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MOVABLE PROPERTY SECURITY INTERESTS ACT, 2025

Arrangement of Sections

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No. 11 of 2025

MOVABLE PROPERTY SECURITY INTERESTS ACT, 2025

AN ACT TO MODERNIZE THE LAW GOVERNING TRANSACTIONS IN MOVABLE PROPERTY SECURITY INTERESTS

[Date of Assent - 31st March, 2025]

Enacted by the Parliament of The Bahamas

PART I - PRELIMINARY

1. Short title and commencement.

(1) This Act shall be cited as the Movable Property Security Interests Act, 2025.

(2) This Act shall come into operation on the date the Minister appoints, by notice published in the *Gazette*.

2. Interpretation.

(1) In this Act —

"accession" means goods installed in, or affixed to, other goods without losing their identity;

"account debtor" means a person who is obligated under an account receivable or chattel paper;

"after-acquired property" means movable property which at the time the security agreement is concluded —

(a) does not exist; or

(b) the debtor does not have rights in, or the power to encumber;

"amendment notice" means a notice registered in the Collateral Registry in the prescribed form, renewing or amending the initial notice;

"cancellation notice" means a notice registered in the Collateral Registry in the prescribed form, cancelling the effectiveness of the initial notice and all related notices;

"chattel paper" means one or more writings that evidence both a monetary obligation and a security interest in, or lease of, specific goods or specific goods and accession;

"collateral" means —

(a) a movable property that is subject to a security interest; or

(b) an account receivable that is subject to an outright transfer by an agreement,

and **"encumbered asset"** shall be construed accordingly;

"Collateral Registry" means the Registry established by section 5;

"commercial consignment" means a consignment where —

(a) a consignor has reserved an interest in goods that the consignor has delivered to the consignee for the purpose of sale, lease or other disposition; and

(b) both the consignor and the consignee deal in the ordinary course of business in goods of that description, but does not include an agreement under which goods are delivered to an auctioneer for the purpose of sale;

"competing claimant" means a creditor of a debtor or other person with rights in an encumbered asset that may be in competition with the rights of a secured creditor in the same encumbered asset and includes —

(a) another secured creditor of the debtor that has a security interest in the same encumbered asset;

(b) another creditor of the debtor that has a right in the same encumbered asset;

(c) the insolvency representative in insolvency proceedings in respect of the debtor; and

(d) a buyer or other transferee, lessee or licensee of the encumbered asset;

"consumer goods" means goods that are used or acquired for use primarily for personal, domestic or household purposes;

"control" in relation to deposit and securities accounts exists —

(a) automatically on the creation of a security interest if a bank or other financial institution that maintains the deposit or securities account is the secured creditor; or

(b) if the bank or other financial institution has concluded a control agreement in writing with a debtor and a secured creditor;

"control agreement" means an agreement in writing between a deposit-taking institution, a debtor, and a secured creditor, according to which the deposit-taking institution agrees to follow instructions from the secured creditor with respect to the payment of funds credited to the bank account of the debtor without further consent from the debtor;

"crops" means crops and plants, whether grown, growing or yet to be planted, attached to land by roots or forming part of the land but does not include trees, unless the trees are grown for commercial purposes and sale;

"debtor" —

(a) means a person who has an interest in collateral, and includes —

(i) a person who owes payment or performance of an obligation secured by collateral, whether or not that person owns or has other rights in the collateral;

(ii) a person who receives goods from another person under a commercial consignment;

(iii) a lessee under a lease for a term of more than one year;

(iv) a transferor of an account receivable or chattel paper;

(v) a transferee of or successor to the interest of a person referred to in subparagraphs (i) to (iv); or

(vi) if the person referred to in subparagraph (i) and the person who owns or has other rights in the collateral are not the same person, includes —

(aa) the person who owns or has other rights in the collateral, where the term **"debtor"** is used in a provision of this Act dealing with the collateral;

(bb) the obligor, where the term **"debtor"** is used in a provision of this Act dealing with the obligation; or

(cc) both the person who owns or has other rights in the collateral and the obligor (if the context so requires); and

(b) includes a trustee for any of the persons referred to in paragraph (a);

"default" means —

(a) the failure to pay or otherwise perform the obligation secured when due; or

(b) the occurrence of an event that, under a security agreement, gives a secured creditor the right to enforce a security interest;

"document of title" means a writing issued by or addressed to a bailee —

(a) that covers goods in the possession of the bailee and are identified or are fungible portions of an identified mass; and

(b) in which it is stated that the goods identified in it will be delivered to —

(i) a named person or to a transferee of that person;

(ii) a bearer; or

(iii) the order of a named person;

"equipment" means a movable property other than inventory or consumer goods, that is primarily used or intended to be used by the debtor in the operation of its business;

"farm product" include crops, fish, livestock and their unborn offspring and products, whether or not grown or raised naturally or artificially;

"fixture" means a movable property that is physically attached to immovable property without losing its separate identity;

"goods" means tangible movable property and includes a farm product, inventory, equipment, consumer goods, trees that have been severed, and petroleum or minerals that have been extracted;

"Government lien" means tax and customs liens issued by the Government of The Bahamas;

"initial notice" means a notice registered in the Collateral Registry in the form as may be prescribed in order to effect a registration of a security interest;

"intangible property" means movable property other than goods, and includes accounts receivable, choses in action, deposit accounts, electronic negotiable instruments and documents of title, and intellectual property rights;

"intermediated securities" means securities credited to a securities account or rights or interests in securities resulting from the credit

of securities to a securities account, which is maintained by an intermediary, including a central securities depository;

"inventory" means tangible property held by the debtor for sale or lease in the ordinary course of the debtor's business, including raw materials and work in process;

"investment security" means a writing, whether or not it is in the form of a security certificate, that is recognised in a place in which it is issued or dealt with as a warrant, option, right to participate, or other interest in property, or that evidences an obligation of the issuer, and that, in the ordinary course of business, is transferred by —

(a) delivery with any necessary endorsement, assignment, or registration in the records of the issuer or agent of the issuer;

(b) an entry in the records of a clearing house or central securities depository;

(c) an entry in the records maintained for that purpose by or on behalf of the issuer; or

(d) an entry in the records maintained for that purpose by or on behalf of the nominee, but does not include a writing that evidences a monetary obligation secured by an interest in land;

"land" includes all estates and interests, whether freehold or leasehold, in immovable property;

"mass" means a tangible property other than money which results when one movable property is so commingled with one or more tangible properties that they have lost their separate identities;

"Minister" means the Minister responsible for secured transaction matters;

"movable property" means any tangible or intangible property, goods, chattel paper, documents of title, investment securities, money and negotiable instruments;

"negotiable instrument" means —

(a) a bill of exchange or promissory note within the meaning of the Bills of Exchange Act (*Ch. 335*); or

(b) any other writing that evidences a right to payment of money and is of a kind that, in the ordinary course of business, is transferred by delivery with any necessary endorsement, but does not include chattel paper, documents of title or investment security;

"notice" means an initial notice, an amendment notice or a cancellation notice;

"perfected security interest" means a security interest that is created and is effective against third parties by control, possession, or registration;

"possession" means the actual possession of tangible property by a person or its representative, or by an independent person that acknowledges holding it for that person;

"priority" means the right of a person in collateral in preference to the right of a competing claimant;

"proceeds" means identifiable or traceable movable property received as a result of sale or other disposition, collection, lease or licence of collateral, distributions, or insurance proceeds and claims arising from defects in, damage to, or loss of, collateral;

"product" means a tangible property which results when a tangible property is so physically associated or united with one or more other tangible property of a different kind, or when one or more tangible property are so manufactured, assembled or processed, that they have lost their separate identities;

"purchase" means taking by sale, lease, discount, assignment, negotiation, mortgage, pledge, lien, issue, reissue, gift or any other consensual transaction that creates an interest in movable property;

"purchase money security interest" means —

(a) a security interest taken in collateral by a seller that secures the obligation to pay any unpaid portion of the purchase price of the collateral;

(b) a security interest taken in collateral by a person who gives value for the purpose of enabling the debtor to acquire rights in the collateral, to the extent that the value is applied to acquire those rights;

(c) the interest of a lessor of goods under a lease for a term of more than one year; or

(d) the interest of a consignor who delivers goods to a consignee under a commercial consignment, but does not include a transaction of sale and lease back to the seller;

"receivable" means a right to payment of a monetary obligation that is not evidenced by chattel paper, a negotiable instrument or an investment security, whether or not that obligation has been earned by performance;

"Registrar" means the Registrar of the Collateral Registry appointed under section 5 and includes any Deputy or Assistant Registrar of the Collateral Registry;

"secured creditor" means a person in whose favour a security interest is granted, including —

(a) a consignor;

(b) a lessor;

(c) a transferee under an outright transfer of a receivable by agreement;

(d) a seller who reserved title to the sold goods;

(e) a trustee or agent of the person referred to in paragraphs (a) to (d); or

(f) a person holding the security for a debt owed to him;

"security agreement" means —

(a) an agreement, regardless of whether the parties have denominated it as a security agreement, between a debtor and a secured creditor that provides for the creation of a security interest; and

(b) an agreement that provides for the outright transfer of a receivable;

"security interest" or **"security right"** means —

(a) the interest or right in movable property created by an agreement to secure payment or other performance of an obligation;

(b) the interest of a lessor for a term of more than one year;

(c) the right of a seller with retained title; and

(d) the interest of a transferee of an account or chattel paper,

but does not include a personal right against a guarantor or other person liable for the payment of the secured obligation;

"tangible property" means every form of corporeal movable property, including goods, money, inventory, equipment, consumer goods, accessions, fixtures, negotiable instruments and negotiable instruments in paper form;

"value" means any consideration that is sufficient to support a simple contract and includes an antecedent debt or liability and a binding commitment to provide future value;

"writing" means any form of information that is accessible and usable for subsequent reference including an electronic communication if the

information contained therein is accessible and usable for subsequent reference.

(2) Except as otherwise provided in this Act, the determination of whether goods are consumer goods, equipment, farm products or inventory is to be made at the time when the security agreement is concluded and the secured creditor may rely on the representations of the debtor as to the intended use.

3. Application of the Act.

(1) Notwithstanding any other written law, and subject to subsection (2), this Act applies to —

(a) every transaction that creates a security interest, without regard to the form of the transaction, the type of movable property, the status of the debtor, secured creditor, the person who holds title to the collateral, or the nature of the secured obligation;

(b) without limiting the generality of subsection (1)(a) —

(i) a conditional sale agreement, including an agreement to sell subject to retention of title;

(ii) a hire-purchase agreement or finance lease;

(iii) a commercial consignment;

(iv) a fixed and floating charge;

(v) a trust deed;

(vi) a chattel mortgage; and

(vii) a pledge;

(c) a lease of goods for a term of more than one year, even though the lease may not secure payment or performance of an obligation;

(d) an outright assignment of a receivable, even though the assignment may not secure payment or performance of an obligation;

(e) a security interest created by judgment of a court; and

(f) a security interest created by a Government lien.

(2) This Act does not apply to —

(a) any right of set-off whether or not arising under or from financial contracts governed by netting agreements;

(b) an interest created or provided for by any of the following transactions —

(i) the creation or transfer of an interest in land, other than the transfer of a right to payment including pursuant to a lease of immovable property, a transfer of rental payment payable under a lease for land;

(ii) except as otherwise provided in this Act, a transfer of a present or future claim to wages, salary, pay, commission or any other compensation for labour or personal services of an employee;

(iii) an assignment for the general benefit of creditors of the person making the assignment;

(iv) a transfer of a right to damages in tort not related to commercial activity;

(v) the registration of a transfer, assignment, or mortgage of a ship under The Bahamas Maritime Authority Act (*Ch. 283*);

(vi) the registration of a transfer, assignment, or mortgage of a ship under the Merchant Shipping Act (*Ch. 268*);

(vii) the registration of a transfer, assignment or mortgage of an aircraft and aircraft engines under the Civil Aviation Act, 2021 (*No. 1 of 2021*);

(viii) an assignment of accounts receivable made solely to facilitate the collection of accounts receivable for the assignor;

(ix) a transfer or mortgage of a licence, concession or other personal privilege issued or granted under any other written law for which a security interest is prohibited;

and

(c) intermediated securities.

4. General standard of conduct.

A person must exercise the rights and perform the obligations under this Act in good faith and in a commercially reasonable manner.

PART II - ESTABLISHMENT OF COLLATERAL REGISTRY

5. Establishment of a Collateral Registry.

(1) There is established a Collateral Registry, which shall be responsible for the registration of security interests in movable property under this Act.

(2) The Collateral Registry shall be kept in electronic form providing for —

(a) the registration of information in respect of movable property security interests directly in the Collateral Registry by electronic means in the manner and form prescribed by regulations;

(b) the assignment of a registration number to each initial notice, amendment notice, and cancellation notice registered under this Part, together with a notation date and time of registration;

(c) the Collateral Registry to be searchable; and

(d) any other feature which the Registrar deems necessary.

(3) The Minister may make regulations prescribing —

(a) the physical location of the Collateral Registry;

(b) the procedure for entering information into the Collateral Registry;

(c) the duties of officers and staff of the Collateral Registry;

(d) the location of registration centres of the Collateral Registry; and

(e) any other matter necessary to give effect to the provisions of this subsection.

6. Registrar and other officers.

(1) The Minister may appoint a Registrar of the Collateral Registry, who shall hold office on the terms specified by the Minister.

(2) The Registrar of the Collateral Registry shall be responsible for —

(a) ensuring that the Collateral Registry is maintained in accordance with this Act; and

(b) the performance of the functions assigned to the Registrar by this Act, which functions may be carried out by a member of the staff of the Collateral Registry under the direction of the Registrar.

(3) The Registrar may, subject to the conditions as the Registrar thinks fit, delegate to the Deputy Registrar or Assistant Registrar any of the powers or functions of the Registrar under this Act, except the power of delegation.

(4) The Registrar shall exercise the power or perform the function notwithstanding the delegation of that power or function.

PART III - SECURITY INTERESTS

7. Creation of security interest and effectiveness of a security agreement.

(1) A security interest in movable property may be created or provided by a security agreement between a debtor and a secured creditor and perfected against third parties in accordance with this Act.

(2) Except as otherwise provided by this Act or any other written law, a security agreement is effective between the debtor and the secured creditor.

(3) A security agreement is enforceable between a debtor and a secured creditor if —

(a) the debtor has signed a security agreement which —

(i) reflects the intent of the parties to create a security interest;

(ii) identifies the secured creditor and the debtor;

(iii) contains a description of the collateral that enables the collateral to be identified in accordance with section 10 or by a serial number of a collateral that is not held as inventory;

(iv) describes the secured obligation in accordance with section 8(2);

(v) states the maximum amount for which the security interest may be enforced;

(b) value is given by the secured creditor; and

(c) the debtor has rights in the collateral or the power to encumber it.

8. Obligations that may be secured.

(1) A security agreement may secure one or more obligations of any type, present or future, determined or determinable, conditional or unconditional, fixed or floating.

(2) A description of secured obligations that indicates that the security interest secures all obligations owed to the secured creditor satisfies the standard in subsection (3)(a)(iv) of section 7.

9. Assets that may be encumbered.

A security agreement may encumber —

(a) any type of movable property;

(b) a part of or an undivided right in movable property;

(c) a generic category of movable property; or

(d) all of a debtor's movable property.

10. Description of collateral in a security agreement.

(1) A description of the collateral satisfies the standard in subsection (3)(a)(iii) of section 7 if the description indicates that —

(a) a security interest is taken in all the debtor's movable property, or in all the debtor's movable property within a generic category;

(b) a security interest is taken in all of the debtor's present and after-acquired property; or

(c) a security interest is taken in all of the debtor's present and after-acquired property except for specified items or kinds of movable property.

(2) For the purposes of subsection (1), a description of the collateral is inadequate if the collateral is described as consumer goods without specific reference to the item or kind of collateral.

(3) Except as otherwise provided in this Act, a security interest in proceeds is enforceable against a third party, whether or not the security agreement providing for the security interest contains a description of the proceeds.

11. Security interests in after-acquired property.

A security agreement may provide for security interests in after-acquired property, which shall not become an enforceable security interest until the debtor acquires rights in it or the power to encumber it.

12. Security interests in proceeds.

(1) Except as otherwise provided in this Act, a security interest in the collateral that is dealt with or otherwise gives rise to cash proceeds shall —

(a) continue in the collateral unless the secured creditor expressly or impliedly authorised the dealing with the security interest; and

(b) extend to cash proceeds against both the collateral and the cash proceeds, the amount secured by the security interest in collateral and the cash proceeds is limited to the value of the collateral at the date of the dealing that gave rise to the cash proceeds.

(2) Where cash proceeds are funds credited to a deposit account or are commingled with other funds —

(a) the security interest extends to the commingled funds, notwithstanding that the cash proceeds have ceased to be identifiable;

(b) the security interest in the commingled funds is limited to the amount of funds immediately before they were commingled; and

(c) if at any time after the commingling, the balance credited to the deposit account or the amount of money is less than the amount of the cash proceeds immediately before they were commingled, the security interest in the commingled funds is limited to the lowest amount between the time when the cash proceeds were commingled

and the time when the security interest in the cash proceeds is claimed.

13. Tangible property commingled in mass or made into a product.

(1) A security interest created in tangible property before becoming commingled in a mass —

(a) continues in the mass; and

(b) is limited to the same proportion of the mass as the quantity of the collateral bore to the quantity of the entire mass immediately after the commingling.

(2) A security interest created in a movable property made into a product —

(a) extends to the product; and

(b) is limited to the value of the collateral immediately before it becomes part of the product.

14. Security interest in accounts receivable.

(1) A security interest in an account receivable is effective as between the debtor and the secured creditor, and against the account debtor, notwithstanding a provision or agreement limiting the debtor's right to create a security interest in the receivable.

(2) Nothing in subsection (1) affects any obligation or liability of the debtor for breach of the agreement prohibiting the use of the account receivable as collateral, but the account debtor may not avoid the contract giving rise to the receivable or the security agreement on the sole ground of the breach of that agreement, or raise against the secured creditor any claim it may have as a result of a breach against the debtor.

15. Personal or property right securing payment or other performance.

(1) A secured creditor with a security interest in an account receivable or other intangible property, or in a negotiable instrument has the benefit of any personal or property right that secures or supports payment or other performance of the collateral without a new act of transfer.

(2) Where the personal or property right referred to in subsection (1) is transferable under applicable law only with a new act of transfer, the debtor shall transfer the benefit of the personal or property right to the secured creditor.

16. Tangible property covered by a negotiable instrument.

A security interest in a negotiable instrument extends to the tangible property covered by the instrument where the issuer is in possession of the property at the time the security interest in the instrument is created.

17. Movable property and intellectual property.

A security interest in movable property with respect to which intellectual property is used does not extend to the intellectual property, and a security interest in the intellectual property does not extend to the movable property.

18. Extinguishment of security interests.

A security interest is extinguished when all secured obligations have been discharged and there are no outstanding commitments to extend additional credit secured by the security interest.

PART IV - PERFECTION OF SECURITY INTERESTS

19. Methods for the perfection of a security interest.

(1) A security interest is perfected when —

(a) the security interest is created; and

(b) either —

(i) an initial notice of the security interest is registered in the Collateral Registry;

(ii) the secured creditor or another person on behalf of the secured creditor has possession of the collateral that is a movable property (except where possession is a result of seizure or repossession); or

(iii) the secured creditor or another person on behalf of the secured creditor has control of the collateral that is the right to payment of funds credited to a deposit account or investment security.

(2) Subsection (1) applies regardless of the order in which creation referred to in subsection (1)(a) and either of the steps referred to in subsection (1)(b) occur.

20. Perfection of security interest in proceeds.

(1) If a security interest in movable property is perfected, a security interest in the proceeds of the movable property is also perfected without any further

act and will be continuously perfected, provided that the proceeds are in the form of money, accounts receivable, a negotiable instrument or deposit accounts.

(2) If a security interest in movable property is perfected, and the proceeds of the movable property are in a form other than money, accounts receivable, negotiable instruments or rights to payment of funds credited to a deposit account, the security interest in the proceeds must be perfected by one of the means available to the relevant type of proceeds within fifteen working days after the proceeds arise.

(3) If a secured creditor fails to perfect a security interest in a form other than money, accounts receivable, negotiable instruments or rights to payment of funds credited to a deposit account pursuant to subsection (2), the security interest in the proceeds shall not be perfected and is ineffective against claims by third parties.

21. Perfection of security interests in mass or product.

If a security interest in a movable property is perfected, a security interest in a mass or product to which the security interest extends under section 13 is perfected without any further act.

22. Perfection of security interests in consumer goods.

A security interest in consumer goods with an acquisition price below an amount to be determined by regulations, is perfected automatically upon its creation without further action..

23. Negotiable instruments and tangible property.

(1) A security interest in a negotiable instrument may be perfected by the registration of a notice in the Collateral Registry, or by possession of the negotiable instrument by the secured creditor.

(2) A perfected security interest in a negotiable instrument extends to the movable property covered by the negotiable instrument.

(3) A security interest in a negotiable instrument perfected by possession of the instrument remains perfected for a period of ten days after the instrument or the movable property covered by the instrument has been returned to the debtor or another person for the purpose of dealing with the movable property.

24. Money and deposit accounts.

(1) A security interest in money may be perfected only by the secured creditor taking possession of the money or by taking control of the deposit

account, except in the case of cash proceeds as provided in section 12 of this Act.

(2) A security interest in funds credited to a deposit account may be perfected —

(a) automatically upon the creation of a security interest if the secured creditor is the deposit-taking institution that maintains the deposit account;

(b) upon conclusion of a control agreement; or

(c) upon the secured creditor becoming the account holder.

(3) For the purposes of this section and section 12, **"cash proceeds"** means proceeds in the form of money, cheques, drafts or deposit accounts in banks or similar institutions.

25. Security interests in a farm product.

(1) For purposes of determining whether a security interest in a farm product exists, it does not matter whether the farm product is stored, kept, growing or grown, on any land or premises.

(2) A perfected security interest in a farm product shall not be extinguished or prejudicially affected by a subsequent sale, lease, mortgage or other encumbrance of, or upon, the land on which the farm product is stored, kept, growing or grown.

26. Change in method of perfection.

A perfected security interest remains perfected notwithstanding a change in the method of perfection, provided there is no time when the security interest is not perfected.

27. Lapses in perfection.

If a perfected security interest lapses, perfection may be re-established, but the security interest is perfected from the time the perfection is re-established. .

PART V - PRIORITY BETWEEN SECURITY INTERESTS

28. Priority of security interests in the same collateral.

(1) Where this Act does not provide another method for determining priority between security interests in the same collateral —

(a) a perfected security interest shall have priority over a security interest which is not perfected;

(b) priority between perfected security interests shall be determined in the order in which the following occurs —

(i) the registration of an initial notice in the Collateral Registry;

(ii) the secured creditor, or another person acting on behalf of the secured creditor, taking possession of the collateral except where possession is a result of seizure or repossession; or

(iii) the secured creditor, or another person acting on behalf of the secured creditor, acquiring control of the collateral; and

(c) priority between security interests in the same collateral which are not perfected shall be determined by the order of creation of the security interests.

(2) A security interest that is first perfected in one manner remains perfected and retains its priority despite a change in the method by which it is perfected, provided there is no time when the security interest is not perfected.

(3) Perfection of a security interest that lapses may be re-established by registration, but the security interest is perfected only as of the date of registration.

(4) Subsection (1) shall continue to apply during insolvency and liquidation.

29. Transfer of security interests.

(1) If a secured creditor transfers a security interest in whole or in part, the secured creditor may register an amendment notice to reflect the transfer.

(2) A perfected security interest transferred, shall have the same priority as it had at the time of the transfer, whether or not an amendment notice is registered.

30. Subordination.

(1) A secured creditor may, in a security agreement or other agreement, subordinate its security interest to any other interest.

(2) No agreement to subordinate a security interest shall adversely affect the rights of a person who is not a party to the agreement.

(3) An agreement to subordinate a security interest shall be effective according to its terms and may also be enforced by a third party if the third party is the person for whose benefit the agreement is intended.

31. Priority of a security interest in proceeds.

If a security interest in collateral is perfected, the priority of a security interest in the proceeds is determined by using the same date used to determine the priority of the security interest in the original collateral.

32. Priority of security interest transferred by a debtor.

If a debtor transfers an interest in collateral which, at the time of the transfer is subject to a perfected security interest, the perfected security interest shall have priority over any other security interest created by the transferee.

33. Transfer of debtor's interest in collateral with prior consent of secured creditor.

(1) If a security interest is perfected by registration and the debtor, with the prior consent of the secured creditor, transfers all or part of its interest in the collateral, the security interest in the transferred collateral is not perfected unless the secured creditor registers an amendment notice within fifteen days after the transfer.

(2) Where a security interest is perfected by registration and the debtor, without the prior consent of the secured creditor, transfers the debtor's interest in all or part of the collateral, the security interest in the collateral transferred becomes not perfected thirty days after the later of —

(a) the transfer, if the secured creditor had prior knowledge of the transfer and if the secured creditor had, at the time of the transfer, the information required to register an amendment notice; or

(b) the day the secured creditor learns the information required to register an amendment notice, unless the secured creditor registers an amendment notice or takes possession of the collateral within thirty days.

34. Competing security interest in mass or product.

(1) If two or more perfected security interests in the same movable property that subsequently becomes part of a mass or product, and continues in the mass or product, the priority of each security interest in the mass or product is the same as the priority that each security interest had in that movable property immediately before the movable property became part of the mass or product.

(2) If more than one security interest extends to the same mass or product and each was a security interest in a separate movable property at the time of commingling, each security interest shall rank in proportion to the value of the collateral at the time it became commingled.

35. Security interest in accession.

(1) A security interest in a movable property that becomes an accession shall continue in the accession.

(2) If a security interest is perfected when the movable property becomes an accession, the security interest remains perfected in the accession.

36. Priority of security interests in accession.

A security interest in a tangible property created at the time when the tangible property becomes an accession shall have priority over a claim to the tangible property as an accession made by a person with an interest in the whole.

37. Priority of security interest and purchase money security interest in a fixture.

(1) A security interest may be created in a tangible property which is a fixture and may continue in the tangible property after it becomes a fixture.

(2) Where a notice is registered in the Collateral Registry before a third party acquires rights in the immovable property, a purchase money security interest in a fixture must have priority as against a third party which has existing rights in the immovable property.

38. Buyers and other transferees, lessees, and licensees of collateral.

(1) If the collateral is sold or otherwise transferred, leased or licensed and a security interest in that collateral is perfected, the buyer, transferee, lessee or licensee acquires its rights subject to the security interest, except as otherwise provided in this section.

(2) A buyer or other transferee of the collateral acquires its rights free of the security interest if the secured creditor authorizes the sale or other transfer of the movable property free of the security interest.

(3) The rights of a lessee or licensee are not affected by a security interest if the secured creditor authorizes the debtor to lease or licence the asset.

(4) The buyer of a tangible property sold in the ordinary course of the seller's business acquires its rights free of the security interest, provided that, at the time of the conclusion of the sale agreement, the buyer does not have knowledge that the sale violates the rights of the secured creditor under the security agreement.

(5) The rights of a lessee of a tangible property leased in the ordinary course of the lessor's business are not affected by the security interest, provided that, at the time of the conclusion of the lease agreement, the lessee does

not have knowledge that the lease violates the rights of the secured creditor under the security agreement.

(6) The rights of a non-exclusive licensee of an intangible property licensed in the ordinary course of the licensor's business are not affected by a security interest, provided that, at the time of the conclusion of the license agreement, the licensee does not have knowledge that the license violates the rights of the secured creditor under the security agreement.

(7) If the buyer or other transferee of a tangible property acquires its rights free of a security interest, any subsequent buyer or other transferee also acquires its rights free of that security interest.

(8) If the rights of a lessee of a tangible property, or a licensee of an intangible property, are not affected by the security interest, the rights of any sub-lessee or sub-licensee are also unaffected by that security interest.

(9) A buyer acquires its rights free of, and the rights of a lessee are not affected by, an acquisition of security interest in consumer goods, unless the security interest is perfected by registration of a notice or by taking possession before the buyer or lessee acquire its rights in the property.

39. Security interests competing with judgment creditors.

(1) The right of a judgment creditor has priority over a security interest if, before the security interest is perfected, the judgment creditor has registered a notice in the Collateral Registry.

(2) If a security interest is perfected before the judgment creditor registers a notice, the security interest has priority, but that priority is limited to the greater of the credit extended by the secured creditor —

(a) within thirty days from the time the secured creditor received a notification from the judgment creditor that the judgment creditor had registered a notice in the Collateral Registry; or

(b) pursuant to an irrevocable commitment to extend credit, if the commitment was made before the judgment creditor notified the secured creditor that the judgment creditor had registered a notice in the Collateral Registry.

40. Priority of statutory liens.

A statutory lien on tangible property, which secures payment or performance of an obligation for materials or services provided with respect to property that are subject to a security interest, has priority over the security interest only up to the reasonable value of the materials and services rendered, if —

(a) the materials or services relating to the lien were provided in the ordinary course of business; and

(b) the holder of the possessory lien remains in possession of the property.

41. Priority of purchase money security interests.

Subject to section 12, a purchase money security interest shall have priority over a non-purchase money security interest in the same collateral given by the same debtor if —

(a) in the case of collateral (other than inventory) or its proceeds, the purchase money security interest in the collateral or its proceeds is perfected within ten working days after the day on which the debtor, or another person at the request of the debtor, obtained possession of the collateral;

(b) in the case of inventory or its proceeds —

(i) the purchase money security interest in the inventory or its proceeds is perfected at the time the debtor, or another person at the request of the debtor, obtains possession of the inventory;

(ii) before the debtor receives possession of the inventory, the purchase money secured creditor gives notice in writing to all previous secured parties who have registered an initial notice that describes the collateral as, or as including, inventory or receivables; and

(iii) the notice referred to in subparagraph (ii) states that the person giving it has or expects to acquire a purchase-money security interest in inventory of the debtor, describing the inventory to reasonably allow its identification; or

(c) in the case of an intangible or its proceeds, the purchase money security interest in the intangible or its proceeds is perfected within ten working days after the day on which the security interest in the intangible was created.

42. Competing purchase money security interest.

(1) A purchase money security interest of a seller or lessor shall have priority over a competing purchase money security interest of a secured creditor other than a seller or lessor.

(2) A perfected purchase money security interest in a movable property that extends to a mass or product has priority over a non-purchase money security interest granted by the same debtor in the mass or product.

43. Effect of the priority of a security interest.

(1) Subject to the rights of a judgment creditor under section 39, the priority of a security interest extends to all secured obligations, including obligations incurred after the security interest is perfected.

(2) The priority of a security interest covers all collateral described in a notice registered in the Collateral Registry, whether they are acquired by the debtor or come into existence before or after the time of registration.

44. Knowledge of security interest irrelevant.

Knowledge of the existence of a security interest in favour of another person on the part of the secured creditor does not affect its priority under this Act.

45. Negotiable instruments and documents of title.

A purchaser of a negotiable instrument, document of title, chattel paper or security certificate shall have priority over a perfected security interest in the negotiable instrument, document of title, chattel paper or security certificate if the purchaser —

(a) gave value; and

(b) took possession of the negotiable instrument or document of title without knowledge that the transaction was a breach of the security agreement to which the security interest relates.

46. Funds credited to a deposit account.

(1) A security interest in a right to payment of funds credited to a deposit account perfected by the secured creditor becoming the account holder, has priority over a competing security interest perfected by any other method.

(2) A security interest in a right to payment of funds credited to a deposit account where the secured creditor is the deposit-taking institution, has priority over a competing security interest perfected by any other method, except for the secured creditor becoming the account holder.

(3) A security interest in a right to payment of funds credited to a deposit account perfected by a control agreement has priority over a competing security interest except as provided in subsections (1) and (2).

(4) The order of priority among competing security interests in a right to payment of funds credited to a deposit account perfected by the conclusion of a control agreement, is determined on the basis of the time of the conclusion of the control agreement.

(5) A transferee of funds from a deposit account pursuant to a transfer initiated or authorized by the debtor, acquires its rights free of any security interest in the funds unless the transferee has knowledge that the transaction violates the rights of the secured creditor under the security agreement.

47. Money.

A transferee of money takes the money free of a security interest unless the transferee has knowledge that the transfer violates the rights of a secured creditor under the security agreement.

48. Payment system.

A creditor who receives payment of a debt through any payment system, shall receive the payment free of a security interest whether or not the creditor had knowledge of the security interest at the time of the payment.

49. Unlisted securities.

A transferee of unlisted securities who takes possession of the certificated security and gives value without knowledge that the sale or other transfer is in violation of the rights of the secured creditor under the security agreement, acquires rights free of the security interest.

50. Protection of the account debtor.

(1) Except as otherwise provided in this Act, the creation of a security interest in a receivable does not, without the consent of the debtor to whom the receivable is due, affect the rights and obligations of the debtor, including the payment terms contained in the contract giving rise to the receivable.

(2) A payment instruction may only change the person, address or account to which the debtor is required to make payment from the receivable..

51. Notification of a security interest in a receivable.

Notification of a security interest in a receivable or a payment instruction is effective when received by the account debtor if it reasonably identifies the encumbered receivable and the secured creditor and is in a language that is reasonably expected to inform the account debtor about its contents.

52. Payment by the account debtor.

(1) Until the account debtor receives notification of a security interest in a receivable, the account debtor is discharged by paying in accordance with the agreement giving rise to the receivable.

(2) After the account debtor receives notification of a security interest in a receivable, the account debtor is discharged by paying the secured creditor in accordance with that notification.

PART VI - REGISTRATION OF SECURITY INTERESTS

53. Registration of notices of security interest.

(1) An initial notice must be registered before or after the security agreement to which the notice relates is concluded.

(2) An initial notice may relate to one or more security agreements.

54. Registration of an initial notice.

A person shall register an initial notice in the Collateral Registry by entering in the initial notice, the following particulars in respect of the movable property security interest —

(a) the debtor's unique identifier, name and address in the prescribed form;

(b) the secured creditor's unique identifier, name and address in the prescribed form;

(c) a description of the collateral in accordance with section 55;

(d) the maximum amount for which the security may be enforced;

(e) the term for which the security interest shall be effective (the registration period) which shall in no case exceed five years; and

(f) any other particulars as may be prescribed by Regulations.

55. Description of collateral.

(1) The collateral must be described in a manner that reasonably allows its identification.

(2) A description that indicates that the collateral consists of all of the movable property of the debtor, or of all of the movable property of the debtor within a generic category, is in accordance with subsection (1).

(3) Where the collateral is a motor vehicle, the description must include the vehicle identification number, unless the motor vehicle is held as inventory.

56. Consent to register initial notice or amendment notice.

(1) A debtor who enters into a security agreement shall consent to the registration of an initial notice and any amendments to the notice.

(2) The debtor may consent to the registration of an initial notice before or after the registration of an initial or amendment notice.

(3) The debtor's consent to the registration of an initial notice or amendment notice may be indicated in the security agreement.

(4) Where a person registers an initial notice or an amendment notice without the consent of the debtor, the debtor may recover damages against that person.

(5) The Registrar may not require evidence of the existence of the authorization of the debtor.

57. Date and time of the effectiveness of the registration of a notice.

The registration of an initial notice, amendment notice, or cancellation notice is effective from the date and time when the information in the notice is entered in the Collateral Registry and a registration number is assigned, so that it is accessible to a person who conducts a search of the Collateral Registry records.

58. Validity of registration and errors in required information by registrant.

(1) The validity of the registration of an initial notice shall not be affected by a defect, irregularity, omission or error unless the defect, irregularity, omission or error is seriously misleading.

(2) The registration shall be invalid if the seriously misleading defect, irregularity, omission or error is in —

(a) the unique identifier of a debtor; or

(b) the serial number of the collateral, if so assigned when a collateral is not held as inventory.

(3) An incorrect description of collateral shall not render the registration invalid with respect to other collateral sufficiently described in the initial notice.

59. Period of validity of initial notice.

The registration of an initial notice is effective for the period indicated in the designated field of the notice.

60. Renewal or amendment of initial notice.

An initial notice may be renewed by registering an amendment notice renewing or amending the registration at any time before the expiration of the registration period specified in the initial notice.

61. Registration of transfer of perfected security interests.

(1) If a secured creditor transfers a security interest perfected by registration, the transferred security interest shall remain effective.

(2) The transferee is not required to amend the registration that names the transferor as the secured creditor or to register a new initial notice against the debtor.

62. Registration of subordinated security interests.

If a secured creditor has subordinated a security interest to the interest of another person, an amendment notice must be registered to disclose the subordination at any time before the expiration of the period of registration specified in the initial notice.

63. Amendment or cancellation of registration.

A secured creditor may amend or cancel an initial notice by registering an amendment notice or cancellation notice, as the case may be, at any time before the expiration of the registration period specified in the initial notice.

64. Cancellation of registration.

The secured creditor shall register a cancellation notice discharging the registration of an initial notice within fifteen clear days after all obligations under the security agreement creating the security interest are performed, unless the registration period lapses before the expiration of the fifteen-day period.

65. Debtor may demand registration of amendment or cancellation notice.

(1) Without prejudice to section 64, the debtor may demand in writing that the secured creditor amend or cancel the registration of the initial notice where —

(a) all of the obligations under the security agreement to which the registration relates have been performed and there is no commitment to make future advances;

(b) the secured creditor has agreed to release part of the collateral described in the registered initial notice;

(c) the collateral described in the registered initial notice includes an item or kind of property that is not collateral under a security agreement between the secured creditor and the debtor;

(d) no security agreement exists between the parties; or

(e) the security interest is extinguished in accordance with this Act.

(2) On receipt of the demand submitted under subsection (1), the secured creditor shall register an amendment notice or cancellation notice within fifteen clear days.

(3) A secured creditor shall not charge any fee on the demand by the debtor under subsection (1).

(4) If the secured creditor fails to amend or cancel the registration, the debtor may apply to the Court to issue an order amending or cancelling the registration.

(5) For the purposes of this section, **"future advance"** means the payment of money, the provision of credit, or the giving of value secured by a security interest, occurring after the security agreement has been concluded, whether or not provided or given under an obligation to do so.

66. Court order to amend or cancel registration.

(1) The Court may, on application by the debtor under section 65(4), order the Registrar to amend or cancel the registration of the initial notice.

(2) The Court may make any other order as it thinks proper for the purpose of giving effect to an order under subsection (1).

67. Search in register.

(1) An initial notice shall not be effective against third parties until it is searchable in the register.

(2) A person may search the register for —

(a) the unique identifier of the debtor;

(b) the serial number of the collateral, if so assigned; and

(c) the registration number assigned to the registered initial notice.

(3) A search in the register may be carried out without assigning any reason for the search.

68. Offences on registration and search.

A person who falsely registers an initial notice with intent to mislead, commits an offence and is liable on summary conviction to a fine not exceeding ten thousand dollars.

69. Certificate as evidence of registration.

The Collateral Registry may, on request and payment of the prescribed fee, issue a certificate which shall be conclusive evidence of the existence of the initial, amendment or cancellation notice or other information in the Collateral Registry as at the date and time of the issue of the certificate.

PART VII - ENFORCEMENT OF SECURITY INTERESTS

70. Post-default rights.

(1) After default of the terms of the security agreement, the secured creditor is entitled to exercise —

(a) any right under the provisions of this Part; and

(b) any other right provided in the security agreement or any other law,

except to the extent the right is inconsistent with the provisions of this Act.

(2) The exercise of one post-default right does not prevent the exercise of another post-default right, except to the extent that the exercise of one right makes the exercise of another right impossible.

(3) Before default, the secured creditor or the debtor may not waive unilaterally or vary by agreement any of its rights under the provisions of this Part.

71. General principle of enforceability.

(1) If a debtor is in default of the terms of a security agreement, a secured creditor may, subject to the rights of a person with superior rights to possession, including a lessee or licensee —

(a) take possession of the collateral; or

(b) render the collateral unusable under section 73.

(2) The secured creditor shall give the debtor and any person in possession of the collateral, notice of default and of the secured creditor's intention to take possession of the collateral.

(3) The notice of default shall contain —

(a) the name of the debtor;

(b) the name of the secured creditor; and

(c) the collateral against which enforcement is sought.

(4) A secured creditor may proceed under subsection (1) —

(a) to make application to the Court; or

(b) without making an application to the Court, if the debtor or other person in possession of the collateral consents to the secured creditor taking possession of the collateral, or rendering the collateral unusable.

(5) A secured creditor shall give the debtor and any person in possession of the collateral notice of default and of the secured creditor's intention to repossess the collateral.

72. Right of a secured creditor with priority to take over enforcement.

(1) Notwithstanding commencement of enforcement by another creditor, a secured creditor whose security interest has priority over that of the enforcing creditor is entitled to take over the enforcement at any time before the earlier of —

(a) the sale or other disposition, acquisition or collection of the collateral by the enforcing creditor; and

(b) the conclusion of an agreement by the enforcing creditor for the sale or other disposition of the collateral.

(2) The right of the secured creditor with priority, to take over enforcement includes the right of the secured creditor to enforce the security interest.

73. Secured creditor may render collateral unusable.

(1) A secured creditor with priority over all other secured creditors may render the collateral unusable if the collateral is of a kind —

(a) that cannot be readily removed from the premises of the debtor; or

(b) for which adequate storage facilities are not readily available.

(2) If subsection (1) applies, the secured creditor may dispose of the collateral —

(a) on the premises of the debtor; or

(b) on premises of a person other than the debtor in possession of the collateral.

(3) Where the collateral is disposed of under paragraph (b) of subsection (2), the disposal shall not cause any greater inconvenience than is necessary to the owner of the premises.

74. Secured creditor may apply certain collateral in satisfaction of a secured obligation.

(1) Upon default, a secured creditor with a security interest in an account receivable, negotiable instrument, or a right to funds credited to a deposit account, is entitled to collect payment directly from the account debtor of the account receivable, obligor under the negotiable instrument, or deposit-taking institution.

(2) The secured creditor shall apply the funds collected under subsection (1), to satisfy the obligation secured by the security interest after deducting the secured creditor's reasonable collection expenses.

(3) The secured creditor may exercise the right to collect under subsection (1) prior to default, if the parties so agree.

(4) The secured creditor exercising the right to collect under subsection (1) or (3) is also entitled to enforce any personal or property right that secures or supports payment of the collateral.

(5) If a deposit-taking institution holds a security interest in funds credited to a deposit account perfected automatically, it may apply the balance of the deposit account to the secured obligation.

(6) If a secured creditor holds a security interest in the funds credited to a deposit account which is perfected by a control agreement, the secured creditor may instruct the deposit-taking institution to pay the balance of the deposit account to the secured creditor.

75. Collection of payment by an outright transferee of a receivable.

(1) In the case of an outright transfer of an account receivable to the secured creditor by agreement, the secured creditor is entitled to collect the account receivable at any time after payment becomes due.

(2) The secured creditor exercising the right to collect under subsection (1), is also entitled to enforce any personal or property right that secured or supports payment of the account receivable.

76. Collateral at risk.

(1) Notwithstanding section 71, a secured creditor may take possession of the collateral, with or without leave of the Court, and sell the collateral when —

(a) the debtor is in default under the security agreement; and

(b) the collateral is at risk.

(2) Pursuant to subsection (1), collateral is at risk if the secured creditor has reasonable grounds to believe that the collateral has been or will be destroyed, damaged, endangered, disassembled, removed, concealed, sold or otherwise disposed of contrary to the provisions of the security agreement.

77. Repair and preparation of collateral.

(1) The collateral may be disposed of by the secured creditor in its existing condition or after repair, process or preparation for disposition.

(2) The cost of the repair, process or preparation may be included in the expenses of enforcement.

78. Duty of secured creditor selling collateral.

A secured creditor who exercises a power of sale of the collateral under section 76, has a duty to —

(a) the debtor;

(b) any person who has registered an initial notice in the collateral that is effective at the time the secured creditor possessed the collateral; and

(c) any person who has given the secured creditor notice that that person claims an interest in the collateral,

to obtain the best price reasonably obtainable at the time of sale.

79. Power of sale applies to document of title and related goods.

If the collateral is a document of title, the power of sale provided by section 76 applies to the document of title and to the goods to which it relates.

80. Method of sale of collateral.

A secured creditor may effect a sale of the collateral under section 76 by auction, public tender, private sale or any other method as may be provided in the security agreement.

81. Notice of sale of the collateral.

(1) A secured creditor who intends to sell the collateral under section 76 shall, within ten working days before selling the collateral, give notice to the persons referred to in section 78.

(2) Subsection (1) does not apply if —

(a) the collateral may perish within ten working days of the repossession;

(b) the secured creditor believes on reasonable grounds that the collateral will decline substantially in value if it is not disposed of immediately;

(c) the cost of care, maintenance and storage of the collateral is disproportionately large in relation to its value;

(d) the collateral consists of inventory;

(e) every person entitled to receive notice under subsection (1) consents in writing to the immediate sale of the collateral; or

(f) a Court grants leave to the secured creditor to sell collateral under section 76 without complying with subsection (1).

82. Buyer of collateral takes free of security interests.

The buyer of the collateral in a sale under section 76 shall take the collateral free of any security interest.

83. Secured creditor to give statement of account to debtor.

If collateral is sold by a secured creditor under section 76, the secured creditor shall, within fifteen working days after the sale of the collateral, give the persons referred to in section 78 a statement of account in writing, showing —

(a) the amount of the gross proceeds of sale;

(b) the amount of the costs and expenses of the sale; and

(c) the balance owing by the secured creditor to the debtor, or by the debtor to the secured creditor.

84. Secured creditor selling collateral to pay prior ranking secured parties.

A secured creditor who has sold the collateral under section 76 shall, before applying the net proceeds of the sale towards the satisfaction of the debt or other obligation secured by the security interest of the secured creditor apply the net proceeds of the sale towards the reasonable costs and expenses of the sale.

85. Distribution of surplus.

(1) For the purposes of this Act, there is a surplus when the net proceeds recovered on disposition of the collateral under this Part exceeds the amount owed by the debtor to the secured creditor.

(2) If the secured creditor has retained the collateral pursuant to section 87 or sold the collateral under section 76, the secured creditor shall pay the following persons the amount of any surplus in the following order —

(a) any person who has a subordinate security interest perfected by registration, in the order of the priority;

(b) any other person who has given the secured creditor notice that that person claims an interest in the collateral; and

(c) the debtor.

(3) In subsection (1), **"net proceeds"** means proceeds of the sale after deducting the reasonable costs and expenses of the secured creditor for, and incidental to, taking possession of, holding, storing, repairing, maintaining, valuing, and preparing the sale of, and selling, the collateral.

86. Surplus may be paid into Court.

The secured creditor may pay the surplus into Court if there is a question as to who is entitled to receive payment under section 85.

87. Proposal of secured creditor to retain collateral.

(1) A secured creditor with priority over all other secured parties may, after default, propose to retain the collateral in satisfaction of the obligation secured by it.

(2) The secured creditor shall give notice of the proposal to the persons referred to in section 78.

88. Persons entitled to notice may object to proposal.

The secured creditor shall not sell the collateral under section 76 if a person who is entitled to a notice under section 81 and whose interest in the collateral would be adversely affected by the proposal of the secured creditor to retain the collateral gives to the secured creditor a notice of objection within ten working days after receiving the notice of proposal referred to in section 87.

89. Person making objection may be requested by the secured creditor to prove interest.

(1) The secured creditor may request a person, other than the debtor who objects to the proposal, to provide proof of the interest of the person.

(2) If a person to whom subsection (1) applies does not provided proof within in ten working days after the request of the secured creditor, the secured creditor may proceed as if no objection were received from the person.

90. Position where persons entitled to notice do not object to retention of collateral by secured creditor.

(1) If no notice of objection is received, the secured creditor shall, at the expiration of the ten day period referred to in section 88 —

(a) be deemed to have irrevocably elected to retain the collateral in satisfaction of the obligation secured by it; and

(b) be entitled to hold or dispose of the collateral free from all rights and interests of the debtor and of any person entitled to receive notice under section 87.

(2) All security interests in the collateral subordinate to the security interest of the secured creditor shall be extinguished upon the expiration of the period referred to in subsection (1).

91. Secured creditor shall not damage goods when removing accession.

(1) A secured creditor who is entitled to repossess an accession under section 71(5) shall remove the accession from the whole in a manner that causes no greater damage to the other goods or that puts the person in possession of the whole to no greater inconvenience than is necessary for the removal of the accession.

(2) A person, other than a debtor, who has an interest in the other goods at the time the goods become an accession shall be entitled to reimbursement for any damage to the interest of that person in the other goods caused by the removal of the accession.

(3) Any reimbursement payable shall not include reimbursement for a reduction in the value of the property caused by the removal of the accession or by the necessity of the replacement of the accession.

(4) A person entitled to reimbursement under this section may refuse permission to remove the accession until the secured creditor has given adequate security for the reimbursement.

92. Entitled persons may redeem collateral.

(1) At any time before the secured creditor sells the collateral or is deemed to have taken the collateral in satisfaction of the obligation secured by it, a person who is entitled to receive a notice under section 71 may, unless the person otherwise agrees in writing after default, redeem the collateral by —

(a) tendering fulfilment of all the obligations secured by the collateral; and

(b) paying a sum equal to the reasonable expenses of seizing, repossessing, holding, repairing, processing and preparing the collateral for sale, if those expenses have actually been incurred by the secured creditor, and any other reasonable expenses incurred by the secured creditor.

(2) The rights of the debtor to redeem the collateral shall have priority over any other person's right to redeem the collateral.

93. Debtor may reinstate the security agreement.

(1) At any time before the secured creditor sells the collateral or is deemed to have taken the collateral in satisfaction of the obligation secured by it, the debtor may, unless the debtor has otherwise agreed in writing after default, reinstate the security agreement by —

(a) paying the sums actually in arrears, exclusive of the operation of an acceleration clause in the security agreement;

(b) remedying any other default by reason of which the secured creditor intends to sell the collateral; and

(c) paying a sum equal to the reasonable expenses of seizing, repossessing, holding, repairing, processing and preparing the collateral for sale, if those expenses have actually been incurred by the secured creditor, and any other reasonable expenses incurred by the secured creditor in connection with the enforcement process.

(2) Subsection (1) does not apply to any security agreement made or entered into before the commencement of this Act.

94. Limit on reinstatement of security agreement.

Unless otherwise agreed, the debtor shall not be entitled to reinstate a security agreement more than twice in each year.

95. Right of secured creditor to inspect land.

(1) A secured creditor may from time to time, at his discretion, at all reasonable times enter on any land owned or leased by a person for the breeding of livestock or planting of crops and inspect any property that is subject to a charge or lien created pursuant to this Act.

(2) Any person obstructing a secured creditor from inspecting the property under subsection (1), commits an offence and is liable on summary conviction to a fine not exceeding ten thousand dollars.

96. Penalty for disposal of crops contrary to contract.

A debtor who disposes of crop referred to in any security agreement signed by him, or applies any part of the proceeds of sale of any crops otherwise than in accordance with that agreement, commits an offence and is liable on summary conviction to a fine not exceeding ten thousand dollars.

PART VIII – GENERAL PROVISIONS

97. Damages.

If a person fails to discharge any duty or obligation imposed by this Act, the person to whom the duty or obligation is owed and any other person who can reasonably be expected to rely on performance of the duty or obligation may commence proceedings in the Court to recover damages for any loss or damage resulting from the failure to discharge the duty or obligation.

98. Protection from liability.

(1) The Registrar of the Collateral Registry, a member of the staff of the Collateral Registry or other person acting with the authority or under the direction of the Registrar, is not subject to any action, claim or demand by, or any liability to, any person in respect of anything done or omitted to be done in good faith and without negligence in the performance of any function, power or duty conferred on the person by or under this Act.

(2) The staff of the Collateral Registry shall be indemnified against the costs of defending any action brought against them under subsection (1).

99. Secured creditor to provide certain information relating to security interests.

(1) A debtor may request the secured creditor to send or make available to any specified person, at an address specified by the debtor making the request, any of the following information —

(a) a summary of a security agreement that creates or provides for a security interest held by the secured creditor in the movable property of the debtor;

(b) a statement in writing of the amount of the indebtedness and of the terms of payment of the indebtedness;

(c) a written approval or correction of an itemised list of movable property indicating which items are collateral, unless the security interest is over all of the movable property of the debtor; or

(d) a statement of account indicating the pay-off amount needed to fully satisfy the secured obligation.

(2) A secured creditor shall comply with the request made under subsection (1) within ten working days of its receipt, unless the secured creditor has been exempted or the time for compliance has been extended under subsection (5).

(3) If the request is made and the secured creditor no longer has an interest in the obligation secured or collateral covered by the registration, the secured creditor shall send or make available to the debtor within the time specified in subsection (2) the name and address of the immediate successor in interest or transferee and, if known, the latest successor in interest or transferee.

(4) If, without reasonable excuse, the secured creditor fails to comply with the request within the time specified in subsection (2), the debtor making the request may apply to the Court for an order requiring the secured creditor to comply with the request.

(5) The Court may, on application by a secured creditor, make an order to exempt the secured creditor from complying with subsections (1) and (2) in whole or in part, or may extend the time for compliance if the Court is satisfied that, in the circumstances, it would be unreasonable for the secured creditor to comply with the request.

(6) If the secured creditor fails to comply with an order of the Court exempting him from complying in part with subsections (1) and (2) or extending the time for compliance made under subsection (5), the Court may, on the application of the debtor —

(a) issue an order —

(i) declaring that the security interest to which the request relates is to be treated as not perfected or extinguished; and

(ii) directing the Registrar to cancel the registration relating to the security interest; and

(b) make any other orders as it thinks proper for the purpose of giving effect to an order under this section.

(7) A secured creditor who is required to respond to the request, may charge the debtor the reasonable costs for providing the information.

100. Obligations of parties in possession.

(1) A debtor or secured creditor in possession of collateral shall exercise reasonable care to preserve the movable property.

(2) A secured creditor has the right to inspect the collateral in possession of the debtor or another person.

101. Service of documents.

(1) A document or notification to be served in accordance with this Act shall be considered sufficiently served if —

(a) it is delivered to a person or the person's authorised agent as designated in a security agreement;

(b) it is delivered at, or posted to, the usual or last known residence or business address of the person or the person's agent's, or at a person's registered office, or at an address specified for that purpose in a security agreement;

(c) it is delivered by facsimile, electronic mail or other similar means of communication.

(2) Nothing in this section shall affect any provision in this Act relating to the registration of a notice or detract from the power of any court to direct how the service of any document or notice relating to legal proceedings before the court shall be done.

102. General penalty.

A person who commits an offence pursuant to this Act for which no penalty is provided, is liable on summary conviction, to a fine not exceeding twenty thousand dollars or to a term of imprisonment not exceeding five years.

103. Regulations.

(1) The Minister may make regulations for the purpose of carrying out or giving effect to the provisions of this Act.

(2) Without prejudice to the generality of subsection (1), the Minister may make regulations for or with respect to, all or any of the following matters –

(a) the procedures, requirements and other matters in respect of the register and its operation, including the form of access to the Collateral Registry;

(b) the fees and charges payable in connection with any proceedings or matter or in connection with the provision of any service by the Collateral Registry;

(c) the procedures, requirements and other matters in respect of any registration under this Act;

(d) the procedures for the enforcement of security interests; and

(e) any other matter required to be prescribed by this Act.

PART IX – MISCELLANEOUS

104. Overriding effect.

In the event of a conflict arising from the provisions of this Act and any other written law or in any regulations made thereunder relating to the exercise of the powers and the performance of the functions of the Registrar under this Act, the provisions of this Act shall prevail.

105. Prior security interests continue to be enforceable against a third party.

(1) A prior security interest perfected under any law in force prior to the commencement of this Act, continues to be perfected under this Act, until the earlier of —

(a) the time it would have ceased to be perfected under a law in force prior to the commencement of this Act; and

(b) the expiration of the transitional period under this Act.

(2) If the secured creditor satisfies the requirements for perfection of a prior security interest under this Act, before the time perfection would have ceased under a prior law, the prior security interest continues to be perfected under this Act from the time when the prior security interest was originally perfected under a prior law.

(3) If the secured creditor does not satisfy the requirements for perfection of the prior security interest under this Act before the time perfection would have ceased under subsection (1), the prior security interest is perfected only from the time it is perfected under this Act.

(4) A written agreement between a debtor and a secured creditor creating a prior security interest is sufficient to constitute authorization by the debtor for the registration of a notice covering the assets described in that agreement under this Act.

(5) If a prior security interest referred to in subsection (2) was perfected by the registration of a notice under prior law, the time of registration under prior law is the time to be used for the purposes of applying the priority rules of this Act that refer to the time of registration of a notice of a security interest.

106. Prior proceedings.

(1) Subject to subsection (2), a prior law applies to a matter that is the subject of enforcement or other proceedings before a court or arbitration tribunal commenced before the coming into operation of this Act.

(2) If any step has been taken to enforce a prior security interest before the coming into operation of this Act, enforcement may continue under the prior law or may proceed under this Act.

107. Priority of a third party's interests during the transitional period.

During the transitional period specified in section 108(1) —

(a) priority between a prior security interest and a prior third party interest shall be determined by the prior law;

(b) priority between a prior security interest and a third party interest that arose on or after the commencement of this Act shall be determined by this Act; and

(c) priority between a security interest that is not a prior security interest and a prior third party interest shall be determined by this Act.

108. Transitional provisions.

(1) For the purposes of this Part —

"prior law" means any law whether statutory, equitable or common law that applied to prior security interests immediately before the commencement of this Act;

"prior security interest" means an interest created or provided for by an agreement or other transaction made or entered into before the commencement of this Act that is a security interest within the meaning of this Act and to which this Act would have applied if it had been brought into operation when the security interest was created;

"prior third party interest" means a third party interest that arose before the date of the coming into operation of this Act;

"transitional period" means the period of twelve months commencing from the date of the coming into operation of this Act.

(2) For the avoidance of doubt, it is declared that every prior security interest perfected by a formal or informal mode recognized by common law, continues to be legally valid and enforceable.