

Chattel Securities (Amendment) Act 1993

No. 106 of 1993

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Victoria

No. 106 of 1993

Chattel Securities (Amendment) Act 1993

[Assented to 26 November 1993]

The Parliament of Victoria enacts as follows:

1. *Purpose*

The purpose of this Act is to amend the **Chattel Securities Act 1987** to—

- (a)** provide for financial encumbrance information about registrable goods registered interstate to be available from the register kept under the **Chattel Securities Act 1987**;
- (b)** make other miscellaneous amendments to improve the operation of the **Chattel Securities Act 1987**.

2. Commencement

- (1) Section 1 and this section comes into operation on the day on which this Act receives the Royal Assent.
- (2) Subject to sub-section (3), the remaining provisions of this Act come into operation on a day or days to be proclaimed.
- (3) If a provision referred to in sub-section (2) does not come into operation within the period of 6 months beginning on, and including, the day on which this Act receives the Royal Assent, it comes into operation on the first day after the end of that period.

3. Definitions

- (1) In section 3 (1) of the **Chattel Securities Act 1987**—
 - (a) After the definition of “Corporation” insert—

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

“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);’;
 - (b) After the definition of “Hirer” insert—

“interstate registrable goods” means goods of a class or category declared by Order made under section 3 (8) to be interstate registrable goods;’;
 - (c) After the definition of “Purchaser” insert—

“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;’;
 - (d) For the definition of “Registrable goods” substitute—

“registrable goods” means goods referred to in section 13 ;’;

(e) For the definition of “**Registered**” substitute—

“**registered**”, in relation to a security interest,
means registered under section 16 or 16A;”.

(2) For section 3 (8) of the **Chattel Securities Act 1987** substitute—

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

4. Applicable law

- (1) In sections 4 (4), 7 (1) (a) and 7 (6) (a) of the **Chattel Securities Act 1987** after “registrable goods” insert “or interstate registrable goods”.
- (2) In section 7 (5) of the **Chattel Securities Act 1987** “or” before paragraph (b) and paragraph (b) are repealed.
- (3) In section 7 (6) (d) of the **Chattel Securities Act 1987** “or” before paragraph (d) and paragraph (d) are repealed.

5. Registration

- (1) In the Heading to Part 3 of the **Chattel Securities Act 1987** for “**REGISTRABLE GOODS**” substitute “**REGISTRATION**”.

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- (2) In section 13 (1) of the **Chattel Securities Act 1987** for “to which this Part applies” substitute “which are registrable goods”.

6. *The register*

For section 15 of the **Chattel Securities Act 1987** substitute—

“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 identified in the register as being either registrable goods or interstate registrable goods.”.

7. *Interstate arrangements*

After section 15 of the **Chattel Securities Act 1987** insert—

“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

- (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)."

8. Applications

- (1) For section 16 (2) of the **Chattel Securities Act 1987** substitute—

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

- (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."

- (2) Section 16 (4) of the **Chattel Securities Act 1987** is repealed.

- (3) In section 19 of the **Chattel Securities Act 1987** for "in or to the effect of the prescribed form" substitute "in a form approved by the Corporation".

- (4) In section 21 (1) of the **Chattel Securities Act 1987** for "in or to the effect of the prescribed form" substitute "in a form approved by the Corporation."

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9. *Entry of information relating to security interests in interstate registrable goods*

After section 16 of the **Chattel Securities Act 1987**
insert—

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

- (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.”.

10. *Variation of particulars*

After section 22 of the **Chattel Securities Act 1987**
insert—

“22A. *Variation of particulars*

- (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.”.

11. Cancellation of registration

For section 23 (1) of the **Chattel Securities Act 1987** substitute—

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

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Corporation to discharge its functions under the Act within the time specified in the notice.”.

12. Certificate

For section 24 of the **Chattel Securities Act 1987** substitute—

“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.
- (2) In addition to the information referred to in sub-section (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 have been reported as being stolen or otherwise unlawfully obtained.
- (3) If information referred to in sub-section (2) is provided—
 - (a) with a disclaimer that the information is provided without liability and without any

responsibility for the accuracy of the information; and

(b) in good faith—

neither the Corporation nor any other person incurs any liability whatsoever in respect of that information.

(4) The applicant must pay the prescribed fee (if any).

(5) A certificate must be in a form approved by the Corporation.”.

13. Compensation provisions

(1) In section 25 (1) of the **Chattel Securities Act 1987** for “cancellation of the entry under section 23” substitute “deletion of the entry other than by way of cancellation in accordance with section 23”.

(2) After section 25 (1) of the **Chattel Securities Act 1987** insert—

“(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

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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—

is entitled to make application to a Tribunal for an order for the payment of compensation to the applicant.”.

- (3) In section 25 (2) of the **Chattel Securities Act 1987** after “(1)” insert “or (1A)”.
- (4) In section 25 (4) (b) of the **Chattel Securities Act 1987** after “goods” insert “or interstate registrable goods”.
- (5) After section 26 (1) of the **Chattel Securities Act 1987** insert—
- “(1A) A person who suffers loss or damage arising from, or in connection with, the purchase of interstate registrable goods where—
- (a) before the purchase was made, a certificate was issued under section 24 in respect of those goods; and
- (b) the certificate did not contain the particulars in the register relating to those goods at the time of issue of the certificate—
- is entitled to apply to a Tribunal for an order for the payment of compensation to the applicant.”.
- (6) In sections 26 (2), 26 (3) and 26 (4) of the **Chattel Securities Act 1987** after “(1)” insert “or (1A)”.
- (7) In section 26 (4) of the **Chattel Securities Act 1987** after “goods” insert “or interstate registrable goods”.

14. *Transitional provision*

For section 31 of the **Chattel Securities Act 1987** substitute—

'31. Transitional provision—vehicle identification numbers

- (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 sub-section (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.'

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NOTES

1. *Minister's second reading speech—*

Legislative Council: 29 September 1993

Legislative Assembly: 28 October 1993

- 2. The long title for the Bill for this Act was "A Bill to amend the **Chattel Securities Act 1987** to provide for financial encumbrance information about registrable goods registered interstate to be available from the Victorian register and for other purposes."**
- 3. Section headings appear in bold italics and are not part of the Act. (See **Interpretation of Legislation Act 1984**.)**