

SPECIAL ISSUE

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LEGAL NOTICE No. 86

THE MOVABLE PROPERTY SECURITY RIGHTS ACT

(No. 13 of 2017)

THE MOVABLE PROPERTY SECURITY RIGHTS (GENERAL)
REGULATIONS, 2017

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THE MOVABLE PROPERTY SECURITY RIGHTS ACT

(No. 13 of 2017)

IN EXERCISE of the powers conferred by section 88 of the Movable Property Security Rights Act, 2017 the Cabinet Secretary makes the following Regulations:—

THE MOVABLE PROPERTY SECURITY RIGHTS (GENERAL) REGULATIONS 2017

1. These Regulations may be cited as the Movable Security Rights (General) Regulations, 2017. Citation.
2. In these Regulations unless the context otherwise requires— Interpretation.
 “Act” means the Movable Property Security Rights Act, 2017;
 “address” includes a physical address and electronic address;
 “designated field” means a space on notice or search request for entering the specified type of information;
 “grantor” has the meaning assigned to it under section 2 of the Act;
 “Registrar” means the person appointed under section 19 of the Act to supervise and administer the operations of the Registry;
 “Registry” means the Registry established under section 19 of the Act; and
 “user account” means an online account created by a user to allow access or submission of information in the Registry.
3. (1) The Registry shall be electronic. Registry.
 (2) The submission of a notice and a search request to the Registrar shall be by electronic means.
4. A person may access the Registry if that person has— Access to Registry.
 (a) established a user account; and
 (b) entered the required information in the designated fields.
5. (1) A person may submit a notice to the Registrar, if that person has complied with regulation 4. Submission of a notice
 (2) The Registrar shall register a notice to a person who complies with these Regulations.
6. (1) A person who intends to conduct a search of the registry records shall apply to the Registrar in Form 1 set out in the First Schedule and pay the prescribed fees. Request for search.
 (2) The Registrar shall issue to an applicant a search certificate in Form 2 set out in the First Schedule.
7. (1) The registration of a notice with respect to a right of a non-consensual creditor in accordance with section 46 of the Act shall not require the authorization of the grantor. Notices that don't require authorization of grantor.

(2) The registration of an amendment notice to add the transferee as the new grantor in accordance with section 37 of the Act shall not require the authorization of the transferee.

8. (1) A registrant who wishes to register an initial notice shall apply in Form 3 set out in the First Schedule.

Information required
in an initial notice.

(2) The application under sub-regulation (1) shall contain the following information in the designated field—

- (a) the identifier and address of the grantor in accordance with regulation 9 (1) to (6);
- (b) the name of the grantor in accordance with regulation 9 (7) and (8);
- (c) the identifier of the secured creditor or its representative in accordance with regulation 10;
- (d) a description of the collateral in accordance with regulation 11;
- (e) an indication if the registration relates to a right of a non-consensual creditor;
- (f) an indication that the registration relates to a prior security right in accordance with section 89 of the Act;
- (g) the period of effectiveness of the registration;
- (h) a statement of the maximum amount secured by the security right; and
- (i) any other information required by the Registrar for statistical purposes.

(3) The Registrar shall, immediately after registration of an initial notice, issue to the registrant a notice in Form 4 set out in the First Schedule.

(4) The notice issued under sub-regulation (3) shall contain a copy of the information contained in the registered initial notice, the date and time when the registration became effective and the registration number of the initial notice.

9. (1) Where the grantor is a natural person who is a citizen of Kenya, the identifier of the grantor is their identity card number.

Grantor identifier
and name.

(2) Where the grantor is a natural person who is not a citizen of Kenya, the identifier of the grantor is the person's valid passport number.

(3) Where the grantor is incorporated in Kenya, the grantor identifier is the registration number in the certificate of incorporation.

(4) Where the grantor is an unincorporated organization in Kenya, the grantor identifier is the registration number issued to the grantor by the relevant authority and if the organization is not registered, the identity card number of the Kenyan principal officer of the organization.

(5) Where the grantor is a foreign unincorporated organization, the grantor identifier is the registration number issued to the grantor by the relevant authority in the foreign jurisdiction and if the organization is not registered, the valid passport number of the principal officer of the organization.

(6) Where the grantor is incorporated under a foreign law, the grantor identifier is the registration number issued to the grantor by the relevant authority in the jurisdiction of incorporation.

(7) Where the grantor is a natural person who is a citizen of Kenya, the grantor's name is the name that appears in their identity card or valid passport, if the natural person is not a citizen of Kenya.

(8) Where the grantor is not a natural person, the grantor name is the name as it appears in the relevant official document that indicates the grantor's identifier determined under sub-regulations (3), (4), (5) and (6).

10. (1) Where the secured creditor or their representative is a natural person who is a citizen of Kenya, their identifier is their identity card number or valid passport number, if the natural person is not a citizen of Kenya.

Secured creditor.

(2) Where the secured creditor or their representative is not a natural person, their identifier is —

- (a) if incorporated in Kenya, the registration number in the certificate of incorporation;
- (b) if it is an unincorporated organization in Kenya, the registration number issued to the creditor by the relevant authority and if the organization is not registered, the identity card number of the Kenyan principal officer of the organization;
- (c) if it is a foreign unincorporated organization, the registration number issued to the creditor by the relevant authority in the foreign jurisdiction and if the organization is not registered, the valid passport number of the principal officer of the organization; and
- (d) if it is incorporated under a foreign law, the registration number issued to the creditor by the relevant authority in the jurisdiction of incorporation.

(3) Where the secured creditor or their representative is a natural person who is a citizen of Kenya, the creditor's name is the name that appears in their identity card or valid passport, if the natural person is not a citizen of Kenya.

(4) Where the secured creditor or their representative is not a natural person, the creditor name is the name as it appears in the relevant official document that indicates the grantor's identifier determined under sub-regulation (2).

11. (1) The description of collateral specified in a notice shall be in accordance with section 8 of the Act.

Description of collateral in a notice.

(2) An item used as collateral that has a serial number shall be described by the serial number, the make, and the name of manufacturer.

(3) The Registrar may provide specific categories of the collateral.

12. (1) A registrant who wishes to register an amendment notice shall apply in Form 5 set out in the First Schedule.

Information required in an amendment notice.

(2) The application made under sub-regulation (1) shall contain the following information in the designated field—

- (a) the registration number;
- (b) the information to be added or changed; and
- (c) the reasons for amendment

(3) An amendment notice may relate to one or more items of information contained in a registered notice.

(4) The Registrar shall, immediately after registering an amendment notice, issue to the registrant a notice in Form 6 set out in the First Schedule.

(5) The notice issued under sub-regulation (4) shall contain a copy of the information contained in the registered amendment notice, the date and time when the registration became effective and the registration number of the amendment notice.

13. (1) The grantor may, in accordance with section 33(5) of the Act, request the Registrar to register an amendment or cancellation notice in Form 7 set out in the First Schedule.

Procedure for the compulsory amendment and cancellation.

(2) The request under sub regulation (1) shall contain sufficient evidence to enable the Registrar to determine whether the grantor is entitled to the amendment or cancellation.

(3) If the Registrar determines that the grantor has grounds to request an amendment or cancellation, the Registrar shall issue a notice to the secured creditor in Form 8 set out in the First Schedule.

(4) The notice issued under sub-regulation (3) shall require the secured creditor to respond to the request within fourteen days of receipt of the notice.

(5) If the secured creditor does not respond in accordance with sub-regulation (4), the request shall be granted.

(6) If the secured creditor disputes the grounds for granting the request, the Registrar shall refuse to grant the request.

14. (1) A registrant who wishes to register a cancellation notice shall apply in Form 9 set out in the First Schedule.

Information required in a cancellation notice.

(2) The application under sub-regulation (1) shall contain the reason for cancellation.

(3) The Registrar shall, immediately after registering a cancellation notice, issue to the registrant a notice in Form 10 set out in the First Schedule.

(4) The notice issued under sub-regulation (3) shall contain a copy of the information contained in the registered cancellation notice, the date and time when the registration became effective and the registration number of the cancellation notice.

15. The fees payable under these Regulations shall be as provided in the Second Schedule.

16. Any notification shall be through the electronic address provided in the initial notice.

Fees for the use of the Registry services.

Mode of delivery of notices.

FIRST SCHEDULE

FORM 1

(r. 6 (1))

SEARCH REQUEST

Search criteria:

Grantor's identifier

Collateral serial number

1. Grantor identifier

a. Type of Grantor

Individual

Business/Company/Limited Liability Partnership

Unincorporated body/entity

b.

Identifier.....
(ID number/Passport number/Registration number)

2. Collateral serial number:.....

FORM 2

(r. 6 (2))

SEARCH CERTIFICATE

1. Grantor

Name:.....

Identifier.....

Postal address:.....

Email address:.....

Phone number:.....

2. Secured creditor

Name:.....

- Identifier.....
- Postal address:.....
- Email address:.....
- Phone number:.....
- 3. Collateral
 - Type:
 - Serial Number (if any):.....
- 4. Maximum amount Secured:.....
- 5. Date and time of registration:.....
- 6. Date and time of search.....

.....
(Registrar)

FORM 3

(r. 8 (1))

INITIAL NOTICE

Part A

1. PARTICULARS OF GRANTOR

A. Type of Grantor

- Individual
- Company
- Unincorporated body/entity

B. Details of the Grantor

Grantor 1:

Name:.....

Identifier.....
(ID number/Passport number/Registration number):

KRA PIN number:.....

Date of birth/registration:.....

Postal address:.....

Email address:.....

Telephone/mobile number:.....

Grantor 2:

Name:.....

Identifier.....
(ID number/Passport number/Registration number):

KRA PIN number:.....
 Date of birth/registration:.....
 Postal address:.....
 Email address:.....
 Telephone/mobile number:.....

Part B

2. Category of Secured Creditor or their representative

- Part I: Consensual
 Part II: Non-consensual

3. PARTICULARS OF A CONSENSUAL SECURED CREDITOR

A. Type of the Secured Creditor or their representative

- Individual
 Company
 Unincorporated body/entity

B. Details of the Secured creditor

Secured Creditor or their representative:

Name:.....

Identifier.....

(ID number/Passport number/Registration number):

KRA PIN number:.....

Date of birth/registration:.....

Postal address:.....

Email address:.....

Telephone/mobile number:.....

Secured Creditor 2 or their representative:

Name:.....

Identifier.....

(ID number/Passport number/Registration number):

KRA PIN number:.....

Date of birth/Registration:.....

Postal address:.....

Email address:.....

Telephone/mobile number:.....

4. DETAILS OF THE COLLATERAL

A. Type of Collateral

- Motor vehicle
- Livestock
- Crops
- Documents of title
- Intellectual property
- Securities
- Negotiable instruments
- Bank accounts
- All present and after acquired property
- Future proceeds
- Household items
- Furniture
- Stock in trade
- Inventory
- Consumer goods
- Others

B. Description of Collateral (including serial number if any):

.....

5. Period of effectiveness:.....(days/months/years)

6. Maximum amount secured:.....(currency)

7. Has grantor's authorization been obtained?

Yes

No

8. NON-CONSENSUAL CREDITOR

A. Type of Creditor

Official receiver

Landlord/Representative

Judgment creditor¹

Government agency²

¹ This may include judgment on matrimonial property, child maintenance, civil judgments, commercial judgments

² This may include land registries, Kenya revenue authority, companies registry etc

Other (specify)

B. Type of Creditor

Individual

Company

Unincorporated body/entity

C. Details of the Creditor :

Creditor 1:

Name:

Identifier.....

(ID number/Passport number/Registration number):

KRA PIN number:

Date of birth/registration:

Postal address:

Email address:

Telephone/mobile number:

Creditor 2:

Name:

Identifier.....

(ID number/Passport number/Registration number):

KRA PIN number:

Date of birth/registration:

Postal address:

Email address:

Telephone/mobile number.....

9. PARTICULARS OF THE COLLATERAL

A. Type of Collateral

Motor vehicle

Livestock

Crops

Documents of title

Intellectual property

Securities

Negotiable instruments

Bank Account/ money

All present and after acquired property

- Future proceeds
- Household items
- Furniture
- Stock in trade
- Others

B. Description of Collateral (including serial number if any):

.....

10. Date of judgment/decree/order (if any):.....(DD/MM/YYYY)
11. Type of judgment/decree/order (if any):
12. Amount specified in judgment/decree/order: (currency)

Part C

13. Whether the registration relates to a prior security right.....
14. If other, specify.....

FORM 4

(r. 8 (3))

NOTICE TO REGISTRANT OF THE INITIAL NOTICE

Part A

1. Registration number of initial notice.....

2. PARTICULARS OF GRANTOR

A. Type of Grantor

- Individual
- Company
- Unincorporated body/entity

B. Details of the Grantor

Grantor 1:

Name:.....

Identifier.....

(ID number/Passport number/Registration number):

KRA PIN number:.....

Date of birth/registration:.....

Postal address:.....

Email address:.....

Telephone/mobile number:.....

Grantor 2 :

Name:.....

Identifier.....
(ID number/Passport number/Registration number):

KRA PIN number:.....

Date of birth/registration:.....

Postal address:.....

Email address:.....

Telephone/mobile number:.....

Part B

3. Category of Secured Creditor or their representative

Part I: Consensual

Part II: Non-consensual

4. PARTICULARS OF A CONSENSUAL SECURED CREDITOR

A. Type of the Secured Creditor

Individual

Company

Unincorporated body/entity

B. Details of the Secured creditor

Secured Creditor or their representative:

Name:.....

Identifier.....
(ID number/Passport number/Registration number):

KRA PIN number:.....

Date of birth/registration:.....

Postal address:.....

Email address:.....

Telephone/mobile number:.....

Secured Creditor 2 or their representative:

Name:.....

Identifier.....
(ID number/Passport number/Registration number):

KRA PIN number:.....

Date of birth/registration:.....

Postal address:.....

Email address:.....

Telephone/mobile number:.....

4. DETAILS OF THE COLLATERAL

A. Type of Collateral

- Motor vehicle
- Livestock
- Crops
- Documents of title
- Intellectual property
- Securities
- Negotiable instruments
- Bank accounts
- All present and after acquired property
- Future proceeds
- Household items
- Furniture
- Stock in trade
- Inventory
- Consumer goods
- Others

B. Description of Collateral (including serial number if any):

.....
.....
.....

5. Period of effectiveness:.....(days/months/years)

6. Maximum amount secured:.....(currency)

7. Has grantor's authorization been obtained?

- Yes
- No

8. NON-CONSENSUAL CREDITOR

A. Type of Creditor

- Official receiver
- Landlord/Representative

- Judgment creditor³
- Government agency⁴
- Other (specify)

B. Type of Creditor

- Individual
- Company
- Unincorporated body/entity

C. Details of the Creditor:

Creditor 1:

Name:

Identifier.....
(ID number/Passport number/Registration number):

KRA PIN number:

Date of birth/registration:

Postal address:

Email address:

Telephone/mobile number:

Creditor 2:

Name:

Identifier.....
(ID number/Passport number/Registration number):

KRA PIN number:

Date of birth/registration:

Postal address:

Email address:

Telephone/mobile number.....

9. PARTICULARS OF THE COLLATERAL

A. Type of Collateral

- Motor vehicle
- Livestock
- Crops
- Documents of title
- Intellectual property

³ This may include judgment on matrimonial property, child maintenance, civil judgments, commercial judgments

⁴ This may include land registries, Kenya revenue authority, companies registry etc

- Securities
- Negotiable instruments
- Financial lease
- Bank accounts
- All present and after acquired property
- Future proceeds
- Household items
- Furniture
- Stock in trade
- Inventory
- Consumer goods
- Others

B. Description of Collateral (including serial number if any):

.....
.....

10. Date of judgment/decreed/order (if any):.....(DD/MM/YYYY)

11. Type of judgment/decreed/order (if any):

12. Amount specified in judgment/decreed/order: (currency)

Part C

15. Whether the registration relates to a prior security right.....

16. If other, specify.....

Dated this day of 20.....

Time

.....
(Registrar)

FORM 5

(r. 12 (1))

AMENDMENT NOTICE

1. Registration number of the initial notice:

2. Reason for amendment:

- Registered notice contains information that exceeds scope of the Grantor's authorization;
- The security agreement has been revised to delete some collateral;
- Transfer of a security right to a new secured creditor; or
- Other
- Particulars of the amendment.....

FORM 6

(r. 12 (4))

NOTICE TO REGISTRANT OF AN AMENDMENT NOTICE

1. Registration number of the amendment notice:

2. Reason for amendment:

.....
.....

3. Particulars of the amendment

.....
.....

Dated this day of 20.....

Time

.....
(Registrar)

FORM 7

(r. 13 (1))

**GRANTOR'S REQUEST FOR REGISTRATION OF
AMENDMENT/CANCELLATION NOTICE**

1. Registration number of the initial notice.....

2. Has request been made to the secured creditor:

 Yes(attach evidence) No

3. Reason for amendment:

 Registered notice contains information that exceeds scope of the Grantor's
authorization; The security agreement has been revised to delete some collateral; Transfer of a security right to a new secured creditor; or Other

4. Particulars of the amendment:

FORM 8

(r. 13 (3))

**NOTICE TO SECURED CREDITOR OF GRANTOR'S REQUEST FOR
AMENDMENT/CANCELLATION**

To:

(Insert name of the secured creditor).....

(Insert address of secured creditor).....

TAKE NOTICE that on the day of 20....., (insert name of Grantor)..... requested for amendment/cancellation to the notice, registration number (insert registration number of the notice).....and filed on the day of..... 20..... pursuant to section 33 (4) of the Movable Property Security Rights Act, 2017.

FURTHER TAKE NOTICE THAT you are required to respond to the grantor’s request within fourteen (14) working days of receipt of this notice.

Dated this day of 20...

.....
(Registrar)

SECURED CREDITORS RESPONSE

Do consent to the registration of the amendment/ cancellation to the notice?

- Yes
- No (give reasons)

FORM 9

(r. 14 (1))

CANCELLATION NOTICE

1. Registration number of the initial notice.....
2. Reason for cancellation:
 - registration of the initial notice was not authorized by the Grantor; registration of the initial notice was authorized by the Grantor but the authorization has been withdrawn and no security agreement has been concluded; or
 - security right has been extinguished and secured creditor has no further commitment.

FORM 10

(r. 14 (3))

NOTICE TO REGISTRANT OF CANCELLATION NOTICE

1. Registration number of the cancellation notice.....
2. Reason for cancellation:
 - registration of the initial notice was not authorized by the Grantor;
 - registration of the initial notice was authorized by the Grantor but the authorization has been withdrawn and no security agreement has been concluded; or
 - security right has been extinguished and secured creditor has no further commitment.

Dated this day of 20.....

Time

.....
(Registrar)

SECOND SCHEDULE

FEES PAYABLE TO THE REGISTRAR

(r. 15)

On submission of a Search Request KSh. 500

Made on the 22nd May, 2017.

GITHU MUIGAI,
Attorney-General.