

Western Australia

Chattel Securities Act 1987

Chattel Securities Regulations 1988

As at 01 Jul 2011

Version 02-c0-02

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Western Australia

Chattel Securities Regulations 1988

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Chattel Securities Regulations 1988

1. Citation

These regulations may be cited as the *Chattel Securities Regulations 1988*¹.

2. Commencement

These regulations shall come into operation on 29 August 1988.

3. Interpretation

In these regulations unless the context otherwise requires —

account customer means a person who is permitted by the Commissioner to pay prescribed fees on account;

financier's reference number means a number (comprising letters or numbers or both) in such format as the Commissioner approves for the purpose assigned by a creditor to identify the creditor's interest in goods;

hull identification number has the meaning given in regulation 45A(2) of the *Navigable Waters Regulations 1958*²;

interest means a security interest or other interest in relation to goods to which Part III of the Act applies;

pleasure vessel has the meaning given in section 98(1) of the *Western Australian Marine Act 1982*;

registration number means —

- (a) the identifying number on the number plate issued in relation to goods under the —

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- (i) *Road Traffic Act 1974*;
- (ii) *Taxi Act 1994*; or
- (iii) *Interstate Road Transport Act 1985* of the Commonwealth;

or

- (b) a registration number allotted to a pleasure vessel under the *Navigable Waters Regulations 1958*²,

whichever applies;

serial number means the number stamped on an item of farm machinery for the purpose of identifying the whole of that item of farm machinery;

vehicle identification number means an identification number marked on a motor vehicle in accordance with rule 52 of the *Road Traffic (Vehicle Standards) Rules 2002*;

vessel has the meaning given in section 3(1) of the *Western Australian Marine Act 1982*.

[Regulation 3 amended in Gazette 20 Jan 1989 p. 132; 26 Jan 1990 p. 654; 29 Oct 1996 p. 5720; 8 May 2001 p. 2270; 14 Feb 2003 p. 467.]

4. The register (s. 14)

- (1) The register, in relation to goods described in section 13(a), (b) and (c) of the Act, and in relation to farm machinery prescribed under regulation 8(1), shall consist of a computerised record of goods in respect of which applications have been made for the registration of interests under Part III of the Act and setting out in respect of each item of goods —
 - (a) the name and address of the person applying to be registered as having an interest in the goods;
 - (b) in the case of an application by an account customer — the account number;
 - (c) the motor vehicle or machinery type;

- (d) where applicable, the registration number of the goods or otherwise the model number of the goods;
 - (e) the make of the goods;
 - (f) the body type of the goods;
 - (g) the year of manufacture of the goods;
 - (h) the engine number of the goods;
 - (i)
 - (i) in the case of a motor vehicle manufactured before 1 January 1989, the chassis number of the vehicle, or if no chassis number has been allocated, then the vehicle identification number for that vehicle;
 - (ii) in the case of a motor vehicle manufactured on or after 1 January 1989, the vehicle identification number for that vehicle, or if no vehicle identification number has been allocated, then the chassis number of that vehicle; or
 - (iii) in the case of farm machinery referred to in regulation 8(1), the serial number for that farm machinery, or if no serial number has been allocated, then the chassis number of that farm machinery;
 - (j) the financier's reference number for the interest;
 - (k) the type of interest;
 - (l) the date on which the interest will cease; and
 - (m) the time and date of recording the interest in the register.
- (2) The register, in relation to pleasure vessels prescribed under regulation 8(2), shall consist of a computerised record of vessels in respect of which applications have been made for the registration of interests under Part III of the Act and setting out in respect of each vessel —
- (a) the name and address of the person applying to be registered as having an interest in the vessel;

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- (b) in the case of an application by an account customer — the account number;
- (c) the registration number allotted to the vessel by the department principally assisting the Minister in the administration of the *Western Australian Marine Act 1982*;
- (d) the hull identification number of the vessel;
- (e) the hull type of the vessel;
- (f) the name of the manufacturer of the hull of the vessel;
- (g) the overall length of the vessel expressed in centimetres;
- (h) the year the vessel was built;
- (i) the name of the manufacturer of any propulsion engine fitted to the vessel, including any auxiliary engine;
- (j) the engine number of any propulsion engine fitted to the vessel;
- (k) the financier's reference number for the interest;
- (l) the type of interest;
- (m) the date on which the interest will cease; and
- (n) the time and date of recording the interest in the register.

[Regulation 4 amended in Gazette 20 Jan 1989 p. 132; 26 Jan 1990 p. 654; 29 Oct 1996 p. 5720; 8 May 2001 p. 2270-1.]

5. Time of making application

An application is deemed to have been made when the particulars to be entered in the register have been correctly provided and the application is accepted at the office of the Register of Encumbered Vehicles.

[Regulation 5 amended in Gazette 26 Jan 1990 p. 654.]

6. Prescribed fees

- (1) The fees in Schedule 1 are the prescribed fees payable in respect of the matters specified in that Schedule.

- (2) If an application made under section 15, 20 or 23 of the Act relates to more than one item of goods, the relevant prescribed fee is payable in respect of each item of goods.
- (3) Subject to subregulation (4), the prescribed time for paying the prescribed fee in respect of an application made under section 15, 20 or 23 of the Act is the time when the application is made.
- (4) A person who is an account customer shall pay prescribed fees in accordance with accounts rendered to the person from time to time.

[Regulation 6 inserted in Gazette 29 Oct 1996 p. 5720.]

7. Prescribed changes (s. 21)

For the purposes of section 21 of the Act the following changes of particulars are prescribed changes —

- (a) a change in the particulars entered in the register in order to correct a clerical error;
- (b) a change in the registration number effected in accordance with the —
 - (i) *Road Traffic Act 1974*;
 - (ia) *Navigable Waters Regulations 1958*²;
 - (ii) *Taxi-cars Control Act 1985*³; or
 - (iii) *Interstate Road Transport Act 1985* of the Commonwealth,
 whichever applies; and
- (c) a change directed to be made by order of a court of competent jurisdiction.

[Regulation 7 amended in Gazette 8 May 2001 p. 2271.]

8. Prescribed goods (s. 13)

- (1) Farm machinery that —

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- (a) is not and has not been licensed under the *Road Traffic Act 1974*;
- (b) has been assigned a chassis or serial number, an engine number and a model number;
- (c) has motive power of its own;
- (d) has provision for a person to control the machinery by being seated in or on the machinery;
- (e) is not —
 - (i) a boat in respect of which a boat licence has been or is to be issued under the *Fisheries Act 1905*⁴;
or
 - (ii) an implement, apparatus or device for taking or facilitating the taking of fish under a professional fisherman's licence issued under the *Fisheries Act 1905*⁴,

is prescribed for the purposes of section 13(d) of the Act.

- (2) Pleasure vessels that —
 - (a) are registered under section 45B of the *Navigable Waters Regulations 1958*²;
 - (b) have a hull identification number affixed to the hull in accordance with Part VA of the *Navigable Waters Regulations 1958*²; and
 - (c) are not registered in a register maintained under the *Shipping Registration Act 1981* of the Commonwealth,

are prescribed as registrable goods for the purposes of section 13(d) of the Act.

[Regulation 8 inserted in Gazette 26 Jan 1990 p. 655; amended in Gazette 8 May 2001 p. 2272.]

9. Infringement notices

- (1) The offences specified in Schedule 2 are offences for which an infringement notice may be issued under Part 2 of the *Criminal Procedure Act 2004*.
- (2) The modified penalty specified opposite an offence in Schedule 2 is the modified penalty for that offence for the purposes of section 5(3) of the *Criminal Procedure Act 2004*.
- (3) The Commissioner may, in writing, appoint persons or classes of persons to be authorised officers or approved officers for the purposes of Part 2 of the *Criminal Procedure Act 2004*.
- (4) The Commissioner is to issue to each authorised officer a certificate, badge or identity card identifying the officer as a person authorised to issue infringement notices.

[Regulation 9 inserted in Gazette 22 Sep 2006 p. 4082.]

10. Forms

The forms set out in Schedule 3 are prescribed in relation to the matters specified in those forms.

[Regulation 10 inserted in Gazette 22 Sep 2006 p. 4082.]

Schedule 1 — Prescribed fees

[r. 6]

- | | | |
|----|--|--------|
| 1. | Application under section 15 of the Act in relation to goods including goods prescribed under regulation 8 — | |
| | (a) if made using online entry or email | \$5.50 |
| | (b) if made in any other way | 6.20 |
| 2. | Application under section 20 of the Act | \$1.50 |
| 3. | Application under section 23(1)(a) of the Act | \$3.85 |
| 4. | Application under section 23(1)(b) of the Act | \$2.80 |

[Schedule 1 inserted in Gazette 28 Jun 2005 p. 2906; amended in Gazette 27 Jun 2006 p. 2252; 22 Jun 2011 p. 2337-8.]

Schedule 2 — Prescribed offences and modified penalties

[r. 9]

[Heading inserted in Gazette 22 Sep 2006 p. 4082.]

Offences under <i>Chattel Securities Act 1987</i>		Modified penalty
s. 18	Failing to cancel discharged security interest	\$100

[Schedule 2 inserted in Gazette 22 Sep 2006 p. 4082.]

Schedule 3 — Forms

[r. 10]

[Heading inserted in Gazette 22 Sep 2006 p. 4083.]

Form 1 — Infringement notice

<i>Chattel Securities Act 1987</i>		Infringement notice no.
Infringement notice		
Alleged offender	Name: Family name _____	
	Given names _____	
	or Company name _____	
	ACN _____	
Address _____		Postcode _____
Alleged offence	Description of offence _____	
	<i>Chattel Securities Act 1987 s.</i> _____	
	Date / /20	Time a.m./p.m.
	Modified penalty \$ _____	
Officer issuing notice	Name _____	
	Signature _____	
	Office _____	
Date	Date of notice / /20	
Notice to alleged offender	<p>It is alleged that you have committed the above offence. If you do not want to be prosecuted in court for the offence, pay the modified penalty within 28 days after the date of this notice.</p> <p>How to pay</p> <p>By post: Send a cheque or money order (payable to ‘Approved Officer — <i>Chattel Securities Act 1987</i>’) to: Approved Officer — <i>Chattel Securities Act 1987</i> Department of Consumer and Employment Protection Locked Bag 14 Cloisters Square Perth WA 6850</p> <p>In person: Pay the cashier at: Department of Consumer and Employment Protection 219 St George’s Terrace, Perth WA</p> <p>If you do not pay the modified penalty within 28 days, you may be prosecuted or enforcement action may be taken under the <i>Fines, Penalties and Infringement Notices Enforcement Act 1994</i>. Under that Act your driver’s licence and/or vehicle licence may be suspended.</p>	

	<p>If you need more time to pay the modified penalty, you can apply for an extension of time by writing to the Approved Officer at the above postal address.</p> <p>If you want this matter to be dealt with by prosecution in court, sign here _____ and post this notice to the Approved Officer at the above postal address within 28 days after the date of this notice.</p>
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[Form 1 inserted in Gazette 22 Sep 2006 p. 4083.]

Form 2 — Withdrawal of infringement notice

<i>Chattel Securities Act 1987</i>		Withdrawal no.
Withdrawal of infringement notice		
Alleged offender	Name: Family name	
	Given names	
	or Company name _____	
	ACN	
Address		
		Postcode
Infringement notice	Infringement notice no. _____	
	Date of issue ____ / ____ /20	
Alleged offence	Description of offence _____	
	<i>Chattel Securities Act 1987 s.</i>	
	Date ____ / ____ /20	Time ____ a.m./p.m.
Officer withdrawing notice	Name _____	
	Signature _____	
	Office _____	
Date	Date of withdrawal ____ / ____ /20	
Withdrawal of infringement notice	The above infringement notice issued against you has been withdrawn.	
	If you have already paid the modified penalty for the alleged offence you are entitled to a refund.	
[*delete whichever is not applicable]	* Your refund is enclosed.	
	* If you have paid the modified penalty but a refund is not enclosed, to claim your refund sign this notice and post it to:	
	Approved Officer — <i>Chattel Securities Act 1987</i> Department of Consumer and Employment Protection Locked Bag 14 Cloisters Square Perth WA 6850	
	Signature _____	/ ____ /20

[Form 2 inserted in Gazette 22 Sep 2006 p. 4084.]

Notes

¹ This is a compilation of the *Chattel Securities Regulations 1988* and includes the amendments made by the other written laws referred to in the following table. The table also contains information about any reprint.

Compilation table

Citation	Gazettal	Commencement
<i>Chattel Securities Regulations 1988</i>	5 Aug 1988 p. 2630-1	29 Aug 1988 (see r. 2)
<i>Chattel Securities Amendment Regulations (No. 2) 1989</i>	20 Jan 1989 p. 132	20 Jan 1989
<i>Chattel Securities Amendment Regulations (No. 3) 1989</i>	30 Jun 1989 p. 1975	1 Jul 1989 (see r. 2)
<i>Chattel Securities Amendment Regulations 1989</i>	26 Jan 1990 p. 654-5	16 Apr 1990 (see r. 2)
<i>Chattel Securities Amendment Regulations 1990</i>	8 Aug 1990 p. 3819	8 Aug 1990
<i>Chattel Securities Amendment Regulations (No. 2) 1990</i>	1 Mar 1991 p. 969-70	1 Mar 1991
<i>Chattel Securities Amendment Regulations (No. 3) 1990</i>	1 Mar 1991 p. 970	1 Mar 1991
<i>Chattel Securities Amendment Regulations 1996</i>	29 Oct 1996 p. 5719-21	4 Nov 1996 (see r. 2 and <i>Gazette</i> 29 Oct 1996 p. 5715)
Reprint of the <i>Chattel Securities Regulations 1988</i> as at 3 Oct 2000 (includes amendments listed above)		
<i>Chattel Securities Amendment Regulations 2001</i>	8 May 2001 p. 2269-72	14 May 2001 (see r. 2)
<i>Chattel Securities Amendment Regulations 2002</i>	14 Feb 2003 p. 467	14 Feb 2003
<i>Chattel Securities Amendment Regulations 2003</i>	27 Jun 2003 p. 2544	1 Jul 2003 (see r. 2)
<i>Chattel Securities Amendment Regulations 2005</i>	28 Jun 2005 p. 2905-6	1 Jul 2005 (see r. 2)
<i>Chattel Securities Amendment Regulations (No. 2) 2006</i>	27 Jun 2006 p. 2252	1 Jul 2006 (see r. 2)
Reprint 2: The <i>Chattel Securities Regulations 1988</i> as at 25 Aug 2006 (includes amendments listed above)		
<i>Chattel Securities Amendment Regulations 2006</i>	22 Sep 2006 p. 4081-4	22 Sep 2006 (see r. 2(a))

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Citation	Gazettal	Commencement
<i>Chattel Securities Amendment Regulations 2011</i>	22 Jun 2011 p. 2337-8	r. 1 and 2: 22 Jun 2011 (see r. 2(a)); Regulations other than r. 1 and 2: 1 Jul 2011 (see r. 2(b))

² Formerly referred to the *Navigable Waters Regulations* the citation of which was changed to the *Navigable Waters Regulations 1958* by the *Navigable Waters Amendment Regulations (No. 2) 2005* r. 3. The reference was changed under the *Reprints Act 1984* s. 7(3)(gb).

³ Repealed by the *Taxi Act 1994*.

⁴ Repealed by the *Fish Resources Management Act 1994*.