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Schedules

1989, No. 14

An Act to provide for the registration of security interests in, and other information relating to, motor vehicles, and to amend, in certain respects, the law relating to the disposition of and the creation of interests in motor vehicles subject to security interests

[*17 April 1989*

BE IT ENACTED by the Parliament of New Zealand as follows:

1. Short Title and commencement—(1) This Act may be cited as the Motor Vehicle Securities Act 1989.

(2) Except as provided in subsection (3) of this section, Part I and Part V of this Act shall come into force on the 1st day of October 1989.

(3) Sections 8, 10 to 13, and 19, and Parts II to IV of this Act shall come into force on the 1st day of April 1990.

(4) Except as provided in subsections (2) and (3) of this section, this Act shall come into force on the date on which it receives the Royal assent.

2. Interpretation—(1) In this Act, unless the context otherwise requires,—

"Chassis number" means any numbers or letters, or any combination of numbers or letters, stamped directly onto a metal panel, or a component, which is part of the permanent structure of the motor vehicle, and which are intended to identify the vehicle:

"Consumer" means any person other than—

(a) A manufacturer:

(b) A wholesaler:

(c) A dealer:

(d) A finance company:

"Dealer" means a holder of a motor vehicle dealer's licence issued under section 15 of the Motor Vehicle Dealers Act 1975:

"Debtor", in relation to a security interest in a motor vehicle,—

(a) Means the person who created the security interest; and

(b) Includes,—

(i) Where the security interest is the interest of a lessor under a lease of a motor vehicle, the lessee of the motor vehicle:

(ii) Where the security interest is the interest of an owner under a hire purchase agreement in relation to a motor vehicle, the hirer of the motor vehicle:

(iii) Where the security interest is the interest of a mortgagee under a mortgage of a motor vehicle, the mortgagor of the motor vehicle:

"Finance company" has the same meaning as in section 2 of the Motor Vehicle Dealers Act 1975:

"Hire purchase agreement", in relation to a motor vehicle,—

(a) Means—

(i) An agreement whereby a motor vehicle is let or hired with an option to purchase; or

(ii) An agreement for the purchase of a motor vehicle by instalment payments (whether the agreement describes the payments as rent or hire or otherwise) under which the person who agrees to purchase the motor vehicle is given possession of it before the total amount payable has been paid:

(b) Includes any other transaction which is in substance or effect a hire purchase agreement; but

(c) Does not include any agreement under which the property in the motor vehicle comprised in the agreement passes absolutely to the person who agrees to purchase it, at the time of the agreement or upon, or at any time before, delivery of the motor vehicle:

"Hirer", in relation to a hire purchase agreement of a motor vehicle, means the person to whom the motor vehicle is disposed of under the hire purchase agreement:

"Lease", in relation to a motor vehicle, means a contract for the bailment of the motor vehicle but does not include a hire purchase agreement:

"Lessee", in relation to a lease of a motor vehicle, means the person to whom the motor vehicle is bailed under the lease:

"Lessor", in relation to a lease of a motor vehicle, means the person who bails the motor vehicle to another person under the lease:

"Manufacturer" means a person who engages in the business of manufacturing or assembling motor vehicles:

"Motor vehicle" or "vehicle"—

(a) Means a vehicle, including a trailer, that—

(i) Is equipped with wheels, tracks, or revolving runners upon which it moves or is moved; and

(ii) Is drawn or propelled by mechanical power; and

(iii) Has a registration number or a chassis number, or both of those numbers:

(b) Includes any other vehicle that is declared in regulations made under this Act to be a motor vehicle for the purposes of this Act; but

(c) Does not include—

(i) A vehicle running on rails; or

(ii) An aircraft; or

(iii) A trailer (not being a trailer designed solely for the carriage of goods) that is designed and used exclusively as part of the armament of any of Her Majesty's Forces; or

(iv) A trailer running on 1 wheel and designed exclusively as a speed measuring device or for testing the wear of vehicle tyres; or

(v) A vehicle designed for amusement purposes and used exclusively within a place of recreation, amusement, or entertainment to which the public does not have access with motor vehicles; or

(vi) A pedestrian-controlled machine designed to perform some mechanical operation and not designed for the carriage of persons or goods; or

(vii) A pedestrian-controlled forklift:

"Owner", in relation to a hire purchase agreement of a motor vehicle, means the person disposing of the motor vehicle under the hire purchase agreement:

"Prescribed" means prescribed by regulations made under this Act:

"Presented", in relation to any application for registration or cancellation or amendment under this Act, means presented at the registry or any other office authorised by the Registrar to accept applications:

"Purchase", in relation to a motor vehicle, means acquire the motor vehicle from a person selling or exchanging the motor vehicle (other than under a hire purchase agreement or lease):

"Purchase price" or "price" includes any valuable consideration:

"Register" means the register established under section 5 of this Act:

"Registered", in relation to any security interest, means registered pursuant to section 7 of this Act:

"Registered particulars"—

(a) Means, except as provided in paragraph (b) of this definition, the particulars entered in the register in respect of a security interest under section 7 of this Act:

(b) Does not include, except for the purposes of section 18 of this Act, the particulars entered in the register as to the amount of the debt or the other obligation secured:

(c) Does not include any particulars that have been entered in the register but that have been cancelled under any provision of Part I of this Act:

"Registrar" means the Registrar appointed under section 4 of this Act:

"Registration number" means any numbers or letters, or any combination of numbers or letters, shown on the

registration plate issued under the Transport Act 1962 or the Transport (Vehicle and Driver Registration and Licensing) Act 1986:

"Registry" means the Registry of Motor Vehicle Securities:

"Secured party", in relation to a motor vehicle,—

(a) Means the holder of a security interest in the motor vehicle; and

(b) Includes,—

(i) Where the motor vehicle is subject to a lease, the lessor:

(ii) Where the motor vehicle is subject to a hire purchase agreement, the owner:

(iii) Where the motor vehicle is subject to a mortgage, the mortgagee:

"Security interest"—

(a) Means an interest in or a power over a motor vehicle, whether arising by or pursuant to a document or transaction, which secures the payment of a debt or other pecuniary obligation or the performance of any other obligation; and

(b) Includes the interest in, or power over, a motor vehicle of—

(i) The lessor of a motor vehicle that is the subject of a lease:

(ii) The owner of a motor vehicle that is the subject of a hire purchase agreement:

(iii) The mortgagee of a motor vehicle that is the subject of a mortgage; and

(c) Includes the title of an owner of a motor vehicle who has contracted to sell the motor vehicle and who has retained title to the motor vehicle until payment of the purchase price or the performance of any other obligation; and

(d) Includes any charge over a motor vehicle (except a floating charge) created by a company registered under the Companies Act 1955 or by a society registered under the Industrial and Provident Societies Act 1908; and

(e) Includes, for the purposes of Part II of this Act, any floating charge created by a company registered under the Companies Act 1955 or by a society registered under the Industrial and Provident Societies Act 1908 that has become fixed in relation to a motor vehicle; but

(f) Does not include a possessory lien or pledge:

"Trailer" means a vehicle without motive power that is drawn or propelled, or is capable of being drawn or propelled, by a motor vehicle from which it is readily detachable:

"Tribunal" means a Disputes Tribunal established under the Disputes Tribunals Act 1988:

"Wholesaler" means a person who engages in the business of selling new motor vehicles to dealers, or to other persons who engage in that business:

"Working day" means any day of the week other than—

(a) Saturday, Sunday, Good Friday, Easter Monday, Anzac Day, Labour Day, the Sovereign's birthday, and Waitangi Day; and

(b) A day in the period commencing on the 25th day of December in any year and ending with the 15th day of January in the following year.

(2) Any reference in this Act to a secured party or to a debtor shall, where the rights and obligations of that secured party or debtor have passed by operation of law or assignment to any other person, be deemed to include a reference to that other person, and this Act shall apply to that other person in the same manner as it applies to the person from whom the rights and obligations have passed.

(3) Any reference in this Act to the time when a purchase price is paid shall, where the purchase price is paid by instalments, be a reference to the time when the first part of the purchase price is paid.

(4) Any reference in this Act to a purchase or other acquisition, or to a sale or other disposition, of a motor vehicle shall include a reference to any purported purchase or other purported acquisition, or to any purported sale or other purported disposition, as the case may require.

(5) For the purposes of this Act, where a dealer sells a motor vehicle to a finance company, whether as principal or agent, in the expectation that the finance company will resell or otherwise dispose of the motor vehicle to a particular person, and the finance company subsequently resells or disposes of the motor vehicle to that person, the dealer shall be deemed to have sold or disposed of the motor vehicle to that person.

3. Act to bind the Crown—This Act shall bind the Crown.

4. Appointment of Registrar—There shall be a Registrar of Motor Vehicle Securities who shall be appointed by the Secretary for Justice under the State Sector Act 1988.

5. Register of security interests—The Registrar shall establish and maintain a register of security interests in motor vehicles.

PART I

REGISTRATION

6. Application for registration—(1) A holder of a security interest in a motor vehicle may apply to the Registrar for the registration of that security interest.

(2) Every application for registration shall specify—

(a) The registration number and the chassis number of the motor vehicle, unless either of those numbers does not exist:

(b) The name and address of the secured party:

(c) The type and term of the security interest:

(d) The amount of the debt or details of the other obligation secured:

(e) Such other matters as may be required by the Registrar.

(3) The Registrar may refuse to accept an application for registration of a security interest if it is not in order for registration.

(4) If an application is refused, the application shall be deemed to be presented for registration at the time when the application is presented in a form in which it can be registered.

7. Registration—The Registrar shall register a security interest by entering in the register—

(a) The information specified in the application:

(b) The date on which, and the time at which,—

(i) The application for registration was presented; and

(ii) The security interest was registered:

(c) Such other matters as the Registrar considers appropriate.

8. Time of registration—(1) Every security interest shall be—

(a) Entered in the register before 9 a.m. on the next registering day:

(b) Deemed to be registered at 9 a.m. on that day.

(2) For the purposes of this section, the next registering day shall be the first day on which the registry opens for the registration of security interests after the day on which the application is presented.

9. Stolen motor vehicles—(1) The Registrar may, upon receipt of any information from the Commissioner of Police to the effect that any motor vehicle has been reported as stolen or otherwise unlawfully obtained, make an entry in the register to that effect.

(2) Any such entry is not an entry of, and does not create, a security interest in the motor vehicle to which the entry relates.

(3) The Registrar may cancel or amend any such entry if the Registrar considers, on reasonable grounds, that cancellation or amendment would be appropriate.

10. Enquiries—(1) Any person may enquire of the Registrar whether or not any security interest is registered in respect of any specified motor vehicle.

(2) Any person making an enquiry shall specify the registration number and the chassis number of the vehicle, unless either of those numbers does not exist.

(3) If any enquiry is made, the Registrar shall state whether or not a security interest is registered in respect of the vehicle by reference to the numbers specified.

(4) If any enquiry is made in respect of any vehicle in relation to which an entry in the register has been made under section 9 of this Act, the Registrar shall, if the entry is made by reference to the numbers specified, state that such an entry has been made.

11. Certificate of entry in register—(1) Any person may apply to the Registrar for a certificate in respect of any specified motor vehicle.

(2) Any person applying for a certificate shall specify the registration number and the chassis number of the vehicle, unless either of those numbers does not exist.

(3) On receipt of an application for a certificate, the Registrar shall issue a certificate stating—

(a) Whether or not a security interest is registered in respect of the vehicle by reference to the numbers specified:

(b) If a security interest is so registered, the registered particulars of that security interest:

(c) The date and time of issue:

(d) The date and time at which the certificate will expire:

(e) That the certificate will not offer any protection after it has expired.

(4) If any person applies to the Registrar for a certificate in respect of any vehicle in relation to which an entry in the register has been made under section 9 of this Act, the

Registrar shall, if the entry is made by reference to the numbers specified, issue a certificate containing the particulars of that entry.

(5) A certificate purporting to be issued by the Registrar under this section shall, without proof that the certificate has been sealed with the Registrar's seal, be admissible in any proceedings and, except in relation to matters referred to in section 9 of this Act, shall, in the absence of proof to the contrary, be sufficient evidence of the matters contained in the certificate.

12. Duration of certificate—Every certificate issued under section 11 of this Act shall expire at 9 a.m. on the day after the date of issue.

13. Information as to amount of debt, etc., not to be generally available—(1) No certificate issued under section 11 of this Act shall state the amount of the debt or the details of the other obligation secured by any registered security interest.

(2) Except as otherwise provided by section 50 (6) of this Act, the Registrar shall not disclose to any person the amount of the debt or the details of the other obligation secured by any registered security interest.

14. Secured party required to apply for cancellation of registration on discharge or extinguishment of security interest—(1) Where any registered security interest is discharged, the person entered in the register as the secured party shall, within 10 working days of the date on which the security interest is discharged, apply to the Registrar for the cancellation of the registration.

(2) Where any registered security interest is extinguished under section 24 or section 25 of this Act, the person entered in the register as the secured party shall, within 10 working days of the date on which the person becomes aware that the security interest has been extinguished, apply to the Registrar for the cancellation of the registration.

(3) Without prejudice to subsections (1) and (2) of this section, any secured party may at any time apply to the Registrar for the cancellation of the registration of his or her security interest.

(4) The Registrar, if satisfied that the application is in order, shall cancel the registration of the security interest.

15. Liability of secured party on failing to cancel registration—(1) Every person commits an offence and is liable on summary conviction to a fine not exceeding $1,000 who fails, without reasonable excuse, to comply with subsection (1) or subsection (2) of section 14 of this Act.

(2) Any person who suffers loss or damage by reason of the failure of any other person to comply with subsection (1) or subsection (2) of section 14 of this Act may apply to the Tribunal for an order requiring that other person to pay such compensation as the Tribunal considers just.

(3) The provisions of the Disputes Tribunals Act 1988 set out in the First Schedule to this Act shall apply, so far as they are applicable and with the necessary modifications, to every application under subsection (2) of this section.

16. Cancellation of registration on application of debtor or purchaser—(1) Where any registered security interest is discharged and the person entered in the register as the secured party fails to apply for the cancellation of the registration within 10 working days of the date on which the security interest is discharged, the person who was the debtor may apply to the Registrar for the cancellation of the registration.

(2) Where any registered security interest is extinguished under section 24 or section 25 of this Act, and the person entered in the register as the secured party fails to apply for the cancellation of the registration within 10 working days of the date on which that person became aware that the security interest had been extinguished, the purchaser or the hirer or the lessee of the motor vehicle, as the case may be, may apply to the Registrar for the cancellation of the registration.

(3) On receipt of an application under this section, the Registrar shall give to the person entered in the register as the secured party a notice requiring that person to show cause, within 10 working days of the date on which the notice was given, why the registration should not be cancelled.

(4) If any person fails within those 10 working days to show cause to the Registrar's satisfaction why the registration should not be cancelled, the Registrar may cancel the registration of the security interest.

17. Cancellation of registration by Registrar—(1) Where it appears to the Registrar that—

(a) A person entered in the register as the holder of a security interest was not, when the application for registration was made, the holder of that security interest; or

(b) A registered security interest may have been discharged or extinguished and the person entered in the register as the secured party may have failed to apply for the cancellation of the registration,—

the Registrar may, by notice to that person, require that person to show cause, within 10 working days of the date on which the notice was given, why the registration should not be cancelled.

(2) If any person fails within those 10 working days to show cause to the Registrar's satisfaction why any registration should not be cancelled, the Registrar may, in the Registrar's discretion, cancel the registration of the security interest.

18. Amendment of register—(1) If there is a change in any of the registered particulars of a security interest (other than by reason of the fact that the security interest is discharged or extinguished), the person registered as the secured party may apply to the Registrar to have the register amended.

(2) The Registrar, if satisfied that the application is in order, shall amend the register in accordance with the application.

(3) The Registrar may, if it appears to the Registrar that any registered particulars of a security interest have been incorrectly entered in the register due to clerical error, correct any such particulars.

(4) The Registrar may, if it appears to the Registrar that any registration has been incorrectly cancelled due to clerical error, restore the registration.

19. Time of cancellation or amendment—(1) The registration of every security interest shall be—

(a) Cancelled or amended before 9 a.m. on the next registering day:

(b) Deemed to be cancelled or amended at 9 a.m. on that day.

(2) For the purposes of this section, the next registering day shall be the first day on which the registry is open for the registration of security interests after the day on which the application for cancellation or amendment is presented.

(3) The Registrar shall record, in respect of each registration that is cancelled or amended, the date of cancellation or amendment.

20. Applications to be in approved form—Every application under this Part of this Act shall be made in a form approved by the Registrar.

21. Fees—Every person who makes an application under this Part of this Act shall pay to the Registrar, either at the time when the application is made or at such time as the Registrar may, in the Registrar's discretion, decide, such fee as may be prescribed in respect of that application.

22. False or misleading statements—(1) Every person commits an offence and shall be liable on summary conviction to a fine not exceeding $2,000 who, for the purposes of obtaining or retaining the registration of any security interest under this Act, or of obtaining the cancellation of any security interest under this Act, makes a statement or supplies any information knowing that it is false or misleading in a material particular.

(2) Any person who suffers loss or damage by reason of any other person committing any such offence may apply to the Tribunal for an order requiring that other person to pay such compensation as the Tribunal considers just.

(3) The provisions of the Disputes Tribunals Act 1988 set out in the First Schedule to this Act shall apply, so far as they are applicable and with the necessary modifications, to every application made under subsection (2) of this section.

23. Exemption from liability—(1) Except as provided in section 54 of this Act, no proceedings shall lie against the Crown, or the Registrar, or any other person engaged in the administration of this Act, arising from anything done or omitted to be done under this Part of this Act, unless it is shown that that person acted in bad faith in doing or omitting to do that thing.

(2) Nothing in subsection (1) of this section applies in respect of any application for review under Part I of the Judicature Amendment Act 1972.

PART II

DISPOSITIONS OF MOTOR VEHICLES SUBJECT TO SECURITY INTERESTS

Dispositions by dealers to consumers

24. Extinguishment of security interest in case of consumer purchase from dealer—Where a consumer

purchases a motor vehicle that is subject to a security interest from a dealer,—

(a) The security interest in that motor vehicle shall be extinguished; and

(b) The consumer shall acquire the vehicle free from the security interest; and

(c) Where title to the vehicle was vested in the holder of that security interest, title shall pass to the consumer.

25. Extinguishment of security interest in case of consumer hire purchase or lease from dealer—Where a consumer acquires from a dealer, under a hire purchase agreement or a lease, a motor vehicle that is subject to a security interest,—

(a) The security interest in that motor vehicle shall be extinguished; and

(b) Where title to the vehicle was vested in the holder of that security interest, title shall pass to the dealer.

26. Relevance of notice of security interest—Sections 24 and 25 of this Act shall apply whether or not the dealer or the consumer has notice of the security interest, and whether or not the dealer is the debtor, except where—

(a) The security interest is disclosed to the consumer in writing before the contract of sale becomes binding on the consumer, or, as the case may be, before the hire purchase agreement or lease is entered into; or

(b) The security interest is created by or with the express consent of the consumer.

Dispositions other than by dealers to consumers

27. Extinguishment of security interest in case of other purchases—(1) Where a motor vehicle that is subject to a security interest is purchased otherwise than by a consumer from a dealer, and the purchaser does not have notice of the security interest at the time when the purchase price is paid or the exchange is made,—

(a) The security interest in the motor vehicle shall be extinguished; and

(b) The purchaser shall acquire the vehicle free from the security interest; and

(c) Where title to the vehicle was vested in the holder of that security interest, title shall pass to the purchaser.

(2) This section is subject to the provisions of sections 30 and 31 of this Act.

28. Extinguishment of security interest in case of other hire purchases or leases—(1) Where—

(a) Any person acquires, under a hire purchase agreement or a lease, an interest in a motor vehicle that is subject to a security interest; and

(b) That person does not have notice of the security interest at the time when the first payment is made under the hire purchase agreement or lease, as the case may be,—

any secured party shall, notwithstanding any provision of the agreement between the secured party and the debtor, be bound by the terms of the hire purchase agreement or lease.

(2) Nothing in this section applies where the motor vehicle is acquired on hire purchase or is leased from a dealer by a consumer.

(3) This section is subject to the provisions of sections 30 and 31 of this Act.

29. Rules for determining whether person has notice of security interest—(1) For the purposes of this Act, a person has notice of a security interest if—

(a) The security interest is registered; or

(b) The person has actual knowledge of that security interest (including, in the case of a floating charge that is registered under the Companies Act 1955 or the Industrial and Provident Societies Act 1908, actual notice that it has become fixed).

(2) This section is subject to section 33 of this Act.

30. Exception where vehicle purchased from thief, etc.—Nothing in section 27 or section 28 of this Act shall apply unless the motor vehicle is purchased or acquired from a person—

(a) Who is the debtor; or

(b) Who is in possession of the vehicle or who has otherwise assumed ownership of the vehicle in circumstances where the debtor—

(i) Has lost the right to possession of the vehicle; or

(ii) Is estopped from asserting an interest in the vehicle against the purchaser or the hirer or the lessee, as the case may be.

31. Exception where disposition not in the ordinary course of business—(1) This section applies only where a

person who is not a consumer purchases or acquires a motor vehicle from any other person who is not a consumer.

(2) If the person purchasing or acquiring the vehicle knows that the sale or other disposition is not in the ordinary course of business of that other person, nothing in section 27 or section 28 of this Act shall operate to extinguish any unregistered security interest in respect of the vehicle.

(3) It shall be presumed that a person does not know that a sale or other disposition is not in the ordinary course of business unless the contrary is proved.

32. Rights of secured party in event of hire purchase agreement or lease—(1) Where a secured party is, by virtue of section 28 of this Act, bound by the terms of any hire purchase agreement or lease, the secured party shall be entitled—

(a) To demand and give receipts for money payable under the hire purchase agreement or the lease; and

(b) To exercise all other rights and powers of the person who disposed of the vehicle under the hire purchase agreement or lease, as if that person's rights under the hire purchase agreement or lease had been assigned to the secured party.

(2) Before exercising the rights conferred by this section, the secured party shall give notice in writing to the hirer or lessee, as the case may be, and, if practicable, to the person who disposed of the vehicle,—

(a) Explaining that the hirer or the lessee, as the case may be, is obliged to pay any money owing under the hire purchase agreement or lease to the secured party; and

(b) Summarising any other rights that the secured party intends to exercise.

(3) The hirer or lessee shall not be liable to the secured party for any money paid or any property delivered to any person in reduction of any money payable under the hire purchase agreement or lease at any time before the hirer or lessee receives that notice.

(4) The receipt of the secured party shall be a complete discharge for the hirer or lessee for any money paid or any property delivered to the secured party in reduction of the money payable under the hire purchase agreement or lease.

33. Position where engine transferred—If—

(a) A security interest is registered in respect of a motor vehicle; and

(b) The engine is later transferred to a second motor vehicle,—

no person involved in the purchase or other acquisition, or the sale or other disposition, of the second motor vehicle shall have notice of that security interest by reason only of the fact that it was registered in respect of the first vehicle.

Reimbursement of secured party in event of disposition by dealer with notice of security interest

34. Reimbursement of secured party by dealer with notice of security interest—Where—

(a) A motor vehicle is purchased from a dealer; and

(b) The motor vehicle is subject to a security interest immediately before the time of purchase; and

(c) The dealer has notice of that security interest at the time when the purchase price is paid or the exchange is made; and

(d) The security interest in that motor vehicle is extinguished by virtue of section 24 or section 27 of this Act,—

the dealer shall pay to the secured party, within 7 working days of the date on which the secured party serves a claim for payment on the dealer, the amount outstanding in respect of the debt or other obligation secured by the security interest.

35. Reimbursement of secured party by Motor Vehicle Dealers Fidelity Guarantee Fund—(1) Where—

(a) Any person purchases from a dealer a motor vehicle that is a motor vehicle within the meaning of section 2 of the Motor Vehicle Dealers Act 1975; and

(b) The dealer fails to comply with section 34 of this Act,—

the secured party may make a claim under Part III of the Motor Vehicle Dealers Act 1975 for payment by the Motor Vehicle Dealers Fidelity Guarantee Fund of the amount that the dealer is required by that section to pay to the secured party.

(2) The Fund shall not be liable to pay to the secured party any amount that—

(a) Is recoverable from the purchaser of the motor vehicle under section 43 of this Act; or

(b) Would have been so recoverable if the secured party had not unreasonably delayed in exercising those rights.

36. Procedure for making claims for reimbursement—Every claim for payment made by a secured party pursuant to section 34 or section 35 of this Act shall be accompanied by—

(a) In the case of a registered security interest, a certificate issued by the Registrar under section 11 of this Act containing the registered particulars of the security interest held by the secured party immediately before the time of purchase; and

(b) In the case of an unregistered security interest, a statement setting out the grounds on which it is believed that the dealer had notice of the security interest; and

(c) A statutory declaration by the secured party, or, where the secured party is a company, by any director or other officer authorised in writing for the purpose, declaring—

(i) The amount of the debt or other pecuniary obligation secured by the security interest; and

(ii) The amount received by the secured party in satisfaction of that debt or other obligation; and

(iii) The amount outstanding in respect of that debt or other obligation at the date when the declaration is made; and

(iv) The amount recoverable from the purchaser of the vehicle under section 43 of this Act, if applicable.

37. Subrogation of rights of action against debtor and dealer—(1) Where payment is made to the secured party by the dealer pursuant to section 34 of this Act, or by the Motor Vehicle Dealers Fidelity Guarantee Fund pursuant to section 35 of this Act, the dealer or the Fund, as the case may be, shall be subrogated, to the extent of that payment, to all rights and remedies that, but for the subrogation, the secured party would have had against the debtor, or in the event of the death or insolvency of the debtor, against the debtor's personal representatives or other persons having authority to administer the debtor's estate, and to all other rights and remedies of the secured party in respect of any act or thing done or omitted to be done in the course of the sale or other disposition of the motor vehicle.

(2) Where payment is made to the secured party by the Motor Vehicle Dealers Fidelity Guarantee Fund pursuant to section 35 of this Act, the Fund shall be subrogated, to the extent of that payment, to all rights and remedies that, but for the subrogation, the secured party would have had against the

dealer, or, in the event of the death or insolvency of the dealer, against the dealer's personal representatives or other persons having authority to administer the dealer's estate.

(3) Notwithstanding anything to the contrary in the Companies Act 1955 or in any other Act or rule of law, if a claim made pursuant to section 34 or section 35 of this Act arises wholly or partly by reason of any act or omission of an officer, employee, or agent of the debtor or the dealer, a District Court Judge may, if the District Court Judge thinks fit, on the application of the dealer or the Fund, as the case may be, declare that any person who was knowingly a party to the act or omission shall be personally responsible, without any limitation of liability, for the repayment to the dealer or the Fund, as the case may be, of the whole or any part of the amount paid by the dealer or the Fund pursuant to this section.

(4) Notwithstanding anything in the Companies Act 1955 or any other Act or in any rule of law, any amount that the Fund is entitled to recover from a dealer company, shall, in the event of the winding up of the company, be paid in priority to all other debts in accordance with section 308 (1) (d) of the Companies Act 1955, and the provisions of that section and of section 101 of that Act shall apply to it accordingly.

38. Reimbursement of secured party in event of dealer with notice of security interest making hire purchase agreement or granting lease—(1) Where—

(a) A motor vehicle is purchased on hire purchase from a dealer or leased from a dealer; and

(b) The motor vehicle is subject to a security interest immediately before the hire purchase agreement or lease is entered into; and

(c) The dealer has notice of that security interest at the time when the first payment under the hire purchase agreement or lease is made; and

(d) The security interest is extinguished by virtue of section 25 or section 28 of this Act,—

the dealer shall pay to the secured party, within 7 working days after the date on which the secured party serves a claim for payment on the dealer, the amount outstanding in respect of the debt or other obligation secured by the security interest.

(2) Where—

(a) Any person acquires on hire purchase or leases from a dealer a motor vehicle that is a motor vehicle within the meaning of section 2 of the Motor Vehicle Dealers Act 1975; and

(b) The dealer fails to comply with subsection (1) of this section,—

the secured party may make a claim under Part III of the Motor Vehicle Dealers Act 1975 for payment by the Motor Vehicle Dealers Fidelity Guarantee Fund of the amount that the dealer is required by subsection (1) of this section to pay to the secured party.

(3) The Fund shall not be liable to pay to the secured party any amount that—

(a) Is recoverable from the hirer or lessee of the motor vehicle under section 32 of this Act; or

(b) Would have been so recoverable if the secured party had not unreasonably delayed in exercising those rights.

(4) The provisions of sections 36 and 37 of this Act shall apply, with such modifications as may be necessary, to a claim made by a secured party under this section.

Miscellaneous provisions

39. Part to apply notwithstanding registration of charge under Companies Act 1955, etc.—The provisions of this Part of this Act shall apply, and a security interest in a motor vehicle may be extinguished, notwithstanding that the charge which creates or evidences the security interest, or the charge under which the security interest otherwise arises, is registered under the Companies Act 1955 or the Industrial and Provident Societies Act 1908.

40. Charge over proceeds of sale—The extinguishment of any security interest in a motor vehicle shall not affect any security interest that may exist in respect of the proceeds of sale of the vehicle.

41. Revival of security interest on cancellation of contract for purchase of motor vehicle—(1) Where—

(a) A purchaser contracts to purchase a motor vehicle that is subject to a security interest; and

(b) The security interest in the motor vehicle is extinguished by virtue of section 24 or section 27 of this Act; and

(c) The contract for the purchase of the motor vehicle is repudiated or rescinded,—

the security interest shall revive and continue in full force and effect as if it had not been extinguished.

(2) Where a security interest revives pursuant to subsection (1) of this section, the title to the vehicle shall revest in the

person in whom it was vested immediately before the security interest was extinguished.

(3) Where a security interest revives pursuant to subsection (1) of this section after the registration of the security interest has been cancelled, the Registrar shall, on application by the secured party, re-register the security interest, without payment of any fee, as if it had not been cancelled.

(4) Nothing in this section shall apply if the secured party has already been paid the amount outstanding in respect of the debt or other obligation secured by the security interest.

42. Revival of security interest on cancellation of hire purchase agreement or lease entered into with dealer—(1) Where—

(a) A consumer enters into a hire purchase agreement or a lease with a dealer in respect of a motor vehicle that is subject to a security interest; and

(b) The security interest in the motor vehicle is extinguished by virtue of section 25 of this Act; and

(c) The hire purchase agreement or the lease, as the case may be, is rescinded or cancelled,—

the security interest shall revive and continue in full force and effect as if it had not been extinguished.

(2) Where a security interest revives pursuant to subsection (1) of this section, the title to the vehicle shall revest in the person in whom it was vested immediately before the security interest was extinguished.

(3) Where a security interest revives pursuant to subsection (1) of this section after the registration of the security interest has been cancelled, the Registrar shall, on application by the secured party, re-register the security interest, without payment of any fee, as if it had not been cancelled.

(4) Nothing in this section shall apply if the secured party has already been paid the amount outstanding in respect of the debt or other obligation secured by the security interest.

43. Secured party subrogated to rights of seller against purchaser—(1) Where—

(a) A purchaser acquires, by virtue of section 24 or section 27 of this Act, a motor vehicle free from any security interest to which it was subject; and

(b) The purchaser pays or delivers part only of the purchase price at the time when the motor vehicle is acquired,—

the secured party shall be subrogated, to the extent of the amount outstanding in respect of the debt or other obligation secured by the security interest, to all rights and remedies that, but for the subrogation, the person from whom the vehicle was purchased would have had against the purchaser in respect of the payment or the delivery by the purchaser of the balance of the purchase price.

(2) Before exercising the rights conferred by this section, the secured party shall give notice in writing to the purchaser and, if practicable, the person from whom the vehicle was purchased,—

(a) Explaining that the purchaser is obliged to pay or deliver to the secured party any money or other property owing to the seller in reduction of the purchase price; and

(b) Summarising any other rights that the secured party intends to exercise.

(3) The purchaser shall not be liable to the secured party for any money paid or any property delivered to any person in reduction of the purchase price at any time before the purchaser receives that notice.

(4) The receipt of the secured party shall be a complete discharge for the purchaser for any money paid or any property delivered to the secured party in reduction of the purchase price.

44. Liability of agent—A person acting as an agent of the debtor is not liable for conversion, or any other tort in respect of interests in chattels, by selling or otherwise disposing of a motor vehicle subject to a security interest, if the person did not have notice of the security interest at the time when the person sold or disposed of the vehicle.

PART III

PRIORITY OF SECURITY INTERESTS

45. Priority of company or society charges preserved—The priority of any charge created by a company registered under the Companies Act 1955 or by a society registered under the Industrial and Provident Societies Act 1908 in relation to any other charges created by any company or society shall be determined as if this Part of this Act had not been enacted.

46. Registered security interests to have priority over unregistered security interests—A registered security interest in respect of a motor vehicle shall have priority over

any unregistered security interest in respect of the same vehicle.

47. Priority of registered security interests according to time of registration—Any 2 or more security interests registered in respect of the same motor vehicle shall have priority in relation to each other according to the time at which the applications for registration were presented, and not according to the time at which the security interests were created or otherwise arose.

48. Notice of earlier security interest and possession of vehicle—Sections 46 and 47 of this Act shall apply notwithstanding that, at the time when any application for registration of a security interest is presented,—

(a) The holder of that security interest had express, implied, or constructive notice of any earlier security interest; or

(b) The motor vehicle was in the possession of any other secured party.

49. Priority of unregistered security interests—Any 2 or more unregistered security interests in respect of the same vehicle shall have priority in relation to each other according to the time at which each security interest was created or otherwise arose.

50. Security for further advances—(1) The terms and conditions of any security interest in respect of a motor vehicle may include a reference to any maximum amount up to which the sum for the time being owing under the security interest shall have priority over any subsequent security interest in respect of the same vehicle.

(2) A registered security interest shall, in respect of money advanced in excess of the maximum amount, have priority over any other security interest in respect of the same vehicle as if the first-mentioned security interest had been registered only at the time at which the registered particulars were amended to take account of the variation of the maximum amount.

(3) An unregistered security interest shall, in respect of any money advanced in excess of the maximum amount, have priority over any subsequent security interest in respect of the same vehicle as if the first-mentioned security interest had been created or had arisen only at the time at which the terms and

conditions were amended to take account of the variation of the maximum amount.

(4) Except as provided in this section, section 80A of the Property Law Act 1952 shall apply to a security interest as if it were a mortgage.

(5) Any holder of a security interest in a motor vehicle may request the Registrar to disclose the information entered in the register relating to the amount of the debt or the details of any other obligation secured by any other security interest registered in respect of the same vehicle.

(6) Where any request is made under subsection (5) of this section, the Registrar shall, if satisfied that the information is needed to determine the priorities of any 2 or more security interests in respect of a vehicle, supply the information requested.

51. Postponement of priority—(1) A holder of a registered security interest in a motor vehicle may apply to the Registrar for the postponement of the priority of that security interest to any other registered security interest.

(2) Every application for postponement shall be made in a form approved by the Registrar, and accompanied by payment of the prescribed fee.

(3) The Registrar shall record that the security interest has been so postponed.

52. Provisions of this Part subject to certain provisions of Part II—The provisions of this Part of this Act shall apply subject to the provisions of section 25 and section 28 of this Act.

53. Saving of priority rules on insolvency—Nothing in this Part of this Act shall limit the provisions of sections 56 and 57 of the Insolvency Act 1967.

PART IV

MISCELLANEOUS PROVISIONS

Compensation for loss or damage arising from acts or omissions of Registrar

54. Application for compensation—(1) A person who suffers loss or damage by reason of any matter specified in section 55 of this Act shall be entitled to apply to the Tribunal for payment of compensation in respect of that loss or damage.

(2) An application for compensation shall be made by lodging a claim in accordance with section 24 of the Disputes Tribunals Act 1988.

(3) On receipt of an application for compensation under this section, the Tribunal shall determine whether or not compensation should be paid to the applicant, and, if it determines that payment should be made, shall make an order for payment to the applicant of such amount as the Tribunal considers appropriate out of money appropriated by Parliament for the purpose.

(4) The provisions of the Disputes Tribunals Act 1988 set out in the First Schedule to this Act shall apply, so far as they are applicable and with the necessary modifications, to every application under this section.

(5) No person shall be entitled to apply for payment of compensation if the matter specified in section 55 of this Act occurred more than 6 years before the date of the application.

55. Matters in respect of which compensation is payable—(1) The specified matters are—

(a) That the Registrar has failed to register any security interest in respect of which an application for registration has been made in accordance with section 6 of this Act:

(b) That the Registrar has entered in the register any particulars of a security interest that do not correctly reflect the information contained in the application for registration:

(c) That the Registrar has made any statement in response to an enquiry made under section 10 of this Act that does not correctly represent the state of the register in relation to any specified vehicle:

(d) That the Registrar has issued any certificate pursuant to section 11 of this Act that contains—

(i) An incorrect statement to the effect that no security interest is registered in respect of a specified motor vehicle; or

(ii) Particulars of any security interest, or particulars of any entry made under section 9 of this Act, that do not correctly represent the state of the register in relation to a specified vehicle:

(e) That the Registrar has failed to cancel the registration of any security interest in respect of which an application for cancellation has been made in accordance with section 14 of this Act:

(f) That the Registrar has cancelled or amended the registration of any security interest which should not have been cancelled or amended:

(g) That the Registrar has failed to amend the register in accordance with any application made under section 18 of this Act.

(2) No compensation shall be payable in respect of any matter specified in subsection (1) (c) or subsection (1) (d) of this section if the information supplied to the Registrar by the person making the enquiry or applying for the certificate is inaccurate.

56. Maximum compensation payable—(1) The amount of any compensation paid to a secured party pursuant to section 54 of this Act shall not exceed—

(a) The amount of the debt or other pecuniary obligation or the value of any other obligation that was secured by the security interest and that is still owing to the secured party at the time when the payment of compensation is made; or

(b) The value of the motor vehicle, calculated at the date on which the loss or damage was suffered,—

whichever is the lesser.

(2) The amount of any compensation paid to a person other than a secured party pursuant to section 54 of this Act shall not exceed the value of the motor vehicle, calculated at the date on which the loss or damage was suffered.

57. Factors that may prevent or reduce compensation payments—(1) Where any loss or damage is occasioned wholly or partly by any act or omission of any person other than the Registrar, the compensation that would otherwise be payable to the applicant may be reduced by such amount as the Tribunal considers appropriate.

(2) Where—

(a) Any person applies to the Tribunal for payment of compensation in respect of any loss or damage suffered by reason of any cancellation of the registration of a security interest; and

(b) The Registrar, before cancelling the registration, gave to the person entered in the register as the holder of the security interest, a notice requiring that person to show cause why the registration should not be cancelled; and

(c) That person failed, within 10 working days of the date on which the notice was given, to show cause to the Registrar's satisfaction why the registration should not be cancelled,—

the Tribunal shall not make an order for payment of compensation to the applicant unless the Tribunal is satisfied that cause was not shown to the Registrar's satisfaction why the registration should not be cancelled because of circumstances beyond the applicant's control or for reasons that ought reasonably to be excused.

(3) Where any person applies to the Tribunal for payment of compensation and that person has—

(a) Any right of reimbursement from a dealer or the Motor Vehicle Dealers Fidelity Guarantee Fund; or

(b) Any right of subrogation to the rights of any seller of a motor vehicle against the purchaser in respect of the balance of the purchase price,—

the Tribunal shall not make an order for payment of compensation to the applicant unless the Tribunal is satisfied that the applicant has exercised that right or those rights or that it would not be reasonable to require the applicant to exercise that right or those rights.

General provisions

58. Fraudulent sale or disposal of motor vehicle—Every person commits an offence and is liable on summary conviction to a fine not exceeding $2,000 who, with intent to defraud a secured party, purports to sell or otherwise dispose of any motor vehicle that is subject to a security interest.

59. Prohibition on contracting-out—(1) If any agreement contains a term which would modify, restrict, or exclude any provision of this Act, that term shall be of no effect.

(2) Nothing in this section applies to any term in an agreement—

(a) That is made between any 2 or more persons, neither of whom are consumers; and

(b) That does not purport to modify, restrict, or exclude any provisions of sections 24 to 33 of this Act.

(3) Every person commits an offence and shall be liable on summary conviction to a fine not exceeding $1,000 who enters into an agreement that contains any term which is, by reason of subsection (1) of this section, of no effect.

(4) Section 56 of the Sale of Goods Act 1908 shall be read subject to the provisions of this section.

60. Certain provisions of Chattels Transfer Act 1924 to apply—The provisions of sections 46 to 48 of the Chattels Transfer Act 1924 shall apply in all respects and with such modifications as may be necessary to any motor vehicle as if it were a chattel, and to every agreement by or under which a security interest in respect of a motor vehicle is created, evidenced, or otherwise arises as if it were an instrument by way of security, within the meaning of that Act.

61. Constructive notice of registration under Companies Act 1955, etc.—For the purposes of any Act other than this Act, all persons shall be deemed to have notice of a security interest given wholly or partly in respect of motor vehicles by a company registered under the Companies Act 1955 or by a society registered under the Industrial and Provident Societies Act 1908, and of the contents of that security interest, in so far as it relates to motor vehicles, immediately upon the registration of the security interest in the manner provided by the Companies Act 1955 or the Industrial and Provident Societies Act 1908, as the case may be.

Cf. 1924, No. 49, s. 4 (2)

62. Savings—Except to the extent that this Act expressly provides otherwise, nothing in this Act shall—

(a) Prevent any purchaser of a motor vehicle acquiring title to the vehicle by virtue of any provision of the Sale of Goods Act 1908 or by virtue of any other enactment or rule of law; or

(b) Modify, restrict, or exclude any other right or remedy that a person would have had if this Act had not been enacted.

63. Power of Registrar to delegate—(1) The Registrar may from time to time, in writing, delegate to any person all or any of the functions, duties, and powers exercisable by the Registrar under this Act, except this power of delegation.

(2) Subject to any general or special directions given or conditions attached by the Registrar, any person to whom any functions, duties, or powers are delegated under this section shall perform and may exercise those functions, duties, and powers in the same manner and with the same effect as if they had been conferred on that person directly by this section and not by delegation.

(3) Every person purporting to act pursuant to any delegation under this section shall be presumed to be acting in accordance

with the terms of the delegation in the absence of proof to the contrary.

(4) Any delegation under this section may be made to a specified employee or to employees of a specified class, or may be made to the holder or holders for the time being of a specified office or class of offices.

(5) Every delegation under this section shall be revocable in writing at will, and no such delegation shall prevent the exercise of any function, duty, or power by the Registrar.

(6) Every delegation under this section shall, until revoked, continue in force according to its tenor notwithstanding that the Registrar by whom it was made has ceased to hold office.

64. Service of notices—(1) Any notice or any other document required or authorised by this Act to be served on or given to any person shall be in writing and shall be sufficiently served or given if it is delivered to that person or if it is left at that person's usual or last known place of abode or business or at an address specified for that purpose in any document creating a security interest, or if it is posted in a letter addressed to that person by name at that place of abode or business or address.

(2) If the person is absent from New Zealand, the notice or other document may be served on or given to that person's agent in New Zealand. If the person is deceased, it may be served on or given to that person's personal representatives.

(3) If the person is not known, or is absent from New Zealand and has no known agent in New Zealand, or is deceased and has no personal representatives, the notice or other document shall be served or given in such manner as may be directed by an order of a District Court.

(4) If any such notice or other document is sent to any person by registered letter it shall be deemed to have been delivered to that person on the 4th day after the day on which it was posted, and in proving the delivery it shall be sufficient to prove that the letter was properly addressed and posted.

(5) Notwithstanding anything in the foregoing provisions of this section, a District Court may in any case make an order directing the manner in which any notice or other document is to be served or given, or dispensing with the service or giving thereof.

(6) This section does not apply to notices or other documents served or given in any proceedings in any Court.

65. Offence by officer of company—Where an offence against this Act has been committed by a company and it is proved to have been committed with the consent or connivance of a person who, within the meaning of the Companies Act 1955, is a director, manager, secretary, or other officer of the company, that person shall be guilty of the same offence and shall be liable to the same penalty as the company.

66. Regulations—The Governor-General may, by Order in Council, make regulations for one or both of the following purposes:

(a) Prescribing matters in respect of which fees are payable under this Act and the amount of those fees:

(b) Providing for such matters as are contemplated by or necessary for giving full effect to this Act and for its due administration.

67. Enactments amended—The enactments specified in the Second Schedule to this Act are hereby consequentially amended in the manner indicated in that Schedule.

PART V

TRANSITIONAL PROVISIONS

68. Meaning of terms used in this Part—In this Part of this Act, unless the context otherwise requires,—

"The commencement date" means the 1st day of October 1989:

"The transitional period" means the period of 6 months beginning on the 1st day of October 1989 and ending with the 31st day of March 1990.

69. Application of Part I during transitional period—During the transitional period, the provisions of sections 6, 7, 9, 14 to 18, and 20 to 23 of this Act shall apply with such modifications as may be necessary.

70. Existing security holders may apply for registration—(1) Every person who, at the commencement date, is the holder of a security interest in respect of a motor vehicle may, before the end of the transitional period, apply to the Registrar for the registration of that security interest under this Act.

(2) Every person who, at any time during the transitional period, becomes the holder of a security interest in respect of a motor vehicle, may, before the end of the transitional period,

apply to the Registrar for the registration of that security interest under this Act.

71. Time of registration during transitional period—(1) Every security interest in respect of which an application for registration is presented during the transitional period shall, if the application is in order for registration, be deemed to be registered at 9 a.m. on the 1st day of April 1990.

(2) Nothing in this section shall apply if the registration of the security interest has been cancelled before that time.

72. Priority of security interests registered in transitional period—Subject to sections 73 and 74 of this Act, every security interest in relation to which an application for registration is received by the Registrar at any time during the transitional period shall, notwithstanding section 47 of this Act, have priority according to the time at which the security interest was created or otherwise arose.

73. Saving of priority from previous registration—(1) Where any 2 or more security interests in a motor vehicle are created, evidenced, or otherwise arise by or under any 2 or more instruments that are immediately before the end of the transitional period registered under the Chattels Transfer Act 1924 and, before the end of the transitional period, those security interests are registered under this Act, those security interests shall, notwithstanding section 47 of this Act, have the same priority as the priority that the instruments by or under which the security interests were created, evidenced, or otherwise arose had when registered under the Chattels Transfer Act 1924.

(2) The secured party shall supply to the Registrar such evidence as may be required by the Registrar as to the registration of any security interest under the Chattels Transfer Act 1924 and as to the priority enjoyed by that security interest at any earlier time.

74. Security interests void for non-registration under other Act—(1) Where any instrument comprising or affecting a motor vehicle that was registrable under the Chattels Transfer Act 1924 was not registered under that Act within the time permitted for registration, any person may, if it is an instrument that creates or evidences a security interest within the meaning of this Act, or an instrument under which a security instrument within the meaning of this Act otherwise

arises, apply for the registration under this Act of that security interest.

(2) Where any charge on a motor vehicle that was registrable under the Companies Act 1955 or the Industrial and Provident Societies Act 1908 was not registered under that Act within the time permitted for registration, any person may, if it is a charge that creates or evidences a security interest within the meaning of this Act, or a charge under which a security interest within the meaning of this Act otherwise arises, apply for the registration under this Act of that security interest.

(3) Where the Registrar receives any application for registration pursuant to subsection (1) or subsection (2) of this section, the Registrar shall, if the Registrar is satisfied that the application is in order and notwithstanding section 47 of this Act, register the security interest as if the security interest had only been created or had only otherwise arisen on the date on which the application for registration was received by the Registrar.

75. Registration under Chattels Transfer Act 1924 to cease—The registration of any instrument under the Chattels Transfer Act 1924, so far as it comprises or affects any motor vehicle, shall, as from the end of the transitional period, cease to be of any effect.

SCHEDULES

FIRST SCHEDULE

Sections 15 (3), 22 (3), 54 (4)

PROVISIONS OF DISPUTES TRIBUNALS ACT 1988 WHICH APPLY TO APPLICATIONS MADE UNDER THIS ACT

Sections 1, 2 (excluding the definition of the term "work order"), 3 to 9, 10 (2) and (4), 17, 18, 20 to 24, 25 (1) to (3), 26, 27, 36 (1) and (2), 38 to 44, 45 (1), and 47 to 61.

SECOND SCHEDULE

Section 67

ENACTMENTS AMENDED

Enactment	Amendment
1908, No. 117—The Mercantile Law Act 1908 (R.S. Vol. 10, p. 91)	By inserting in section 3, after subsection (1), the following subsection: "(1A) Where the goods are a motor vehicle and a security interest in respect of that vehicle has been registered under the Motor Vehicle Securities Act 1989, the person taking under any disposition of the vehicle shall be deemed to have notice that the person making the disposition has no authority to make it, unless it is proved that such authority did exist."
1908, No. 168—The Sale of Goods Act 1908 (R.S. Vol. 11, p. 281)	By adding to section 23 (2) the following paragraph: "(c) The provisions of the Motor Vehicle Securities Act 1989 enabling a purchaser of a motor vehicle to acquire good title to the vehicle." By adding to section 27 (2) the following proviso: "Provided further that, in the case of a motor vehicle, if the lien or other right of the original seller is created or evidenced by, or arises under, a security interest registered under the Motor Vehicle Securities Act 1989, then the person receiving the motor vehicle shall be deemed to have notice of the existence of that security interest and the registered particulars in respect of it."
1924, No. 49—The Chattels Transfer Act 1924 (R.S. Vol. 15, p. 33)	By adding to the definition of "chattels" in section 2 the following paragraph: "(e) Motor vehicles within the meaning of the Motor Vehicle Securities Act 1989:". By omitting from the Seventh Schedule the words "Motor vehicles of all descriptions.".

SECOND SCHEDULE—*continued*

ENACTMENTS AMENDED—*continued*

Enactment	Amendment
1952, No. 45—The Industrial and Provident Societies Amendment Act 1952 (R.S. Vol. 7, p. 445)	By inserting in section 17 (2), after paragraph (c), the following paragraph: "(cc) A charge on any motor vehicle of the society:".
1955, No. 63—The Companies Act 1955 (R.S. Vol. 15, p. 89)	By inserting in section 102 (2), after paragraph (c), the following paragraph: "(cc) A charge on any motor vehicle of the company:".
1957, No. 87—The Summary Proceedings Act 1957 (R.S. Vol. 9, p. 583)	By inserting after section 94 (as substituted by section 14 of the Summary Proceedings Amendment Act 1987) the following section: "94A. **Motor Vehicle Securities register to be checked**—(1) Where a motor vehicle is seized under a warrant to seize property, the Registrar shall, on the day after the vehicle is seized, check whether any security interest is registered in respect of the vehicle on the motor vehicle securities register maintained under the Motor Vehicle Securities Act 1989. "(2) If a security interest is found to be so registered, the Registrar shall forthwith notify the person entered in the register as the secured party— "(a) That the Registrar may, under section 95 of this Act, sell the vehicle after the expiration of 7 days from the date of seizure, if the fine remains unpaid and no claim has been made by a person other than the defendant in respect of the property: "(b) Of that person's rights under section 96 and section 97 of this Act."
1975, No. 127—The Motor Vehicle Dealers Act 1975 (R.S. Vol. 5, p. 749)	By repealing paragraph (c) of section 30 (3), and substituting the following paragraph: "(c) All money recovered by or on behalf of the Institute or the Fund in the exercise of any right of action conferred by this Part of this Act or by the Motor Vehicle Securities Act 1989:". By adding to section 31 (1) the following paragraph: "(f) The amount of all claims, including costs, allowed or established

SECOND SCHEDULE—*continued*

ENACTMENTS AMENDED—*continued*

Enactment	Amendment
1975, No. 127—The Motor Vehicle Dealers Act 1975 (R.S. Vol. 5, p. 749)—*continued*	against the Fund in accordance with the Motor Vehicle Securities Act 1989." By inserting in section 39, after the words "suffered loss", the words "or is entitled to payment". By adding to section 39 the following paragraph: "(g) A claim under section 35 or section 38 (2) of the Motor Vehicle Securities Act 1989." By adding to section 40 (2) (b) the following subparagraph: "(iv) In respect of a claim under paragraph (g) of that section, within 3 months after the date on which the dealer failed to comply with section 34 or section 38 of the Motor Vehicle Securities Act 1989." By adding to section 40 (3) the following proviso: "Provided further that no person shall be entitled to make a claim against the Fund under paragraph (g) of that section in respect of any amount that is recoverable from the purchaser of a motor vehicle under section 43 of the Motor Vehicle Securities Act 1989." By inserting in section 40 (4A) (as substituted by section 9 (1) of the Motor Vehicle Dealers Amendment Act 1979), before the expression "section 39", the expression "paragraphs (a) to (f) of". By repealing paragraph (b) of section 89 (1).
1988, No. 110—The Disputes Tribunals Act 1988	By adding to the First Schedule the following item: "Motor Vehicle Securities Act 1989".

This Act is administered in the Department of Justice.