



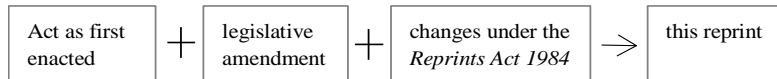
Western Australia

Chattel Securities Act 1987

Reprinted as at 13 December 2002

Guide for using this reprint

What the reprint includes



Endnotes, Compilation table, and Table of provisions that have not come into operation

1. Details about the original Act and legislation that has amended its text are shown in the Compilation table in endnote 1, at the back of the reprint. The table also shows any previous reprint.
2. Validation, transitional, savings, or other provisions identified in the Compilation table may be important. The table may refer to another endnote setting out the text of these provisions in full.
3. A table of provisions that have not come into operation, to be found in endnote 1a if it is needed, lists any provisions of the Act being reprinted that have not come into operation and any amendments that have not come into operation. The full text is set out in another endnote that is referred to in the table.

Notes amongst text (italicised and within square brackets)

1. If the reprint includes a section that was inserted, or has been amended, since the Act being reprinted was passed, editorial notes at the foot of the section give some history of how the section came to be as it is. If the section replaced an earlier section, no history of the earlier section is given (the full history of the Act is in the Compilation table).

Notes of this kind may also be at the foot of Schedules or headings.

2. The other kind of editorial note shows something has been —
 - removed (because it was repealed or deleted from the law); or
 - omitted under the *Reprints Act 1984* s. 7(4) (because, although still technically part of the text, it no longer has any effect).

The text of anything removed or omitted can be found in an earlier reprint (if there is one) or one of the written laws identified in the Compilation table.

Western Australia

Chattel Securities Act 1987

CONTENTS

Part I — Preliminary		
1.	Short title	2
2.	Commencement	2
3.	Interpretation	2
Part II — Security interests		
4.	Application of Part	7
5.	Agreement that security interest is legal interest	7
6.	Fixtures	7
7.	Extinguishing of security interest	9
8.	Purchase for value in good faith	11
9.	Extinguishing of subsequent security interests	12
10.	Priority of security interests	13
11.	Extinguishing etc. of security interest under corresponding law	13
12.	Regulations	14
Part III — Registrable goods		
13.	Application of Part	15
14.	Register	15
15.	Registration of security interest	15
16.	Offence	16
17.	Cancellation of registration	16

Contents

18.	Discharge of registered security interest	16
19.	Commissioner to cancel registration	16
20.	Change in particulars	17
21.	Variation of particulars	17
22.	Commissioner may cancel registration	17
23.	Details of entries	18
24.	Compensation for extinguishment of security interest	19
25.	Compensation where entry not shown on certificate	20
26.	Appeal to Commercial Tribunal	21
27.	Commissioner to be nominal respondent	22
28.	Powers of Tribunal	22
29.	Appropriation	22
30.	Offence	22
31.	Regulations	23
	Notes	
	Compilation table	24
	Provisions that have not come into operation	24



Western Australia

Reprinted under the
Reprints Act 1984 as
at 13 December 2002

Chattel Securities Act 1987

An Act relating to chattel securities and to amend the *Consumer Affairs Act 1973*.

Part I — Preliminary

1. Short title

This Act may be cited as the *Chattel Securities Act 1987*¹.

2. Commencement

The provisions of this Act shall come into operation on such day or days as is or are respectively fixed by proclamation¹.

3. Interpretation

(1) In this Act —

“**approved form**” means a form approved for that purpose by the Commissioner;

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

“**Commissioner**” means the person holding or acting in the office of Commissioner of Consumer Affairs under the *Consumer Affairs Act 1971*;

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

“**debtor**” in relation to a security interest means the person who created the security interest and includes the lessee in relation to a lease of goods and the hirer in relation to a hire-purchase agreement;

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

“**goods**” includes all chattels personal and fixtures other than —

- (a) things in action and money;
- (b) ships registered in an official register kept under a law in force in Western Australia relating to title to ships;
- (c) aircraft;

- (d) livestock, unshorn wool and growing crops;
- (e) to the extent of rights expressly conferred on a registered security under the *Bills of Sale Act 1899* shorn wool and harvested crops; and
- (f) documents of title;

“hire-purchase agreement” has the same meaning as in the *Hire-Purchase Act 1959*;

“hirer” has the same meaning as in the *Hire-Purchase Act 1959*;

“inventory security interest” means a security interest —

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

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

- (a) a hire-purchase agreement; or
- (b) a contract for the hiring of or for the grant of a licence to use a vehicle within the meaning of the *Road Traffic Act 1974* of which the lessor is registered or an applicant for registration as the owner under the *Road Traffic Act 1974* or a corresponding Act of the Commonwealth or another state or territory of the Commonwealth; or
- (c) a contract for the hiring of or for the grant of a licence to use goods, not being a vehicle within the meaning of the *Road Traffic Act 1974*, under which the lessor does not effectively transfer from the lessor to the lessee substantially all the risks and benefits incident to ownership of the goods;

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

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

“owner” has the same meaning as in the *Hire-Purchase Act 1959*;

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

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

“purchaser” means a person who purchases goods but excludes —

- (a) secured party not being a lessor, owner or other supplier of the goods under a lease, hire- purchase agreement, or other contract for the supply of goods; or
- (b) in relation to unregistrable goods, a dealer;

“register” means of register kept under Part III;

“registrable goods” means goods to which Part III applies;

“registered” means registered under Part III;

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

“security interest” means an interest in or a power over goods (whether arising by or pursuant to an instrument or transaction) which secures payment of a debt or other pecuniary obligation or the performance of any other obligation and includes any interest in or power over goods

of a lessor, owner or other supplier of goods, but does not include a possessory lien or pledge;

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

“**tribunal**” means the Commercial Tribunal constituted under the *Commercial Tribunal Act 1984*;

“**unregistrable goods**” means goods to which Part III does not apply;

“**unregistered security interest**” means a security interest which is not registered under Part III.

- (2) This Act applies to a person to whom the rights and obligations of —
- (a) a secured party; or
 - (b) a debtor,

have passed by operation of law in the same manner as this Act applies to the person from whom the rights and obligations have passed by operation of law.

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

s. 3

- (5) For the purposes of this Act, a person has notice of a security interest in goods —
 - (a) if the person has actual notice of the security interest; or
 - (b) if the person has been put upon inquiry as to the existence of the security interest and has deliberately abstained from inquiry or further inquiry when the person might reasonably have expected the inquiry or further inquiry to reveal the security interest.
- (6) For the purposes of this Act, a person has notice of a security interest in goods affixed to land if the person would have had, or would have been deemed to have had, notice of that interest if subsection (5) had not been enacted.
- (7) If an amount, other than the sum of \$20 000 but not exceeding the sum of \$50 000, is prescribed by the regulations as the purchase price for the purposes of section 7, a reference in this Act to \$20 000 is a reference to the prescribed amount.
- (8) If the Governor is satisfied that provisions of a law of another State or of a Territory correspond to provisions of this Act, the Governor may, by Order published in the *Government Gazette*, declare those provisions to be a corresponding law for the purposes of this Act.

Part II — Security interests

4. Application of Part

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

5. Agreement that security interest is legal interest

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

6. Fixtures

- (1) If, after a security interest attaches, goods subject to the security interest are affixed to land and become fixtures, the fixtures, for the purposes of the exercise of the secured party's right to take

s. 7

possession of, remove or sell the goods, shall be deemed not to have become fixtures.

- (2) A secured party who removes fixtures to which subsection (1) applies is liable to make good damage done to the land in removing the fixtures.
- (3) If, after a lease of goods is made, goods subject to the lease are affixed to land and become fixtures, the fixtures, for the purposes of the exercise of the lessor's right to take possession of the goods, shall be deemed not to have become fixtures.
- (4) A lessor who removes fixtures to which subsection (3) applies is liable to make good damage done to the land in removing fixtures.
- (5) If, after a hire-purchase agreement is made, goods subject to the agreement are affixed to land and become fixtures, the fixtures, for the purposes of the exercise of the owner's right to take possession of the goods, shall be deemed not to have become fixtures.
- (6) An owner who removes fixtures to which subsection (5) applies is liable to make good damage done to the land in removing the fixtures.
- (7) Despite this section, a secured party is not entitled to take possession of goods that have become affixed to land and become fixtures if, after the goods have become so affixed, a person other than the secured party has acquired an interest in the land for value in good faith and without notice of the security interest of the secured party.
- (8) If goods subject to a security interest were affixed to land after an offer to enter into the agreement giving rise to the interest was made, but before the offer was accepted, the goods, for the purposes of this section, shall be deemed to have been affixed to the land after the agreement was made.

7. Extinguishing of security interest

- (1) Subject to section 8, if a secured party has —
- (a) an unregistered security interest (whether or not over registrable goods); or
 - (b) a registered inventory security interest,
in goods but is not in possession of the goods and a purchaser purchases or purports to purchase an interest in the goods (otherwise than at a sale in pursuance of a process of execution issued by or on behalf of a judgment creditor) for value in good faith and without notice, when the purchase price is paid, (or, if the price is not paid at one time, when the first part of the purchase price is paid), of the security interest from a supplier being —
 - (c) the debtor; or
 - (d) another person who is in possession of the goods in circumstances where the debtor has lost the right to possession of the goods or is estopped from asserting an interest in the goods against the purchaser,
- the security interest of the secured party is extinguished.
- (2) Subject to section 8, if a secured party has a security interest in a vehicle as defined in section 5(2) of the *Motor Vehicle Dealers Act 1973* but is not in possession of the vehicle and a purchaser purchases or purports to purchase an interest in the vehicle (otherwise than at a sale in pursuance of a process of execution issued by or on behalf of a judgment creditor) for value in good faith and without notice when the purchase price is paid (or, if the price is not paid at one time, when the first part of the purchase price is paid) of the security interest from —
- (a) a licensed motor vehicle dealer; or
 - (b) a licensed car market operator,
- within the meaning of the *Motor Vehicle Dealers Act 1973*, the security interest from —
- (a) a motor vehicle dealer licensed; or

s. 7

- (b) a car market operator registered,
under the *Motor Vehicle Dealers Act 1973*, the security interest
of the secured party is extinguished.
- (3) The onus of proving that a person has purchased an interest in
goods free from a security interest is on the person asserting that
the interest was so purchased.
- (4) A reference in subsection (1) or (2) to payment of the purchase
price or to payment of part of the purchase price includes a
reference to the giving of any valuable consideration in
satisfaction of the purchase price or of part of the purchase
price.
- (5) The provisions of subsection (1) do not apply to or in respect
of —
- (a) a purchase or purported purchase of an interest in
unregistrable goods, other than a commercial vehicle or
farm machinery, if the purchase price exceeds \$20 000;
or
 - (b) a purchase or purported purchase of a motor vehicle
within the meaning of the *Road Traffic Act 1974* or a
trailer, caravan or semi-trailer described in the First
Schedule to that Act, being a motor vehicle, trailer,
caravan or semi-trailer which is not licensed under the
Road Traffic Act 1974 but is registered or licensed under
the law of another State or of a Territory, if a security
interest, not being an inventory security interest, in the
motor vehicle or trailer is registered under the provisions
of a law declared under section 3(8) to be a
corresponding law of that State or Territory for the
purposes of this Act.
- (6) Section 25(2) of the *Sale of Goods Act 1895* has no effect in
relation to the delivery or transfer of goods or documents of title
to goods if —
- (a) the goods are registrable goods;

- (b) the purchase price of the goods does not exceed \$20 000;
 - (c) the goods are a commercial vehicle or farm machinery; or
 - (d) the goods are a motor vehicle within the meaning of the *Road Traffic Act 1974* or a trailer, caravan or semi-trailer described in the First Schedule to that Act, being a motor vehicle, trailer, caravan or semi-trailer which is not licensed under the *Road Traffic Act 1974* but is registered or licensed under the law of another State or of a Territory and there is in force in that State or Territory a law declared under section 3(8) to be a corresponding law for the purposes of this Act.
- (7) If security interest is extinguished under subsection (1) or (2), the secured party shall be subrogated to the rights (if any) of the supplier and any predecessor in title of the supplier in and in respect of the goods, including the right to receive any part of the purchase price for the goods which has not been paid.
- (8) A person liable to pay the purchase price of any goods obtains a good discharge for any payment made by the person before the person receives notice of the rights of any secured party under subsection (7).
- (9) If, by reason of any purchase of goods, a security interest is extinguished under subsection (1) or (2) or under section 9 and a contract which is or includes the purchase is rescinded, the security interest shall revive and have effect as if the purchase had not occurred.

[Section 7 amended by No. 4 of 2002 s. 70.]

8. Purchase for value in good faith

- (1) For the purposes of section 7, a purchase or purported purchase of goods by a purchaser is not a purchase or purported purchase for value in good faith and without notice of a security interest if —
- (a) the purchaser is a member of the same household as is the supplier or purported supplier of the goods;

s. 9

- (b) the purchaser and the supplier or purported supplier of the goods are bodies corporate that are related to each other; or
- (c) one of the purchaser and the supplier or purported supplier of the goods is a body corporate and the other a natural person who, within the meaning of the *Companies (Western Australia) Code*², is a director or officer of the body corporate,

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

- (2) For the purposes of subsection (1), the question whether bodies corporate are related to each other shall be determined in the same manner as the question whether corporations within the meaning of the *Companies (Western Australia) Code*² are related to each other would be determined under that Code.
- (3) For the purposes of section 7 where a purchaser of goods is a lessor, owner or the supplier of the goods under a lease, hire-purchase agreement or other contract for the supply of the goods or is a person who purchases goods with the intention of entering into such a lease, hire-purchase agreement or other contract and the lessee, hirer or buyer under such a lease, hire-purchase agreement or other contract has participated in negotiations with the supplier of the goods, the purchase or purported purchase of the goods by the purchaser is not a purchase or purported purchase in good faith and without notice of a security interest if such lessee, hirer or buyer has not acted in good faith and without notice of the security interest.

9. Extinguishing of subsequent security interests

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

accounting of such part of the consideration for the purchase as exceeds the entitlement of the first-mentioned secured party.

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

10. Priority of security interests

- (1) If there are 2 or more security interests in respect of the same goods and one or more of those security interests is registered under Part III, those interests, subject to this section, rank in priority with respect to all debts or other pecuniary obligations (including contingent obligations) and all other obligations respectively secured under them whenever arising in the order in which they are so registered.
- (2) The order of priority of security interests in subsection (1) is subject to any express contrary provision in the *Companies (Western Australia) Code*² and to any agreement between the holders of the security interests.
- (3) If, before the registration of a security interest, the secured party in respect of any other security interest in the same goods takes possession of the goods, the second-mentioned security interest, subject to subsection (2), ranks in priority to the registered security interest with respect to those goods.

11. Extinguishing etc. of security interest under corresponding law

- (1) If a security interest over goods situated in another State or in a Territory is extinguished or loses priority under the provisions of a law of that State or Territory declared under section 3(8) to be a corresponding law of that State or Territory for the purposes of this Act, that interest is also extinguished or loses priority for the purposes of the law of Western Australia.

s. 12

- (2) The provisions of subsection (1) are in addition to the provisions of any other law or rule of law relating to the extinguishing or loss of priority of security interests.

12. Regulations

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

Part III — Registrable goods

13. Application of Part

The goods to which this Part applies are —

- (a) motor vehicles within the meaning of the *Road Traffic Act 1974*, being motor vehicles that, unless the regulations otherwise provide, are, or have been, licensed under that Act;
- (b) trailers, caravans and semi-trailers described in the First Schedule to the *Road Traffic Act 1974*, being trailers, caravans and semi-trailers that, unless the regulations otherwise provide, are, or have been, licensed under that Act;
- (c) motor vehicles and trailers within the meaning of the *Interstate Road Transport Act 1985* of the Commonwealth as amended and in force for the time being, being vehicles and trailers that are registered in Western Australia under that Act; and
- (d) prescribed goods.

14. Register

The Commissioner shall keep a register in the prescribed form or in the prescribed manner in which shall be entered security interests in relation to registrable goods.

15. Registration of security interest

- (1) A person may make application to the Commissioner for registration of a security interest in registrable goods.
- (2) An application under subsection (1) shall be in or to the effect of the approved form.
- (3) The Commissioner in relation to each application under this section, shall enter in the register the security interest and other particulars of the application and the date on which, and time at which, the entry is made.

s. 16

- (4) The applicant, at the prescribed time or within the prescribed period, shall pay the prescribed fee (if any) payable in respect of an application made by the applicant under subsection (1).

16. Offence

- (1) A person shall not make an application under section 15 for the registration of a security interest if that person is not the holder of the interest.

Penalty: \$500.

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

17. Cancellation of registration

If a person is the holder of a registered security interest, that person may make application to the Commissioner in or to the effect of the approved form for the cancellation of that registration.

18. Discharge of registered security interest

If a registered security interest is discharged or extinguished, the person who was the holder immediately before the discharge or extinguishment, not later than 14 days after the person knows or ought to reasonably know that he or she has ceased to be the holder of that security interest, shall make application to the Commissioner in or to the effect of the approved form for the cancellation of the registration.

Penalty: \$500.

19. Commissioner to cancel registration

If an application is made under section 17 or 18, the Commissioner shall cancel the particulars in the register to which the application relates and shall note in the register the

date on which, and the time at which, the particulars were cancelled.

20. Change in particulars

- (1) If there is a change in the particulars of a registered security interest (other than by reason that the security interest is discharged or extinguished), the secured party may make application in or to the effect of the approved form for the variation of those particulars.
- (2) If an application is made under subsection (1), the Commissioner shall vary the particulars in the register and note in the register the date on which, and time at which, the particulars are varied.
- (3) The applicant, at the prescribed time or within the prescribed period, shall pay the prescribed fee (if any) payable in respect of an application made by the applicant under subsection (1).

[Section 20 amended by No. 39 of 1996 s. 4.]

21. Variation of particulars

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

22. Commissioner may cancel registration

- (1) If a person is registered under section 15 as the holder of a security interest in respect of registrable goods and it appears to the Commissioner that —
 - (a) the person was not, when the application for registration was made, the holder of such a security interest; or
 - (b) the security interest has been discharged or extinguished and the person has failed to comply with section 18,

the Commissioner, by notice in writing in the approved form given to the person, may require the person to show cause

s. 23

within 14 days after the giving of the notice why the registration should not be cancelled.

- (2) If a person fails to show cause as required by a notice under subsection (1), the Commissioner, in his discretion, may cancel the registration of the person and must note in the register the date on which, and time at which, the registration was cancelled.
- (3) For the purposes of subsection (1), a notice shall be deemed to have been given to a person when it is posted by prepaid post to the person at the person's address shown in the register.

23. Details of entries

- (1) A person (the “**applicant**”) may apply to the Commissioner, in or to the effect of the approved form or in the prescribed manner —
 - (a) for a certificate containing —
 - (i) details of particulars of entries in the register in respect of specified goods to which this Part applies; or
 - (ii) a statement that there are no entries in the register in respect of those goods;
 - or
 - (b) subject to the approval of the Commissioner, for confirmation of —
 - (i) details of particulars of entries in the register in respect of specified goods to which this Part applies; or
 - (ii) a statement that there are no entries in the register in respect of those goods,
 - by reference to an account sent to the applicant.
- (2) The applicant, at the prescribed time or within the prescribed period, shall pay the prescribed fee (if any) payable in respect of an application under subsection (1).

- (3) The Commissioner shall respond to an application made in accordance with this section by providing a certificate containing, or an account confirming, the details or statement applied for, and bearing the time and date that the response to the application was made, together with such other information as the Commissioner approves.
- (4) In this section —
“**entries**” does not include particulars in the register that have been cancelled under section 19.

[Section 23 inserted by No. 39 of 1996 s. 5.]

24. Compensation for extinguishment of security interest

- (1) A person who suffers loss or damage by reason that a security interest in registrable goods of which the person is the holder is extinguished by the operation of section 7(1), being a security interest —
 - (a) for the registration of which application had been made under section 15; and
 - (b) which at the time the loss or damage was suffered —
 - (i) had not been entered in the register; or
 - (ii) was entered in the register but not correctly entered; or
 - (iii) having been entered in the register after the application was made, was no longer entered by reason of the cancellation of the entry under section 22,

is entitled to make application to the Commissioner for an order for the payment of compensation to the applicant.

- (2) If an application is made under subsection (1), the Commissioner shall determine whether or not compensation should be paid to the applicant and, if the Commissioner determines that compensation should be paid, shall make an

s. 25

order for the payment to the applicant of such amount including costs as the Commissioner determines.

- (3) The Commissioner shall not make an order under this section in relation to an application arising by reason of loss or damage suffered after the cancellation under section 22 of an entry in the register if the applicant did not show cause in accordance with that section unless the Commissioner is satisfied that the applicant did not show cause in accordance with that section why the registration should not be cancelled —
- (a) because of circumstances beyond the applicant's control; or
 - (b) for reasons that ought to be reasonably to be excused.
- (4) Compensation paid in respect of a claim under this section shall not exceed —
- (a) the amount of the debt or other pecuniary obligation or the value of any other obligation secured by the security interest; or
 - (b) the value of the registrable goods in respect of which the application is made,

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

25. Compensation where entry not shown on certificate

- (1) A person who suffers loss or damage arising from, or in connection with, the purchase of registrable goods is entitled to make application to the Commissioner for an order for payment of compensation, including costs to the applicant, if —
- (a) before the purchase was made, an application was made —
 - (i) under section 23(1)(a) for a certificate setting out details of particulars of entries in the register in respect of specified goods; or

- (ii) under section 23(1)(b) for confirmation (by reference to an account) of particulars of details of entries relating to specified goods in the register;
 - and
 - (b) the certificate or the account did not contain particulars of an entry in the register relating to those goods at the time the details were provided or obtained.
- (2) If an application is made under subsection (1), the Commissioner shall determine whether or not compensation should be paid to the applicant and, if the Commissioner determines that compensation should be paid, shall make an order for the payment to the applicant of such amount as the Commissioner determines.
 - (3) The Commissioner shall not grant an application under subsection (1) if the person at the time of suffering the loss or damage —
 - (a) had actual notice of the security interest entered in the register; or
 - (b) had been put upon inquiry as to the existence of such a security interest and had deliberately abstained from inquiry or further inquiry when the person might reasonably have expected the inquiry or further inquiry to reveal the security interest.
 - (4) Subsection (3) does not apply if the applicant under subsection (1) is the secured party in respect of the registrable goods.

[Section 25 amended by No. 39 of 1996 s. 6.]

26. Appeal to Commercial Tribunal

- (1) A person who is aggrieved by a decision of the Commissioner under section 24 or 25 is entitled to appeal to the Tribunal.
- (2) For the purposes of exercising its jurisdiction under this Act the Tribunal shall be constituted by the chairman or deputy chairman sitting alone.

s. 27

27. Commissioner to be nominal respondent

For the purposes of an appeal under section 26 the Commissioner shall be named as nominal respondent and may for that purpose be represented by counsel.

28. Powers of Tribunal

- (1) The Tribunal shall hear and determine any appeal under section 26.
- (2) An appeal shall be by way of rehearing and the Tribunal shall not be confined to the record of the decision appealed against but may hear such further evidence as it deems appropriate.
- (3) On hearing an appeal the Tribunal may, according to the nature of the case —
 - (a) affirm, vary or quash the decision appealed against; and
 - (b) make any further order including an order as to costs as it deems appropriate.

29. Appropriation

Any moneys payable under an order of the Commissioner or the Tribunal under this Act shall be charged to the Consolidated Fund which is to the extent necessary appropriated accordingly.

[Section 29 amended by No. 6 of 1993 s. 11; No. 49 of 1996 s. 64.]

30. Offence

- (1) A dealer shall not supply any goods in the course of a business without first procuring the discharge of any inventory security interest created by the dealer in the goods.
Penalty: \$2 500.
- (2) Subsection (1) does not apply in relation to the sale, exchange or disposition of a vehicle as defined in section 5(2) of the *Motor Vehicle Dealers Act 1973* that is subject to an inventory security interest by a licensed motor vehicle dealer as defined in that Act

if the sale, exchange or disposition is authorised by and in accordance with the terms of the inventory security interest.

- (3) A dealer shall not supply any goods in the course of a business without first procuring the discharge of —
- (a) any security interest of which the dealer has notice;
 - (b) any registered security interest whether or not the dealer has notice of the interest; and
 - (c) if the vehicle is not licensed under the *Road Traffic Act 1974* but is registered or licensed under the law of another State or a Territory, any security interest in the vehicle registered under the provisions of a law of that State or Territory corresponding to the provisions of this Act (whether or not those provisions are declared under section 3(8) to be a corresponding law of that State or Territory for the purposes of this Act).

Penalty: \$2 500.

- (4) Without affecting the operation of subsection (2), subsections (1) and (3) do not apply to the extent or in the circumstances prescribed by the regulations.

31. Regulations

- (1) The Governor may make regulations for or with respect to prescribing any matter or thing which is authorised or required to be prescribed for carrying out or giving effect to this Part.
- (2) Except as otherwise expressly provided by this Part, regulations under this Part may be of general or of specially limited application and may differ according to differences in time, place or circumstances.

[32. *Omitted under the Reprints Act 1984 s. 7(4)(e).*]



Notes

¹ This reprint is a compilation as at 13 December 2002 of the *Chattel Securities Act 1987* and includes the amendments made by the other written laws referred to in the following table.

Compilation table

Short title	Number and year	Assent	Commencement
<i>Chattel Securities Act 1987</i>	101 of 1987	18 Dec 1987	Pt. I, s. 12-14, 15(1), (2) and (4), 16-23, 31-32: 29 Aug 1988 (see s. 2 and <i>Gazette</i> 5 Aug 1988 p. 2583); balance: 14 Nov 1988 (see s. 2 and <i>Gazette</i> 5 Aug 1988 p. 2583)
<i>Financial Administration Legislation Amendment Act 1993</i> s. 11	6 of 1993	27 Aug 1993	1 Jul 1993 (see s. 2(1))
<i>Chattel Securities Amendment Act 1996</i>	39 of 1996	27 Sep 1996	4 Nov 1996 (see s. 2 and <i>Gazette</i> 29 Oct 1996 p. 5715)
<i>Financial Legislation Amendment Act 1996</i> s. 64	49 of 1996	25 Oct 1996	25 Oct 1996 (see s. 2(1))
<i>Motor Vehicle Dealers Amendment Act 2002</i> s. 70	4 of 2002	4 Jun 2002	1 Sep 2002 (see s. 2 and <i>Gazette</i> 13 Aug 2002 p. 4151)

^{1a} On the date as at which this reprint was prepared, provisions referred to in the following table had not come into operation and were therefore not included in compiling this reprint. For the text of the provisions see the endnote referred to in the table.

Provisions that have not come into operation

Short title	Number and year	Assent	Commencement
<i>Road Traffic Amendment (Vehicle Licensing) Act 2001</i> Pt. 3 Div. 1 ³	28 of 2001	21 Dec 2001	To be proclaimed (see s. 2)

² In respect of matters arising after 1 January 1991, the operation of the *Companies (Western Australia) Code* is subject to the provisions in the *Corporations (Western Australia) Act 1990* Pt. 13 Div. 2. The *Corporations (Western Australia) Act 1990* was superseded by the *Corporations Act 2001* of the Commonwealth on 15 July 2001.

³ On the date as at which this reprint was prepared, the *Road Traffic Amendment (Vehicle Licensing) Act 2001* Pt. 3 Div. 1 had not come into operation. It reads as follows:

“

Division 1 — *Chattel Securities Act 1987* amended

25. The Act amended

The amendments in this Division are to the *Chattel Securities Act 1987* *.

[* *Act No. 101 of 1987.*

For subsequent amendments see 2000 Index to Legislation of Western Australia, Table 1, p. 56.]

26. Section 3 amended

Section 3(1) is amended by inserting after the definition of “supply” the following definition —

“

“**trailer**” means a vehicle that is built to be towed, or is towed, by a motor vehicle, whether by attachment to the motor vehicle directly or to another trailer towed by the motor vehicle, but does not include a motor vehicle that is being towed;

”

27. Section 7 amended

- (1) Section 7(5)(b) is amended by deleting “, caravan or semi-trailer described in the First Schedule to that Act, being a motor vehicle, trailer, caravan or semi-trailer”.
- (2) Section 7(6)(d) is amended by deleting “, caravan or semi-trailer described in the First Schedule to that Act, being a motor vehicle, trailer, caravan or semi-trailer”.

28. Section 13 amended

Section 13(b) is amended by deleting “, caravans and semi-trailers described in the First Schedule to the *Road Traffic Act 1974*, being trailers, caravans and semi-trailers”.

”