

STATUTORY INSTRUMENTS SUPPLEMENT
to The Uganda Gazette No. 25 Volume CXII, dated 31st May, 2019
Printed by UPPC, Entebbe, by Order of the Government.

STATUTORY INSTRUMENTS

2019 No. 30.

THE SECURITY INTEREST IN MOVABLE PROPERTY
REGULATIONS, 2019.

ARRANGEMENT OF REGULATIONS

Regulation

1. Title
2. Interpretation
3. Registration of notices and requests for searches
4. Information generated at registration of notice
5. Information required for initial and amendment notices
6. Identification number of grantors, debtors and secured creditors
7. Description of collateral
8. Search
9. Legal effect of errors in registered information
10. Transfer of security interest
11. Cancellation of notices
12. Notice of objection and application for cancellation of notice
13. Notice of discharge
14. Registration of enforcement notice
15. Proceeds commingled with other funds
16. Methods of perfecting a security interest over proceeds
17. Rights to a deposit account
18. Rights of transferees of money
19. Security interest in account receivable

SCHEDULE

STATUTORY INSTRUMENTS

2019 No. 30.

The Security Interest in Movable Property Regulations, 2019

(Under section 59 of the Security Interest in Movable Property Act, 2019)

IN EXERCISE of the powers conferred on the Minister responsible for justice by section 59 of the Security Interest in Movable Property Act, 2019, these Regulations are made this 30th day of May, 2019.

1. Title

These Regulations may be cited as the Security Interest in Movable Property Regulations, 2019.

2. Interpretation

In these Regulations—

“Act” means the Security Interest in Movable Property Act, 2019;

“amendment notice” means a notice submitted to the Registrar to amend the information contained in the initial notice;

“cancellation notice” means a notice submitted to the Registrar to cancel the effectiveness of the registration of all related notices;

“initial notice” means a notice submitted to the Registrar, to perfect the security interest or lien to which the notice relates;

“notice of discharge” means a notice submitted to the Registrar, to cancel the effectiveness of the registration of all related registered notices when the secured obligation is fully satisfied and where there is no further commitment of the secured creditor to extend credit.

3. Registration of notices and requests for searches

(1) The form and format of any notice or request required to be filed or submitted to the Registrar shall be electronic and shall be submitted through the electronic records system established under section 18 (2) of the Act.

(2) The notices including initial, amendment, cancellation, enforcement, disposal, objection and discharge notices and any requests for search submitted under subregulation (1) shall be registered by the Bureau on payment of the applicable fee prescribed in the Schedule to these Regulations.

4. Information generated at registration of notice

(1) The Registrar shall, on registration of a notice, acknowledge receipt of the notice by transmitting to the person who registers the notice an acknowledgement which shall include—

- (a) the information in the register;
- (b) the date and time of registration of the notice, which shall be the date and time when the registration becomes effective; and
- (c) the registration number of the notice.

(2) Where a notice registered under these Regulations indicates the electronic address for the grantor, the Registrar shall send the acknowledgement required under subregulation (1) to the grantor.

(3) Notwithstanding subregulation (2), a person who registers a notice shall within ten working days after receipt of the acknowledgement, send the acknowledgement to the person identified in the registered notice as the grantor.

5. Information required for initial and amendment notices

(1) For the registration of an initial notice, the debtor may, in addition to the grantor, indicate his or her details as an additional grantor.

(2) The person who registers an initial notice or an amendment notice that includes a new grantor shall indicate —

- (a) whether the grantor is a new or existing client of the secured creditor;
- (b) the nature of the secured obligation, whether a line of credit or a loan and the interest rate, if applicable;
- (c) the gender of the grantor and, where the grantor is not a natural person, the gender of the owner of the majority shares and whether the grantor is a micro, small, medium or large enterprise;
- (d) the sector in which the grantor operates; and
- (e) the maximum amount for which the security interest may be enforced.

6. Identification number of grantors, debtors and secured creditors

(1) For the purposes of these Regulations a grantor, debtor and secured creditor shall have an identification number.

(2) The identification number of a grantor, debtor or secured creditor, as the case may be, who is a citizen of Uganda shall be the national identification number issued to that citizen under the Registration of Persons Act.

(3) The identification number of a grantor, debtor or secured creditor, as the case may be, who is not a citizen of Uganda, shall be the passport number of that person.

(4) The identification number of a grantor, debtor or secured creditor, as the case may be, who is a refugee in Uganda, shall be the refugee identification number issued to that person by the agency responsible for registration of refugees in Uganda.

(5) The identification number of a grantor, debtor or secured creditor, as the case may be, which is a company incorporated in Uganda shall be the registration number of the company, stated in the certificate of incorporation.

(6) The identification number of a grantor, debtor or secured creditor, as the case may be, which is an unincorporated organisation with a place of business in Uganda, shall be—

- (a) the registration number issued to the unincorporated organization by the responsible authority; or
- (b) where the unincorporated organisation is not registered, the national identification number of the Ugandan principal officer of the organization.

(7) The identification number of a grantor, debtor or secured creditor, as the case may be, which is a foreign unincorporated organization shall be—

- (a) the registration number of the foreign unincorporated organization, issued by the relevant authority of the country of the foreign unincorporated organization; or
- (b) where the foreign unincorporated organization is not registered, the passport number of the principal officer of the organization.

(8) The identification number of a grantor, debtor or secured creditor, as the case may be, which is a company incorporated under a foreign law shall be the registration number issued to the company by the relevant authority of the country of incorporation.

(9) For the purposes of these Regulations—

- (a) where the grantor, debtor or secured creditor, as the case may be, is a natural person who is a citizen of Uganda, the name of the grantor, debtor or secured creditor, shall be the name that is stated in the document that indicates the national identification number of that person;
- (b) where the grantor, debtor or secured creditor, as the case may be, is a natural person who is not a citizen of Uganda, the name of the grantor, debtor or secured creditor, shall be the name that is stated in the passport of that person; and

- (c) where the grantor, debtor or secured creditor, as the case may be, is not a natural person, the name of the grantor, debtor or secured creditor, shall be name that is stated in the document that indicates the identification number of the grantor, debtor or secured creditor, specified in subregulations (5), (6), (7) and (8).

7. Description of collateral

(1) For the purposes of describing collateral under these Regulations—

- (a) a serialised collateral shall be described using the serial number of the collateral;
- (b) a non-serialised collateral shall be described using a picture, location or general description of the collateral; and
- (c) a registered collateral shall be described using the registration number of the collateral.

(2) A collateral shall be reasonably identified where the description of the collateral identifies it by—

- (a) stating, as the case may be, that the security interest is with respect to—
 - (i) all the present and the subsequently acquired property of the grantor or with respect to all assets of the grantor, in the case of a security interest with respect to all the assets of the grantor;
 - (ii) all the assets of the grantor, other than certain specified assets;
- (b) category;
- (c) a type; or
- (d) quantity.

8. Search

(1) A person who so wishes, may upon payment of the fee prescribed in the Schedule, make a request to the Registrar, for a search of the register.

(2) The Registrar shall issue a report of the search to the person who makes a request.

(3) A person who makes a search may request for a certified report of the search and where requested, on payment of the fee prescribed in the Schedule, the Registrar shall issue a certified report of the search of the register.

(4) A person may search the register using—

- (a) the unique identification number of the grantor or debtor, as the case may be, specified in regulation 6;
- (b) name of the grantor or the name of the debtor;
- (c) the registration number of the initial notice; or
- (d) the description of the collateral, as required under subregulation 7.

(5) For the avoidance of doubt, the information provided under regulation 5 (2) shall not be made available to a person who makes a request to search the register.

9. Legal effect of errors in registered information

(1) An error in a notice, relating to the identification number of a grantor, renders the notice ineffective.

(2) Where a notice identifies more than one grantor, an error relating to the identification number of one of the grantors does not render the notice ineffective with respect to the other grantors identified in the notice.

(3) An error in a notice which relates to any other information in the notice, other than the identification number of the grantor does not render the notice ineffective, unless the error would seriously mislead a person who makes a search.

(4) An error in the information provided in accordance with regulation 5 (2) does not affect the effectiveness of a notice.

(5) Where a notice is for more than one collateral, an error in the description of one of the collateral does not render the notice ineffective with respect to the other collateral that is accurately described.

10. Transfer of security interest

(1) Where all or part of a registered security interest is transferred, the transferor shall submit an amendment to the initial notice within 14 days of the transfer.

(2) An amendment submitted under subregulation (1) shall—

- (a) identify the transferee using the requirements of regulation 5, where all the registered security is transferred; and
- (b) describe the collateral relating to the security interest transferred in accordance with regulation 7, where part of the registered security is transferred.

(3) The Registrar shall, on receipt of the request for amendment, acknowledge receipt of the request by transmitting to the person who makes the request the notice an acknowledgement which shall include—

- (a) the information in the Register, which shall indicate the amendments;
- (b) the date and time of registration of the request for amendment, which shall be the date and time when the amendments are effected; and
- (c) the registration number of the notice of the initial notice.

(4) The person who requests an amendment shall within ten working days after receipt of the acknowledgement, send the acknowledgement to the person identified in the registered notice as the grantor.

(5) Upon the registration of an amendment on the register, the transferor shall not have access to the register, in respect to the notice of the security interest.

(6) Where the amendment is for the transfer of part of a registered security interest by the transferor, the initial notice shall be accessible by both the transferor and the transferee.

(7) Where a security interest that is perfected otherwise than by registration is transferred, the transferee shall register an initial notice of the security interest.

II. Cancellation of notices

(1) A secured creditor or a grantor may cancel an initial notice where—

- (a) the registration of the initial notice or the amendment notice was done in error or fraudulently;
- (b) the registration of the initial notice or the amendment notice was not authorised by the grantor;
- (c) the collateral is no longer subject to the security interest;
or
- (d) the security interest to which the notice relates is extinguished and the secured creditor has no further commitment to provide value to the grantor.

(2) A grantor shall, before cancelling an initial notice under subregulation (1), submit a notice of objection in accordance with section 25 of the Act and where the secured creditor does not respond to the notice of objection within 7 days of its registration, in part or wholly, the grantor shall apply to the Registrar for authorisation to cancel the initial notice.

(3) The Registrar shall upon receipt of an application for authorisation to cancel the initial notice under sub regulation (2), notify the secured creditor of the application.

(4) The secured creditor shall upon receipt of the notification from the Registrar, act on the objection or file a response to the objection.

(5) The Registrar may, upon consideration of the application and the response to the application, if any, where satisfied that the grounds specified in subregulation (1) exist, authorise the grantor to cancel the initial notice.

12. Notice of objection and application for cancellation of notice

(1) A person who believes that any notice filed with the Registrar under these Regulations is inaccurate or was wrongfully registered, may, upon payment of the fee prescribed in the Schedule, submit a notice of objection to the notice.

(2) The Registrar shall, on receipt of the notice of objection, acknowledge receipt, by transmitting to the person who registers the notice of objection and the secured creditor, an acknowledgement which shall include—

- (a) the information in the notice of objection;
- (b) the date and time of registration of the notice of objection; and
- (c) the registration number of the initial notice.

(3) Where a secured creditor does not act on the notice of objection or file a response to the notice of objection within 7 days of receipt of the acknowledgement by the Registrar, in part or wholly, the person who registers the notice of objection shall apply to the Registrar for cancellation of the notice.

(4) The Registrar may upon receipt of an application for cancellation of a notice under subregulation (3)—

- (a) where the applicant is a grantor, notify the secured creditor of the application for cancellation of the notice; and

- (b) where the applicant is a person other than the grantor, notify the secured creditor and the grantor of the application for cancellation of the notice, setting out the grounds for the application.

(5) The secured creditor or the grantor, as the case may be, shall upon receipt of the notification under sub regulation (4), act on the notice of objection or submit a response to the notice of objection to the Registrar.

(6) Where a secured creditor or a grantor files a response to the notice of objection, the Registrar shall on receipt of the response to the notice of objection, consider the application for cancellation and the response to the application and may cancel the notice where the Registrar is satisfied that—

- (a) the duration in period of perfection has lapsed without the initial notice being amended;
- (b) the transaction creating security interest rights between the grantor and the secured creditor contravenes the Tier 4 Microfinance Institutions and Money Lender's Act or any other law;
- (c) there is a mistake or error in the description of the collateral;
- (d) there is wrong description of the collateral;
- (e) the collateral is destroyed or is no longer in existence; or
- (f) a court order to cancel the notice has been issued.

13. Notice of discharge

(1) A secured creditor shall, within five working days after the obligation secured by the collateral has been paid or performed in full, discharge the security interest and file a discharge notice.

(2) Where the secured creditor does not file a discharge notice within five working days as required under subregulation (1), the grantor may apply to the Registrar to discharge the initial notice.

(3) The Registrar shall upon receipt of an application to discharge a notice under sub regulation (2), notify the secured creditor of the application.

(4) The secured creditor shall upon receipt of the notification under sub regulation (3), discharge the notice or file a response to the application to the Registrar.

(5) The Registrar shall, upon consideration of the application of the grantor and the response to the application made by the secured creditor, where the Registrar is satisfied that the obligation secured by the collateral has been paid or performed in full, discharge the notice.

14. Registration of default and enforcement notice

(1) Where a debtor defaults to perform a secured obligation, the secured creditor shall serve on the grantor a notification, in writing or in other form agreed between the parties, to pay the money owing or perform and observe the agreement.

(2) Where a debtor does not pay the money owing or perform and observe the agreement, as required under subregulation (1), the secured creditor shall, on payment of the fee prescribed in the Schedule, file a default and enforcement notice with the Registrar.

15. Proceeds commingled with other funds

(1) Where proceeds in the form of funds are credited to a deposit account and are commingled with other funds—

- (a) the security interest extends to the commingled funds in a deposit account, notwithstanding that the funds have ceased to be identifiable;
- (b) the security interest in the commingled funds is limited to the amount of funds in the deposit account, immediately before the funds were commingled; and
- (c) if at any time after the commingling, the amount of the commingled funds is less than the amount of the funds in the deposit account immediately before the funds were commingled, the security interest in the commingled funds is limited to the lower amount at the time when the funds were commingled and the time when the security interest is claimed.

16. Methods of perfecting a security interest over proceeds

(1) Where the proceeds of the sale of a collateral are not in form of money, accounts receivable, negotiable instruments or a right to payment of funds to a bank account, and the proceeds are not included in the description of the collateral in the initial notice, the security interest remains perfected for 10 days after the proceeds arise unless—

- (a) a notice of the security interest in the collateral is entered in the register;
- (b) the secured creditor, or a person acting on behalf of the secured creditor has possession of the collateral; or
- (c) the collateral is a deposit account and the secured creditor or a person acting on behalf of the secured creditor has control of the deposit account.

17. Rights to a deposit account

(1) The order of priority of competing security interests in a deposit account that are perfected by the conclusion of control agreements shall be determined on the basis of the time of conclusion of the control agreements.

(2) The rights of a financial institution under any other law to set off obligations owed to it by a grantor, against the rights of the grantor to a deposit account maintained with the financial institution has priority as against any security interest in the deposit account.

18. Rights of transferees of money

A transferee that obtains possession of money that is subject to a security interest acquires its rights free of the security interest, unless the transferee has knowledge that the transfer violates the rights of the secured creditor under the agreement for security interest.

19. Security interest in account receivable

(1) A grantor of an account receivable may create a security interest for the account receivable by executing an agreement in writing with a secured creditor.

(2) The secured creditor shall notify the debtor in the account receivable of the agreement executed under subregulation (1).

(3) A debtor may, upon notification of a security interest in an account receivable from the secured creditor, request the secured creditor to provide proof of the security interest.

(4) The notification of a security interest in an account receivable is effective when the notification—

- (a) identifies the encumbered account receivable and the secured creditor;
- (b) includes proof of the security interest; and
- (c) is received by the debtor.

(5) Notification of a security interest in an account receivable constitutes notification of all prior security interests in that account receivable.

(6) In this regulation, proof of a security interest includes any document in writing from the grantor indicating that a security interest has been created in favour of the secured creditor.

(7) Where the debtor has been effectively notified of a security interest in an account receivable, the secured interest is discharged only by paying the secured creditor as may be required in the notification.

(8) Where the debtor receives notification of a security interest in a part of or an undivided interest in an account receivable, the secured interest is discharged by settling the payment that is due, as may be required in the notification.

(9) The failure of the grantor of a security interest in an account receivable to perform a contract does not entitle the debtor to recover from the secured creditor any sum paid to the secured creditor.

SCHEDULE

FEEs

<i>Item</i>	<i>Matter</i>	<i>Fees (Ug. Shs)</i>
1.	Registration of initial notice or lien	18,000
2.	Registration of amendment notice	18,000
3.	Registration of discharge notice	18,000
4.	Registration cancellation notice	18,000
5.	Registration of objection notice	18,000
6.	Cancellation of objection notice	18,000
7.	Search report	9,000
8.	Certified search report	10,000
9.	Registration of notice of default and enforcement	20,000
10.	Cancellation of notice of default and enforcement	20,000
11.	Registration of notice of disposal	20,000
12.	Objection to notice of disposal	20,000
13.	Cancellation of notice of disposal	20,000
14.	Registration of notice for distribution	20,000

MAJ. GEN. KAHINDA OTAFIIRE,
Minister of Justice and Constitutional Affairs.