



LAWS OF SEYCHELLES

SECURITY ON MOVABLES ACT

CHAPTER 209

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CHAPTER 209

SECURITY ON MOVABLES ACT

[23rd July, 1965]

Act 21 of 1965

S.L. 95 of 1975

Act 23 of 1976.

ARRANGEMENT OF SECTIONS

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*1. This Act may be cited as the Security on Movable Act.

Short title
3/23/1976

2. In this Act unless the context otherwise requires —

Interpretation
3/23/1976

"movable" means such vehicle, vessel, craft, plant, machinery, furniture, article or object as may be prescribed whether such movable has become immovable by destination or not;

"prescribed" means prescribed by regulations made under this Act;

"register" means the special register kept by the Registrar of Deeds under the provisions of paragraph (b) of section 4.

3. The owner of a movable may, without parting with the possession thereof, give such movable in pledge for a debt which he contracts or has contracted either alone or *in solido* with others.

Movables as
security for
debts

4. The following formalities must be complied with when a movable is given in pledge under this Act.

Formalities to
be complied
with
3/23/1976

* see section 344(2) of the Companies Act 1972.

- (a) There must be a written agreement constituting the pledge and such agreement must contain a statement of the amount of the debt due and a description of the movable given as security:

Provided that where credit is given on current account and the amount of the debt to be secured is not known to the parties, the amount of the debt need not be stated but it shall be sufficient to state the maximum up to which credit is given or, if there is no such maximum, to state that the security is in respect of such balance as may be due at the expiration of the credit.

Cap. 134

- (b) After due registration of the written agreement under the Mortgage and Registration Act, the pledge must be inscribed by an entry made in a special register kept for the purpose by the Registrar of Deeds.

Creation and duration of pledge, and privilege attaching thereto

5.(1) As from the time the entry is made in the register and until such entry is cancelled the movable shall remain the pledge of the creditor, who shall, subject to such exceptions, if any, as may be prescribed, have a privileged claim thereon for the payment of the debt or of any balance thereof due to him, with interest thereon, if any, in priority to all other claims, privileged or otherwise, affecting the said movable, anything in any other law to the contrary notwithstanding.

(2) The creditor shall have the same privileged claim over any indemnity payable under any insurance policy for the loss of or for any damage to the movable.

Cancellation of entry

6. The creditor or the debtor may apply to the Registrar of Deeds for the entry to be cancelled. In such a case the debtor must satisfy the Registrar of Deeds that the debt has been extinguished or produce written authority from the creditor for the entry to be cancelled.

Inspection of register

7. The register shall be open to the public for inspection and no one may plead ignorance of any entries therein made.

Opposition to entry being made in the register

8.(1) Any person who claims a right to the movable or who has a privilege on such movable for a claim which has arisen or may arise in future, may lodge an opposition with the Registrar of Deeds to an entry being made in the register in respect thereof.

(2) An opposition shall be made in writing and the Registrar of Deeds may require that it be supported by an affidavit.

(3) When an opposition has been lodged, the Registrar of Deeds shall not proceed to make any entry in respect of the movable until such opposition has been withdrawn by the person who lodged it or has been removed by an order of the Supreme Court.

(4) Any person who lodges an opposition wrongfully and without reasonable cause shall be guilty of an offence and shall on conviction be liable to a fine not exceeding one thousand rupees.

9. In default of payment of a debt when due or of any balance thereof it shall be lawful for the creditor forty-eight hours after the service of a notice to that effect on the debtor to seize the movable given in pledge for the debt wherever and in whose possession soever the same may be found and to cause it to be sold publicly by a sworn auctioneer, after an advertisement twice published in two newspapers published and circulating in Seychelles, and not less than seven days after the last publication, unless the owner thereof or any other person at any time before such sale should pay to the creditor the amount of his debt or of any balance thereof and all costs lawfully incurred by him in connection with such seizure and sale.

Default of payment

10. The cost of the aforesaid notice and the service thereof and of the seizure and all expenses justly incurred and fees due to and claimable by such sworn auctioneer on account of such sale shall, together with the debt, be secured by a privileged claim over the said movable as if the said expenses formed part of the original debt.

Costs and fees privileged

11. The sworn auctioneer who shall sell the said movable shall, after payment to the creditor of the debt due to him in capital and interest and incidental expenses, pay the balance to the owner of the movable, unless there be an opposition in his hands to the payment of the balance, in which case he shall, after paying the creditor, pay over such balance to the Registrar of the Supreme Court and deposit at the same time the opposition served on him.

Proceeds of sale

12. Any agreement authorising the creditor to dispose of the movable without the above formalities or to appropriate it without a judgment of a court shall be null and void to all intents and purposes.

Certain agreements null and void

Regulations
S.L. 95/1975
3/23/1976

13. The Minister may make regulations for carrying out the objects and provisions of this Act and, without prejudice to the generality of the foregoing power, such regulations may

- (a) prescribe anything which is required to be or may be prescribed under this Act;
 - (b) prescribe the forms to be used under this Act;
 - (c) prescribe the fees payable for anything to be done under this Act;
 - (d) prescribe the procedure to be followed for the inscription of pledges under this Act;
 - (e) provide for ways in which movables are to be marked or numbered for identification purposes;
 - (f) provide for the registration of movables;
 - (g) create offences and provide that contravention of, or failure to comply with, any such regulations shall be an offence and may prescribe the maximum penalties for such offences, such maximum not to exceed a fine of one thousand rupees.
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LAWS OF SEYCHELLES

SECURITY ON MOVABLES ACT

CHAPTER 209

(SUBSIDIARY LEGISLATION)

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SECTION 13

TRANSFERENCE OF MOVABLES REGULATIONS

1965

[11th October, 1965]

ARRANGEMENT OF REGULATIONS

Regulations

1. Citation.
2. Movable to which the Act applies.
3. Copy of agreement constituting pledge or extract of such agreement to be filed.
4. Registrar may reject copy or extract.
5. Entry in Register to be made after copy or extract has been filed and accepted.
6. How movables should be described.
7. Prescribed exceptions to section 5(1) of the Act.

1. These regulations may be cited as the Security on Movable Regulations. Citation

2. The Act shall apply to any movable falling within any of the following classes whether such movable has become immovable by destination or not — Movable to which the Act applies

vehicles, ships and boats, plant and machinery used in industrial or manufacturing processes, outboard motors, electricity generators, electric or kerosene cooking stoves, refrigerators, wireless sets, radiograms, tape recorders, electric record players, film projectors, cameras, binoculars, typewriters.

3. A copy of the written agreement constituting the pledge or a relevant extract from such agreement shall be filed with the Registrar of Deeds. Such copy or extract shall be printed, typewritten or legibly written on a special form to be supplied by the Registrar of Deeds on payment of R.1.50. Copy of agreement constituting pledge or extract of such agreement to be filed

4. The Registrar of Deeds may reject such copy or extract if in his opinion it is unclear, illegible or unsatisfactory. If the Registrar rejects a copy or extract no pledge shall be inscribed until a new copy or extract is filed and is accepted by him. Registrar may reject copy or extract

entry in
Register to be
made after
copy of extract
has been filed
and accepted

5. When such copy or extract has been filed and has been accepted by the Registrar of Deeds, he shall inscribe the pledge by an entry made in the Register kept by him under section 4(b) of the Act.

How movables
should be
described

6.(1) In the written agreement constituting the pledge and in the entry made by the Registrar of Deeds in the Register the movable shall be described in such a way as will make it easily identifiable.

(2) The following shall be stated in every case —

- (a) the nature of the movable;
- (b) the name of the manufacturer or the trade name of the movable;
- (c) the manufacture's serial number, if any; and
- (d) the year of manufacture, if known.

(3) When the movable is subject to registration under any law and a registration number is assigned to such movable, the registration number shall also be stated.

Prescribed ex-
ceptions to sec-
tion 5(1) of the
Act

7. The following shall be exceptions to the provisions of subsection (1) of section 5 of the Act:—

- (a) Where a movable is subject to the landlord's privilege, such privilege shall have priority over the privilege attaching to a pledge under the Act for the recovery of up to six months rent.
- (b) Where a movable, being an immovable by destination, is subject to a mortgage as well as to a pledge under the Act, the priority between the privilege attaching to the mortgage and to the pledge shall be determined in accordance with the dates on which such mortgage or pledge has been inscribed.