

1994—No. 439

REGISTRATION OF INTERESTS IN GOODS ACT 1986— REGULATION

(Registration of Interests in Goods Regulation 1994)

NEW SOUTH WALES



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HIS Excellency the Governor, with the advice of the Executive Council, and in pursuance of the Registration of Interests in Goods Act 1986, has been pleased to make the Regulation set forth hereunder.

WENDY MACHIN, MP
Minister for Consumer Affairs.

PART 1—PRELIMINARY

Citation

1. This Regulation may be cited as the Registration of Interests in Goods Regulation 1994.

Commencement

2. This Regulation commences on 1 September 1994.

Definitions

3. In this Regulation:

“**account customer**” means a person who has an arrangement, approved by the Commissioner, to pay fees incurred by the person under the Act or this Regulation on a monthly basis or on such other basis as the Commissioner may approve;

“**account number**” means the number allocated by the Commissioner to the account of an account customer;

“creditor’s reference number” means a number (comprising letters or numbers or both), in such format as the Commissioner may approve for the purpose, assigned by a creditor to identify a registrable interest in prescribed goods;

“registration number” includes a temporary permit number issued in respect of a motor vehicle under the Traffic Act 1909 or similar legislation of a participating State;

“the Act” or “the Principal Act” means the Registration of Interests in Goods Act 1986;

“vehicle identification number” means the number allocated to a vehicle under the International Standards Organisation vehicle identification system required under an Australian Design Rule adopted by the Motor Traffic Regulations 1935.

Prime identifier (sec. 3)

4. For the purposes of the Act, the prime identifier for a motor vehicle is:

- (a) the chassis number (if the vehicle was manufactured before 1 January 1989); or
- (b) the vehicle identification number (if the vehicle was manufactured on or after 1 January 1989).

PART 2—REGISTRATION, CANCELLATION AND VARIATION OF INTERESTS

Prescribed registration fees

5. For the purposes of section 5 (1A) of the Act, the prescribed fees are:

- (a) if the application is made by using magnetic tape facilities—\$7 for each interest specified in the application; or
- (b) if the application is made by using computer on-line batch process facilities—\$5 for each interest specified in the application; or
- (c) in any other case—\$11 for each interest specified in the application.

Prescribed information

6. (1) For the purposes of section 5 (2) of the Act, the following information is prescribed information relating to a registrable interest in a motor vehicle:

- (a) the motor vehicle type;

- (b) the motor vehicle make;
- (c) the body type of the motor vehicle;
- (d) the registration number of the motor vehicle (if applicable);
- (e) the State or Territory of registration (if applicable);
- (f) the engine number of the motor vehicle (if applicable);
- (g) the prime identifier for the motor vehicle;
- (h) the year of manufacture of the motor vehicle;
- (i) the creditor's reference number;
- (j) the time and date of recording the registrable interest in the Register;
- (k) the name and address of the person applying to be registered as the creditor who has the registrable interest;
- (l) the date on which the interest will cease to be a registrable interest;
- (m) the type of registrable interest;
- (n) in the case of an application by an account customer—the account number.

(2) For the purposes of section 5 (3) of the Act, the following information is prescribed information:

- (a) information received from the Roads and Traffic Authority in relation to a motor vehicle whose registration has been cancelled under section 18C of the Traffic Act 1909;
- (b) information received from the Roads and Traffic Authority in relation to a motor vehicle whose registration is subject to an exemption or concession under the Traffic Act 1909;
- (c) information received from a participating State in relation to a cancellation similar to that referred to in paragraph (a), or an exemption or concession similar to that referred to in paragraph (b), effected or given under a law of the participating State;
- (d) information received by the Commissioner that the odometer of a motor vehicle has been interfered with so that the reading of the odometer is incorrect;
- (e) information received by the Commissioner that a motor vehicle belongs to a class of motor vehicles whose physical or mechanical state has a common fault, being information that, in the opinion of the Commissioner, should be drawn to a prospective purchaser's attention;

(f) information received by the Commissioner in relation to an interest in a motor vehicle, if that information is recorded in a register kept in accordance with a law of a State that provides for the registration of interests in goods that arise under the law of that State.

Variation of recorded information

7. (1) For the purposes of section 6 (2) of the Act, the prescribed fee for an application for a variation of the information recorded in the Register is:

- (a) if the application is made by using magnetic tape facilities—\$4 for each interest in respect of which the application is made; or
- (b) if the application is made by using computer on-line batch process facilities—\$3 for each interest in respect of which the application is made; or
- (c) in any other case—\$5 for each interest in respect of which the application is made.

(2) For the purposes of section 6 (3) of the Act, each of the following circumstances are prescribed circumstances:

- (a) the receipt by the Commissioner of information provided by the Roads and Traffic Authority;
- (b) the receipt by the Commissioner of information provided by a department or authority of a participating State that has functions similar to those of the Roads and Traffic Authority in relation to the registration of motor vehicles.

(3) For the purposes of section 6 (6) (b) of the Act, the prescribed fee payable by a person to whom notice is given of a variation under section 6 (3) of the Act is \$4 for each interest about which the person is notified.

Cancellation of registration of interests

8. For the purposes of section 7 (2) (b) of the Act, the prescribed document is a document signed by the creditor who has the registered interest in a motor vehicle or an agent of the creditor setting out the following particulars:

- (a) the date on which the interest ceased to be a registrable interest;
- (b) the creditor's reference number;
- (c) the creditor's account number, if the creditor is an account customer.

PART 3—SEARCH CERTIFICATES**Particulars in certificates**

9. For the purposes of section 8 (1) (c) of the Act, the prescribed particulars are as follows:

- (a) if a certificate is contained in a statement of account provided to an account customer:
 - (i) the motor vehicle type of the vehicle in respect of which the interest is registered;
 - (ii) the registration number of the motor vehicle (if applicable);
 - (iii) the engine number of the motor vehicle (if applicable);
 - (iv) the prime identifier for the motor vehicle;
- (b) in any other case:
 - (i) the motor vehicle type of the motor vehicle in respect of which the interest is registered;
 - (ii) the motor vehicle make;
 - (iii) the body type of the motor vehicle;
 - (iv) the registration number of the motor vehicle;
 - (v) the engine number of the motor vehicle;
 - (vi) the prime identifier for the motor vehicle;
 - (vii) the year of manufacture of the motor vehicle;
 - (viii) the creditor's reference number;
 - (ix) the time and date on which the interest was recorded in the Register;
 - (x) the name and address of the creditor who has the interest;
 - (xi) the type of interest recorded in the Register with respect to the motor vehicle.

Certificate fees

10. (1) For the purposes of section 8 (6) of the Act, the prescribed fee for a certificate under section 8 (1) of the Act is:

- (a) in the case of an application made by an account customer who requests that the certificate take the form of a statement of account:
 - (i) \$3 for each item if the application is made by using computer on-line batch process facilities; or
 - (ii) \$3.25 for each item if the application is made by using computer on-line interactive process facilities; or

- (iii) \$4 for each item if the application is made by telephone; or
- (b) in the case of an application made by an account customer who requests an individual certificate for a single item—\$6 (plus \$2 for a facsimile copy of the certificate, if requested by the customer); or
- (c) in any other case—\$7.

(2) For the purposes of section 8 (6) of the Act, the prescribed fee for a certificate under section 8 (5) of the Act is an amount calculated at the rate of \$30.00 for each half hour or part of half an hour taken in retrieving from the Register the particulars to be included in the certificate.

(3) The maximum fee that may be charged under subclause (2) is \$120.

PART 4—ADMINISTRATIVE SERVICE FEES

Account customer applications

11. The application fee for approval to become an account customer is \$15.

Computer software

12. (1) The charge for the purchase by an account customer of an on-line computer software package to access the Register is:

- (a) in the case of the motor dealer software package:
 - (i) \$150 for the initial package; and
 - (ii) \$100 for any update of that package; or
- (b) in the case of the financier software package—\$495.

(2) The charges for the installation of an on-line computer software package are:

- (a) \$50 for each site visit; and
- (b) an additional \$75 for each hour for the installation, up to a maximum of \$150.

Registrable interests inquiries

13. (1) The fees payable by a financier account customer for a listing of all interests registered in that customer's name are:

- (a) an administrative fee of \$14 for each order; and

(b) an additional fee, for each list supplied, of:

- (i) if the list is written—30 cents for each page of the list; or
- (ii) if the list is on magnetic tape—1 cent for each interest included in the list.

(2) The fee payable by a financier account customer for a search of the Register, using creditors' reference numbers only, is:

- (a) \$3 for each interest if the search is made by using computer on-line batch process facilities; or
- (b) \$3.25 for each interest if the search is made by using computer on-line interactive process facilities; or
- (c) \$4 for each interest if the search is made as a result of a telephone inquiry.

Transfer of registrable interests

14. The fees payable for the transfer of all interests registered in the name of one financier account customer into the name of another are:

- (a) an administrative fee of \$14 for each order; and
- (b) an additional fee of \$3 for each interest transferred.

Training programs

15. The charge for providing a financier account customer training program in relation to the operation of the Register is \$100.

PART 5—PARTICIPATING STATES**Victoria to be a participating State**

16. (1) Victoria is a State prescribed for the purposes of the definition of "participating State" in section 3 (1) of the Principal Act.

(2) Section 7 (7) and (8) of the Victorian Act are prescribed provisions for the purposes of section 14 (2) of the Principal Act.

(3) Sections 25 and 26 of the Victorian Act are prescribed provisions for the purposes of section 15 (3) (b) of the Principal Act.

(4) In this clause, "**Victorian Act**" means the Chattel Securities Act 1987 of Victoria.

Northern Territory to be a participating State

17. (1) The Northern Territory is a Territory prescribed for the purposes of the definition of “participating State” in section 3 (1) of the Principal Act.

(2) Section 13 of the Northern Territory Act is a prescribed provision for the purposes of sections 12 (1) (a) and (2) (b), 13 (c) and 14 (1) of the Principal Act.

(3) Section 14 of the Northern Territory Act is a prescribed provision for the purposes of section 14 (2) of the Principal Act.

(4) Sections 16 and 17 of the Northern Territory Act are prescribed provisions for the purposes of section 15 (3) (b) of the Principal Act.

(5) In this clause, “**Northern Territory Act**” means the Registration of Interests in Motor Vehicles and Other Goods Act 1989 of the Northern Territory.

Australian Capital Territory to be a participating State

18. (1) The Australian Capital Territory is a Territory prescribed for the purposes of the definition of “participating State” in section 3 (1) of the Principal Act.

(2) Section 8 of the Australian Capital Territory Act is a prescribed provision for the purposes of sections 12 (1) (a) and (2) (b), 13 (c) and 14 (1) of the Principal Act.

(3) Section 9 of the Australian Capital Territory Act is a prescribed provision for the purposes of section 14 (2) of the Principal Act.

(4) In this clause, “**Australian Capital Territory Act**” means the Registration of Interests in Goods Act 1990 of the Australian Capital Territory.

PART6—MISCELLANEOUS**Repeal**

19. (1) The Registration of Interests in Goods Regulation 1986 is repealed.

(2) Any act, matter or thing that, immediately before the repeal of the Registration of Interests in Goods Regulation 1986, had effect under that Regulation is taken to have effect under this Regulation.

NOTES
TABLE OF PROVISIONS

PART 1—PRELIMINARY

1. Citation
2. Commencement
3. Definitions
4. Prime identifier (sec. 3)

PART 2—REGISTRATION, CANCELLATION AND VARIATION OF INTERESTS

5. Prescribed registration fees
6. Prescribed information
7. Variation of recorded information
8. Cancellation of registration of interests

PART 3—SEARCH CERTIFICATES

9. Particulars in certificates
10. Certificate fees

PART 4—ADMINISTRATIVE SERVICE FEES

11. Account customer applications
12. Computer software
13. Registrable interests inquiries
14. Transfer of registrable interests
15. Training programs

PART 5—PARTICIPATING STATES

16. Victoria to be a participating State
17. Northern Territory to be a participating State
18. Australian Capital Territory to be a participating State

PART 6—MISCELLANEOUS

19. Repeal

EXPLANATORY NOTE

The object of this Regulation is to repeal and remake, with minor modifications, the provisions of the Registration of Interests in Goods Regulation 1986 under the Registration of Interests in Goods Act 1986. The new Regulation deals with the following matters:

- (a) the procedures for registering interests in goods and cancelling and varying registered interests in goods (Part 2);
- (b) the particulars to be contained in search certificates issued under the Act and the fees for those certificates (Part 3);
- (c) the fees payable with respect to the various services provided to the public in connection with the administration of the Act (Part 4);
- (d) recognising Victoria, the Northern Territory and the Australian Capital Territory as participating States for the purposes of the Act (Part 5);
- (e) other matters of a formal nature (Parts 1 and 6).

This Regulation is made under the Registration of Interests in Goods Act 1986, including section 21 (the general regulation making power) and sections 3, 5, 6, 7 and 8.

This Regulation is made in connection with the staged repeal of subordinate legislation under the Subordinate Legislation Act 1989.
