

Chattel Securities Bill

EXPLANATORY MEMORANDUM

PART 1—PRELIMINARY

Clause 1 contains the purposes of the Act.

Clause 2 provides for the commencement of the Act to be on a day to be proclaimed.

Clause 3 contains the definition provisions of the Act.

PART 2—SECURITY INTERESTS

Clause 4 provides for the application of the Act to security interests.

Clause 5 provides that where the parties creating a security interest agree, the interest shall be a legal interest.

Clause 6 provides that where goods are subject to a security interest and are subsequently attached to land then for the purposes of the exercise of the secured party's rights the goods are deemed not to have become fixtures.

Clause 7 establishes a series of principles as to when a purchaser for value in good faith and without notice of a security interest will acquire a good title to goods free of any security interest that may have been reserved over the goods.

Clause 8 specifies when a person is not to be regarded as purchaser for value in good faith.

Clause 9 deals with the extinguishing of subsequent security interests where a purchaser purchases goods from a secured party.

Clause 10 deals with aspects of the question of priority of competing security interests.

Clause 11 deals with the extinguishing of a security interest under the corresponding law of another State or Territory.

Clause 12 enables the Governor in Council to make regulations for the purposes of this Part.

PART 3—REGISTRABLE GOODS

Clause 13 specifies motor vehicles and trailers as goods to which the Part applies and provides for the extension of the Part to other goods.

Clause 14 allows the Road Traffic Authority to delegate functions and powers under the Part.

Clause 15 requires the Road Traffic Authority to keep a Register of Security Interests.

Clause 16 enables application to be made for registration of a person as the holder of a security interest in goods to which the Part applies.

Clause 17 makes it an offence to apply for registration of a security interest if the applicant is not the holder of the interest.

Clause 18 enables the holder of a security interest to apply for cancellation of registration of an interest.

Clause 19 requires a person to cancel registration of a security interest.

Clause 20 requires the Road Traffic Authority to make a cancellation sought under section 18 or 19 of the Act.

Clause 21 enables a person to apply for a change in the particulars of registration.

Clause 22 allows the Road Traffic Authority to vary the particulars on the register.

Clause 23 allows the Road Traffic Authority to cancel a registration in certain circumstances.

Clause 24 enables a person to obtain a certificate of an entry in the register.

Clause 25 entitles a person whose security interest has been wrongly extinguished due to an error in the register to obtain compensation.

Clause 26 entitles a person to compensation where that person suffered loss due to the issue of a certificate which did not contain particulars of an entry in the register when this was not the case.

Clause 27 requires a dealer to discharge inventory security interest in goods.

Clause 28 enables the Governor in Council to make regulations for the purposes of this Part.

PART 4—CONSEQUENTIAL AMENDMENTS AND TRANSITIONAL PROVISIONS

Clause 29 repeals the *Chattel Securities Act 1981*.

Clause 30 provides for transitional provisions in relation to the *Chattel Securities Act 1981*.

Clause 31 consequentially amends the *Credit Act 1984*, the *Instruments Act 1958*, the *Transport Act 1983*, and the *Motor Car Traders Act 1986*.