. 15 of 1987
Part 3—Registration

s. 28

-
- (5) The regulations—
- (a) may be of general or specifically limited application; and
 - (b) may differ according to differences in time, place or circumstances.
-

S. 28(5)
inserted by
No. 74/2007
s. 38.

**PART 4—CONSEQUENTIAL AMENDMENTS AND
TRANSITIONAL PROVISIONS**

29 Repeal of Chattel Securities Act 1981

Nos 9650,
9953.

- (1) The **Chattel Securities Act 1981** and the **Chattel Securities (Amendment) Act 1983** are repealed.
- (2) Section 24A of the **Chattel Securities Act 1981** continues to have effect as if it had not been repealed.

30 Transitional provisions

- (1) The register kept under section 15 of the **Chattel Securities Act 1981** shall be deemed to form part of the register kept under Part 3 of this Act.
- (2) The **Chattel Securities Act 1981** continues to apply to—
 - (a) an application for registration made under section 16 of that Act before the commencement of this section; and
 - (b) an application for compensation made under section 24 or 25 of that Act before that commencement—

as if this Act had not been enacted.

S. 30(3)
inserted by
No. 88/1998
s. 11(3).

- (3) Despite its repeal, section 26 as in force immediately before the commencement of section 11(2)(b) of the **Chattel Securities (Amendment) Act 1998** continues to apply with respect to any loss or damage arising from or in connection with a purchase that took place before that commencement.

s. 31

31 Transitional provision—vehicle identification numbers

S. 31 substituted by No. 106/1993 s. 14.

- (1) In this section *conversion date* means the date as from which the Corporation requires applicants under section 16 to provide vehicle identification numbers.
- (2) After the conversion date, the Corporation may require a person registered as the holder of a security interest in respect of registrable goods to provide the vehicle identification number.
- (3) A request under subsection (2) constitutes a request for the purposes of section 23(1A)(f) and the Corporation may give a show cause notice under section 23 in respect thereof.

32 Transitional provision—Magistrates' Court (Infringements) Act 2000

S. 32 inserted by No. 99/2000 s. 18.

The amendment made to the definition of *security interest* by section 17 of the **Magistrates' Court (Infringements) Act 2000** only applies to security interests coming into existence on or after the commencement of section 17 of the **Magistrates' Court (Infringements) Act 2000**.

ENDNOTES

1. General Information

Minister's second reading speech—

Legislative Assembly: 19 March 1987

Legislative Council: 28 April 1987

The long title for the Bill for this Act was "A Bill relating to chattel securities, to repeal the **Chattel Securities Act 1981** and for other purposes."

The **Chattel Securities Act 1987** was assented to on 12 May 1987 and came into operation on 1 August 1987: Government Gazette 29 July 1987 page 1992.

2. Table of Amendments

This Version incorporates amendments made to the **Chattel Securities Act 1987** by Acts and subordinate instruments.

Marine Act 1988, No. 52/1988 (as amended by No. 20/1993)

Assent Date: 31.5.88
Commencement Date: S. 161(Sch. 6 items 1.1–1.3) on 20.12.88: Special Gazette (No. 105) 20.12.88 p. 1
Current State: This information relates only to the provision/s amending the **Chattel Securities Act 1987**

Credit Administration (Amendment) Act 1989, No. 4/1989

Assent Date: 2.5.89
Commencement Date: Ss 1–3, 5 on 2.5.89: s. 2(1); ss 4, 6–9 on 29.4.91: Government Gazette 6.3.91 p. 483
Current State: All of Act in operation

Transport (Amendment) Act 1989, No. 44/1989

Assent Date: 6.6.89
Commencement Date: S. 41(Sch. 2 items 4.1, 4.2) on 1.7.89: s. 2(1)
Current State: This information relates only to the provision/s amending the **Chattel Securities Act 1987**

Chattel Securities (Amendment) Act 1993, No. 106/1993

Assent Date: 26.11.93
Commencement Date: Ss 1, 2 on 26.11.93: s. 2(1); rest of Act on 11.4.94: Government Gazette 17.3.94 p. 660
Current State: All of Act in operation

Magistrates' Court (Amendment) Act 1994, No. 33/1994

Assent Date: 31.5.94
Commencement Date: S. 26 on 24.10.94: Government Gazette 20.10.94 p. 2789
Current State: This information relates only to the provision/s amending the **Chattel Securities Act 1987**

Public Sector Reform (Miscellaneous Amendments) Act 1998, No. 46/1998

Assent Date: 26.5.98
Commencement Date: S. 7(Sch. 1) on 1.7.98: s. 2(2)
Current State: This information relates only to the provision/s amending the **Chattel Securities Act 1987**

Chattel Securities (Amendment) Act 1998, No. 88/1998

Assent Date: 24.11.98
Commencement Date: Ss 1–4 on 24.11.98: s. 2(1); Pt 3 (ss 5–11) on 1.7.99: s. 2(3)
Current State: All of Act in operation

Chattel Securities Act 1987
No. 15 of 1987

Endnotes

Magistrates' Court (Infringements) Act 2000, No. 99/2000

Assent Date: 12.12.00
Commencement Date: Ss 17, 18 on 1.7.01: s. 2(3)
Current State: This information relates only to the provision/s amending the **Chattel Securities Act 1987**

Corporations (Consequential Amendments) Act 2001, No. 44/2001

Assent Date: 27.6.01
Commencement Date: S. 3(Sch. item 14) on 15.7.01: s. 2
Current State: This information relates only to the provision/s amending the **Chattel Securities Act 1987**

Road Safety (Further Amendment) Act 2001, No. 92/2001

Assent Date: 11.12.01
Commencement Date: S. 30 on 1.5.02: Government Gazette 18.4.02 p. 708
Current State: This information relates only to the provision/s amending the **Chattel Securities Act 1987**

Transport Legislation (Amendment) Act 2004, No. 110/2004

Assent Date: 21.12.04
Commencement Date: S. 3 on 22.12.04: s. 2(1)
Current State: This information relates only to the provision/s amending the **Chattel Securities Act 1987**

Infringements (Consequential and Other Amendments) Act 2006, No. 32/2006

Assent Date: 13.6.06
Commencement Date: S. 78 on 1.7.06: Government Gazette 29.6.06 p. 1315
Current State: This information relates only to the provision/s amending the **Chattel Securities Act 1987**

Road Legislation (Projects and Road Safety) Act 2006, No. 81/2006

Assent Date: 10.10.06
Commencement Date: S. 33 on 11.10.06: s. 2(1)
Current State: This information relates only to the provision/s amending the **Chattel Securities Act 1987**

Road Legislation Further Amendment Act 2007, No. 74/2007

Assent Date: 18.12.07
Commencement Date: Ss 30–32, 35(1), 36, 38 on 19.12.07: s. 2(1); ss 33, 34, 35(2), 37 on 14.9.08: s. 2(6)
Current State: This information relates only to the provision/s amending the **Chattel Securities Act 1987**

Fair Trading and Consumer Acts Further Amendment Act 2008, No. 2/2008

Assent Date: 11.2.08
Commencement Date: S. 55 on 1.12.08: s. 2(4)
Current State: This information relates only to the provision/s amending the **Chattel Securities Act 1987**

3. Explanatory Details

¹ S. 7(1A): The secured party may apply for compensation under section 25(1B) if the security interest was registered before the certificate was issued under section 24.