

SOUTH AUSTRALIA

GOODS SECURITIES ACT 1986

This Act is reprinted pursuant to the Acts Republication Act 1967 and incorporates all amendments in force as at 27 March 1999.

It should be noted that the Act was not revised (for obsolete references, etc.) by the Commissioner of Statute Revision prior to the publication of this reprint.

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GOODS SECURITIES ACT 1986

being

Goods Securities Act 1986 No. 111 of 1986
[Assented to 18 December 1986]¹

as amended by

Goods Securities Act Amendment Act 1987 No. 21 of 1987 [Assented to 16 April 1987]

Goods Securities (Highways Fund) Amendment Act 1991 No. 53 of 1991 [Assented to 28 November 1991]²

Statutes Repeal and Amendment (Commercial Tribunal) Act 1995 No. 82 of 1995 [Assented to 30 November 1995]³

Goods Securities (Motor Vehicles) Amendment Act 1997 No. 12 of 1997 [Assented to 27 March 1997]⁴

¹ Came into operation (except ss. 5(3), 9, 11, 12 and Sched. 1) 25 May 1987; s. 5(3) came into operation 8 June 1987; transitional period for Sched. 2 25 May 1987 to 7 June 1987: *Gaz.* 21 May 1987, p. 1328; remainder of Act came into operation 15 June 1987: *Gaz.* 11 June 1987, p. 1492.

² Came into operation 1 January 1992: *Gaz.* 12 December 1991, p. 1747.

³ Came into operation 10 March 1997: *Gaz.* 6 March 1997, p. 1114.

⁴ **Came into operation 27 March 1999: *Gaz.* 11 March 1999, p. 1335.**

NOTE:

- Asterisks indicate repeal or deletion of text.
- Entries appearing in bold type indicate the amendments incorporated since the last reprint.
- For the legislative history of the Act see Appendix.

An Act to provide for the registration of security interests in prescribed goods; to amend the Bills of Sale Act 1886, the Consumer Transactions Act 1972, the Mercantile Law Act 1936 and the Sale of Goods Act 1895; and for other purposes.

The Parliament of South Australia enacts as follows:

**PART 1
PRELIMINARY**

Short title

1. This Act may be cited as the *Goods Securities Act 1986*.

Commencement

2. (1) This Act shall come into operation on a day to be fixed by proclamation.

(2) The Governor may, in a proclamation fixing a day for this Act to come into operation, suspend the operation of specified provisions of this Act until a subsequent day fixed in the proclamation, or a day to be fixed by subsequent proclamation.

Interpretation

3. (1) In this Act, unless the contrary intention appears—

"**authorised person**" means a person who holds an authorisation under section 10A;

"**corresponding authority**" means a person declared by proclamation to be a corresponding authority under a corresponding law;

"**corresponding law**" means a law of another State, or a Territory, of the Commonwealth declared by proclamation to be a law corresponding to this Act;

"**Court**" means the Civil (Consumer and Business) Division of the Magistrates Court;

"**dealer**" means a person who carries on the business of purchasing and selling prescribed goods or any class of prescribed goods;

"**discharge**" of a security interest includes extinguishment of the interest;

"**the Highways Fund**" means the Highways Fund established under the *Highways Act 1926*;

"**hire-purchase agreement**" means an agreement—

- (a) that provides for the hiring out of goods and purports to confer on the person to whom the goods are hired an express or implied right or option to purchase the goods; or
- (b) that provides for the purchase of goods by 3 or more instalments (whether the instalments are described as rent, hire or in some other manner),

but does not include an agreement that provides for the property in the goods to pass on or before delivery;

"**motor vehicle**" means—

- (a) a motor vehicle as defined in section 5(1) of the *Motor Vehicles Act 1959*; or

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- (b) a motor vehicle or trailer as defined in section 3(1) of the *Interstate Road Transport Act 1985* of the Commonwealth as in force from time to time;

"**notice**" means actual notice;

"**prescribed goods**" means—

- (a) a motor vehicle; or
- (b) goods of a class prescribed by regulation for the purposes of this definition,

whether situated in the State or another State, or a Territory, of the Commonwealth, but does not include goods of a class excluded by regulation from the ambit of this definition;

"**register**" means the register kept under section 4;

"**registered security interest**" means a security interest registered under this Act;

"**Registrar**" means a person employed in the Public Service of the State to whom the Minister assigns the functions of the Registrar under this Act;

"**security interest**" in relation to prescribed goods means—

- (a) a mortgage of the goods; or
- (b) a bill of sale over the goods; or
- (c) a lien or charge over the goods; or
- (d) the title to the goods held by a person who has hired out the goods under a goods lease; or
- (e) the title to the goods held by a person who has hired out or agreed to sell the goods under a hire-purchase agreement; or
- (f) any other prescribed interest in the goods,

whether or not arising under the law of the State.

(2) The Governor may, by proclamation—

- (a) declare a law of another State, or of a Territory, of the Commonwealth to be a corresponding law; or
- (ab) declare a person to be a corresponding authority under a corresponding law; or
- (b) vary or revoke a declaration previously made under this subsection.

**PART 2
THE REGISTER**

The register

4. (1) The Registrar shall keep a register of security interests in prescribed goods.

(2) The register shall contain—

- (a) such information as is required to be entered in the register by this Act; and
- (b) such other information as may be prescribed.

(3) The register may also contain—

- (a) information as to prescribed goods that have been reported as being stolen or otherwise unlawfully obtained; and
- (b) such other information as to prescribed goods as the Registrar determines may be included in the register.

Application for registration

5. (1) The holder of a security interest in prescribed goods may make application for registration of that security interest.

(2) On receipt of an application under subsection (1) the Registrar shall register the security interest by entering the following particulars (insofar as those particulars are not already entered) in the register:

- (a) such details of the goods to which the security interest relates as are necessary to identify them; and
- (b) the name and address of the holder of the security interest; and
- (c) the type of security interest; and

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(e) the date and time of entry in the register.

(3) Security interests in the same goods that are the subject of applications under this section must be registered under this Act in the order in which the applications were lodged with the Registrar.

Change of particulars

6. (1) The holder of a registered security interest may make application for variation of the particulars of registration of the security interest.

(2) On receipt of an application under subsection (1) the Registrar shall enter in the register—

- (a) the variation of the particulars as specified in that application; and
- (b) the date and time of entry of the variation in the register.

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Cancellation of registration

7. (1) The holder of a registered security interest—

- (a) may make application for cancellation of the registration; and
- (b) where the security interest has been discharged shall, within 14 days after discharge, make application for cancellation of the registration.

(2) On receipt of an application under subsection (1) the Registrar shall cancel the registration of the security interest.

(3) The holder of a registered security interest who fails to comply with subsection (1)(b) is guilty of an offence.

Penalty: \$2 000.

(4) It is a defence to a charge of an offence against subsection (3) to prove that the defendant—

- (a) was not immediately aware of the discharge of the security interest; and
- (b) within 14 days after becoming aware of the discharge, made application for the cancellation of registration.

Correction, amendment and cancellation of entries

8. (1) The Registrar may correct any particulars that have been incorrectly entered in the register.

(2) Where a change occurs in circumstances to which a particular entered in the register relates, the Registrar may amend the entry to accord with that change.

(3) Where it appears to the Registrar that—

- (a) an entry in the register should not have been made either because the interest to which it relates does not exist, or is not registrable under this Act; or
- (b) a security interest entered in the register has been discharged,

the Registrar may, subject to this section, cancel the registration of the security interest.

(4) Before the Registrar cancels the registration of a security interest under subsection (3), the Registrar shall, by notice in writing sent by post to the person entered in the register as the holder of the security interest, require that person to show cause within 14 days after the date of the notice why registration of that security interest should not be cancelled.

(5) Where a person fails to show cause as required by a notice under subsection (4), the Registrar may give that person notice that the Registrar proposes to cancel registration of the security interest.

(6) Within 7 days after receipt of a notice under subsection (5) the person may apply to the Court for a review of the Registrar's decision.

(7) The Registrar may cancel registration of the security interest—

- (a) if no application to the Court is made within the time allowed under subsection (6); or

- (b) if an application to the Court is made and—
 - (i) the Court confirms the Registrar's decision; or
 - (ii) the application is subsequently withdrawn or struck out.

Interstate arrangements and registration of security interests registered under corresponding law

8A. (1) The Registrar may enter into an arrangement with a corresponding authority with respect to—

- (a) the transmission, storage, retrieval and dissemination of information relating to security interests; and
- (b) the sharing of funding responsibility for compensation payments under this Act or the corresponding law; and
- (c) administrative arrangements and matters, including provision for the sharing of any fees and charges and the use of facilities and staff; and
- (d) any other matter relating to the operation of this Act or the corresponding law.

(2) The Registrar must enter in the register particulars of a security interest in goods registered under a corresponding law (whether the security interest came into existence on, after or before the commencement of this section) and the date and time of entry in the register.

(3) The making of an entry in the register of a security interest registered under a corresponding law constitutes the registration of a security interest under this Act.

(4) The Registrar must vary the register so as to reflect the cancellation, or variation of the particulars, of the registration of a security interest under a corresponding law.

Time within which Registrar must register security interests

8B. This Act is to be taken to require the Registrar to register a security interest as soon as practicable after—

- (a) the receipt of a due application for such registration under this Act; or
- (b) the registration of the security interest under a corresponding law,

but no right arises to compensation or damages under this Act or at law unless the security interest remains unregistered beyond the end of the next day following the receipt of the application or the registration of the security interest under the corresponding law.

Certificate of registered security interests

9. (1) A person may make application for a certificate of registered security interests, if any, in respect of specified prescribed goods.

(2) On receipt of an application under subsection (1) the Registrar shall issue the person with a certificate, bearing the date and time of issue, containing—

- (a) the particulars of all registered security interests in the goods to which the application relates; or
- (b) where there are no registered security interests in those goods, a statement to that effect.

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Applications

10. (1) An application under a section of this Act—

- (a) must be made in a manner and form determined by the Registrar for the purposes of that section; and
- (b) must be accompanied by a fee prescribed for the purposes of that section; and
- (c) must be lodged with the Registrar.

(2) Differential fees may be prescribed for the purposes of subsection (1)(b) and the Registrar may, in appropriate cases, waive payment of a fee.

Registration and production of certificates by authorised persons

10A. (1) The Registrar may authorise a person to do one or more of the following by electronic means:

- (a) to register, or cancel, or vary particulars of the registration of, security interests;
- (b) to produce certificates of registered security interests.

(2) An authorisation under subsection (1)—

- (a) must be by instrument in writing; and
- (b) is subject to conditions specified in the authorisation; and
- (c) may be varied or revoked by the Registrar at any time by notice in writing.

(3) If, within 14 days after the discharge of a registered security interest held by an authorised person, the authorised person cancels the registration of the security interest pursuant to the person's authorisation under this section, the person is not required to make application to the Registrar for cancellation of the registration of the security interest.

(4) A certificate produced by an authorised person under this section must be in the same form and contain the same information as it would if it were issued by the Registrar on application under this Act.

(5) An authorised person or former authorised person has no right to compensation under Part 4 for loss or damage suffered in consequence of an act or omission of the person or an employee or agent of the person.

Inclusion of further information in certificates

10B. (1) The following additional information may be included (but is not required to be included) in a certificate issued by the Registrar or produced by an authorised person under this Act in respect of prescribed goods:

- (a) any information in the register indicating that the goods have been reported as being stolen or otherwise unlawfully obtained;
- (b) any other information included in the register in relation to the goods.

(2) Neither the inclusion of additional information in, nor its absence from, a certificate issued by the Registrar or produced by an authorised person under this Act gives rise to any right to compensation or damages under this Act or at law.

Evidentiary provision

10C. In any legal proceedings, an apparently genuine document purporting to be a certificate issued by the Registrar or produced by an authorised person under this Act will be admissible as evidence of the matters specified in the certificate other than matters as to which information is not required to be included in the certificate by this Act.

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**PART 3
DISCHARGE AND PRIORITY OF SECURITY INTERESTS**

Application of Part

10D. This Part—

- (a) applies only to prescribed goods that are for the time being situated in the State; and
- (b) extends in its application to security interests in motor vehicles that were not prescribed goods within the meaning of this Act when the security interests were created as if the meaning of "prescribed goods" had when this Act was enacted included any motor vehicles.

Discharge of security interests

11. (1) Subject to subsection (4), where—

- (a) prescribed goods are subject to a security interest; and
- (b) a person ("the third party") honestly, for value and without notice of the security interest purports to acquire title to the goods from the owner or apparent owner of the goods; and
- (c)
 - (i) the security interest is unregistered; or
 - (ii) the owner or apparent owner is a dealer in goods of that kind; or
 - (iii) after registration of the security interest and before the time of the purported acquisition of title, a certificate of registered security interests was obtained under this Act by or on behalf of the third party and the certificate did not disclose the security interest,

the third party acquires a good title to the goods and the security interest is discharged in respect of the goods.

(2) Subject to subsection (4), where—

- (a) prescribed goods are subject to a security interest; and
- (b) a person ("the third party") honestly, for value and without notice of the security interest purports to acquire an interest in the goods from the owner or apparent owner of the goods; and
- (c)
 - (i) the security interest is unregistered; or
 - (ii) the owner or apparent owner is a dealer in goods of that kind; or
 - (iii) after registration of the security interest and before the time of the purported acquisition of the interest, a certificate of registered security interests was obtained under this Act by or on behalf of the third party and the certificate did not disclose the security interest,

the third party acquires an interest that is valid against the holder of the security interest and has priority over that security interest.

(3) Where—

- (a) prescribed goods are subject to a registered security interest; and
- (b) a person purports to acquire title to or an interest in the goods from a dealer; and
- (c) the security interest is discharged under subsection (1), or its value is diminished under subsection (2),

the dealer is liable to compensate the holder for the loss.

(4) This section does not apply to the purported acquisition of title to or an interest in prescribed goods—

- (a) where the parties to the transaction are related to each other; or
- (b) where the transaction is subsequently rescinded.

(5) For the purposes of this section a party is related to another if—

- (a) one is a corporation and the other is a related corporation; or
- (b) one is a corporation and the other is a director or officer of the corporation or a related corporation.

(6) The onus of proving that a security interest is discharged under this section is on the person who asserts that the interest is so discharged.

(7) In this section—

"apparent owner" of goods means a person who has possession of the goods with the consent of the owner of the goods in circumstances in which that person appears to be the owner;

"director" or **"officer"** of a corporation has the same meaning as in the *Companies (South Australia) Code*;

"interest" in goods includes a right to possession of the goods;

"owner" in relation to goods subject to a goods lease or a hire purchase agreement means the person who has possession of the goods in pursuance of the lease or agreement;

"related corporation" has the same meaning as in the *Companies (South Australia) Code*.

Order of priority

12. (1) Subject to section 11(2), a registered security interest has priority over an unregistered security interest in the same prescribed goods.

(2) Subject to subsection (3) and section 11(2), registered security interests rank in priority in order of registration.

(3) The holder of a registered security interest may, by application made in accordance with section 10, postpone that security interest to a security interest subsequently registered.

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(4) The Registrar shall enter in the register a note of any postponement of a security interest under subsection (3).

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Jurisdiction of Court

13. (1) The Court has jurisdiction to determine any questions relating to the application of section 11 or 12 to a security interest in prescribed goods.

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(3) The jurisdiction conferred by subsection (1) is not exclusive of any jurisdiction of any court.

**PART 4
COMPENSATION**

Compensation

14. (1) Where—

- (a) a security interest is not registered as required by this Act; or
- (b) the registration of a security interest is erroneously cancelled; or
- (c) an erroneous entry is made in the register; or
- (d) an erroneous certificate of registered security interests is issued,

any person who suffers loss or damage in consequence of that error may apply to the Court for an order for payment of compensation.

(2) Where an application is made under subsection (1), the Court shall determine whether or not compensation should be paid to the applicant and, if it determines that compensation should be paid, shall make an order for payment to the applicant of such amount as the Court determines.

(3) Compensation paid in respect of a claim under this section shall not exceed—

- (a) the amount secured by the security interest; or
- (b) the value of the goods in respect of which the application is made,

at the time the loss or damage is suffered, whichever is the lesser.

Payment of money into and out of Highways Fund

15. (1) The following will be credited to the Highways Fund:

- (a) fees paid to the Registrar under this Act;
- (b) payments received under an arrangement under section 8A.

(2) The money required—

- (a) to meet the cost of administration of this Act; and
- (ab) for payments required to be made under an arrangement under section 8A; and
- (b) for the payment of compensation payable under an order of the Court made under this Act,

will be paid out of the Highways Fund.

(3) The Commissioner of Highways must include in each annual report under the *Highways Act 1926* to the Minister responsible for the administration of that Act statements of—

- (a) the total of the amounts credited to the Highways Fund pursuant to this Act during the financial year to which the report relates; and
- (b) the total of the amounts paid out of that Fund during that year to meet the costs of administration of this Act; and

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- (ba) the total of the amounts paid out of that Fund during that year for payments required to be made under arrangements under section 8A; and
- (c) the total of the amounts paid out of that Fund during that year for the payment of compensation payable under orders of the Court; and
- (d) the total of the amounts credited to that Fund pursuant to this Act at any time up to the end of that year less the total of the amounts paid out of that Fund pursuant to this Act at any time up to the end of that year.

**PART 5
MISCELLANEOUS**

Exclusion of liability

16. (1) No liability is incurred for an act or omission by—

- (a) the Registrar; or
- (b) an authorised person or an employee or agent of an authorised person; or
- (c) a person engaged in the administration of this Act,

in good faith in the exercise or performance, or purported exercise or performance, of a power, function or duty under this Act.

(2) Subsection (1) does not exclude any right to compensation under Part 4.

Unauthorised access to or interference with register

17. A person who, without the authority of the Registrar or other lawful authority—

- (a) obtains access to the register or information contained in the register; or
- (b) makes, alters or deletes an entry in the register; or
- (c) interferes with the register in any other way,

is guilty of an offence.

Penalty: \$5 000 or imprisonment for 12 months.

Falsification of certificate, etc.

17A. A person who forges or falsifies a certificate or other document under this Act is guilty of an offence.

Penalty: \$5 000 or imprisonment for 12 months.

False or misleading statement

18. A person who in any application under this Act makes a statement knowing it to be false or misleading in a material respect is guilty of an offence.

Penalty: \$5 000.

Fraudulent sale of prescribed goods subject to security interest

19. (1) A person who sells or purports to sell prescribed goods that are subject to a security interest without the consent of the holder of the security interest is guilty of an offence.

Penalty: \$5 000 or imprisonment for 12 months.

(2) It is a defence to a charge of an offence against this section to prove that the defendant did not know and could not by the exercise of reasonable diligence have ascertained that the goods to which the charge relates were subject to a security interest.

(3) An offence against this section is a minor indictable offence.

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(4) This section does not derogate from any other criminal liability that may arise by reason of the sale or purported sale of prescribed goods subject to a security interest but where 2 or more offences arise from the same circumstances the defendant is only liable to be convicted of one of those offences.

Summary offences

20. Except as otherwise provided, the offences constituted by this Act are summary offences.

Exemption from Stamp Duties Act 1923, s. 27

21. Section 27 of the *Stamp Duties Act 1923* does not apply in relation to an entry made in the register under this Act.

Account customers

21A. (1) The Registrar may authorise a person to be an account customer for the purposes of this Act and make arrangements for the person to pay, on a monthly or other basis, any fees payable by the person under this Act.

(2) An authorisation under subsection (1)—

(a) must be by instrument in writing; and

(b) is subject to conditions specified in the authorisation; and

(c) may be varied or revoked by the Registrar at any time by notice in writing.

(3) Fees payable by a person under this Act may be recovered by the Registrar as a debt by action in a court of competent jurisdiction.

Regulations

22. The Governor may make such regulations as are contemplated by this Act, or as are necessary or expedient for the purposes of this Act.

SCHEDULE 1

The Acts specified in the first column of this schedule are amended in the manner indicated in the second column.

| Act Amended | How Amended |
|---------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <i>Bills of Sale Act 1886</i> | <p>Section 28 Insert the following subsection after subsection (2):</p> <p>(3) A bill of sale that constitutes a registered security interest within the meaning of the <i>Goods Securities Act 1986</i> is not rendered void as against any person under subsection (1) by reason of the fact that it is not registered under this Act.</p> |
| <i>Consumer Transactions Act 1972</i> | <p>Section 36 Strike out subsection (2) and substitute the following subsection:</p> <p>(2) This section does not apply—</p> <p>(a) to the purported acquisition of title to goods by a person who carries on a trade or business in which that person trades in goods of that description;</p> <p>(b) to prescribed goods within the meaning of the <i>Goods Securities Act 1986</i>.</p> |
| <i>Mercantile Law Act 1936</i> | <p>Section 4 Insert after subsection (4) the following subsection:</p> <p>(5) This section does not operate to defeat an interest that is registered under the <i>Goods Securities Act 1986</i>.</p> |
| <i>Sale of Goods Act 1895</i> | <p>Section 25 Insert after subsection (3) the following subsection:</p> <p>(4) Subsection (2) does not operate to defeat an interest that is registered under the <i>Goods Securities Act 1986</i>.</p> |

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SCHEDULE 2

Transitional Provisions

(1) Where a security interest is registered under this Act during the transitional period, the date and time of entry on the register will, notwithstanding any other provision of this Act, be taken to be—

(a) where the security interest was registered under the *Bills of Sale Act 1886* or the *Companies (South Australia) Code* before the commencement of the transitional period, the date and time of its first registration under either of those Acts;

(b) in any other case, the date and time at which the transitional period ends.

(2) In this clause—

* * * * *

"**the transitional period**" means the period declared by proclamation to be the transitional period for the purposes of this schedule.

(3) The money standing to the credit of the Goods Securities Compensation Fund immediately before the commencement of this subclause is transferred to the Highways Fund.

APPENDIX

LEGISLATIVE HISTORY

(entries in bold type indicate amendments incorporated since the last reprint)

| | |
|----------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Section 3(1): | definitions of "authorised person" and "corresponding authority" inserted by 12, 1997, s. 3(a) definition of "Court" inserted by 82, 1995, s. 12(a) definition of "the Fund" repealed and definition of "the Highways Fund" inserted in its place by 53, 1991, s. 3 definition of "motor vehicle" inserted by 12, 1997, s. 3(b) definition of "prescribed goods" substituted by 12, 1997, s. 3(c) definition of "registered security interest" amended by 12, 1997, s. 3(d) definition of "security interest" amended by 12, 1997, s. 3(e) |
| Section 3(2): | definition of "the Tribunal" repealed by 82, 1995, s. 12(b) amended by 12, 1997, s. 3(f) |
| Section 4(3): | inserted by 12, 1997, s. 4 |
| Section 5(2)(d): | repealed by 21, 1987, s. 2 |
| Section 5(3): | substituted by 12, 1997, s. 5 |
| Section 8(6): | amended by 82, 1995, s. 13(a) |
| Section 8(7): | amended by 82, 1995, s. 13(b) |
| Sections 8A and 8B: | inserted by 12, 1997, s. 6 |
| Section 9(2): | amended by 21, 1987, s. 3 |
| Section 9(3): | repealed by 12, 1997, s. 7 |
| Sections 10A - 10C: | inserted by 12, 1997, s. 8 |
| Section 10D: | inserted by 12, 1997, s. 9 |
| Section 12(5) and (6): | repealed by 21, 1987, s. 4 |
| Section 13(1): | amended by 82, 1995, s. 14(a) |
| Section 13(2): | repealed by 82, 1995, s. 14(b) |
| Section 14(1): | amended by 82, 1995, s. 15(a); 12, 1997, s. 10 |
| Section 14(2): | amended by 82, 1995, s. 15(b) |
| Section 15: | substituted by 53, 1991, s. 4 |
| Section 15(1): | substituted by 12, 1997, s. 11(a) |
| Section 15(2): | amended by 82, 1995, s. 16(a); 12, 1997, s. 11(b) |
| Section 15(3): | amended by 82, 1995, s. 16(b); 12, 1997, s. 11(c), (d) |
| Sections 16 and 17: | repealed by 53, 1991, s. 4; inserted by 12, 1997, s. 12 |
| Section 17A: | inserted by 12, 1997, s. 12 |
| Section 21A: | inserted by 12, 1997, s. 13 |
| Schedule 2 | |
| Subclause (1): | substituted by 21, 1987, s. 5(a) |
| Subclause (2): | definition of "the registration Acts" repealed by 21, 1987, s. 5(b) |
| Subclause (3): | inserted by 53, 1991, s. 5 |