

(Legislative Supplement No. 37)

LEGAL NOTICE NO. 121

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 Attorney-General makes the following Regulations—

**THE MOVABLE PROPERTY SECURITY RIGHTS (GENERAL)
(AMENDMENT) REGULATIONS, 2019**

1. These Regulations may be cited as the Movable Property Security Rights (General) (Amendment) Regulations, 2019.

Citation.

2. The Movable Property Security Rights (General) Regulations, 2017, herein referred to as “the principal Regulations” are amended in regulation 2 by inserting the following new definition in proper alphabetical sequence—

L.N. No. 86 of
2017.

“confirmation of registration” means a copy of the information contained in the registered notice issued upon registration of that notice”

3. Regulation 5 of the principal Regulations is amended—

- (a) in sub-regulation (1) by deleting the word “person” wherever it appears and substituting therefor the word “registrant”;
- (b) in sub-regulation (2) by deleting the word “person” and substituting therefor the word “registrant”.

4. Regulation 6 of the principal Regulations is amended—

- (a) in sub-regulation (1) by deleting the word “apply” and substituting therefor the words “submit a search request”; and
- (b) in sub-regulation (2) by deleting the words “an applicant” and substituting therefor the words “the person conducting the search.”

5. Regulation 8 of the principal Regulations is amended—

- (a) in sub-regulation (1) by deleting the word “apply” and substituting therefor the words “submit the initial notice”;
- (b) by deleting sub-regulation (2) and substituting therefor the following new sub-regulation—

“(2) The initial notice 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, which shall be available until the expiration of the period set out in section 91(2) (b) of the Act;
 - (g) the period of effectiveness of the registration not exceeding ten years;
 - (h) a statement of the maximum amount secured by the security rights; and
 - (i) any other information required by the Registrar for statistical purpose.
- (c) in sub-regulation (3) by inserting the words “confirmation of registration of an initial” immediately after the words “registrant a”; and
- (d) in sub-regulation (4) by deleting the words “the notice issued under sub-regulation (3) shall contain a copy of the information contained in the registered initial notice” and substituting therefor the words “A confirmation of registration of an initial notice under sub-regulation (3) shall include”.
6. Regulation 9 of the principal Regulations is amended—
- (a) in sub-regulation (5) by deleting the words “in the foreign jurisdiction and if the organization is not registered, the valid passport number of the principal officer of the organization” and substituting therefor the words “in Kenya that authorized the foreign unincorporated organization to conduct its activities.”
 - (b) by deleting sub-regulation (6) and substituting therefor the following new sub regulation—
 - “(6) Where the grantor is a foreign incorporated organization—
 - (a) the grantor identifier is the registration number in the certificate of compliance issued

to the grantor by the relevant authority in Kenya that authorized the foreign unincorporated organization to conduct its activities; or

(b) the grantor identifier is the registration number issued to the grantor by the relevant authority in the jurisdiction of incorporation, where the grantor has not been issued with a certificate of compliance in Kenya.”

(c) in sub-regulation (7) by deleting the words “valid passport, if the natural person is not a citizen of Kenya.”

(d) by inserting the following new sub regulation immediately after sub- regulation 7—

“(7A) Where the grantor is a natural person who is not a citizen of Kenya, the grantor’s name is the name that appears in grantor’s valid passport.”

7. Regulation 10 of the principal Regulations is amended—

(a) in sub-regulation (1) by deleting the words the words “valid passport number, if the natural person is not a citizen of Kenya.”

(b) by inserting the following new sub-regulation immediately after sub-regulation 1—

“(1A) Where the secured creditor or their representative is a natural person who is not a citizen of Kenya, the identifier is their valid passport number.”

(c) in sub-regulation (2)—

(i) by deleting the words “in the foreign jurisdiction and if the organization is not registered, the valid passport number of the principal officer of the organization” appearing in paragraph (c) and substituting therefor the words “in Kenya that authorized the foreign unincorporated organization to conduct its activities.”

(ii) by deleting paragraph (d) and substituting therefor the following new paragraph —

“(d) if it is a foreign incorporate organization, the registration number—

(i) is number in the certificate of compliance issued to the grantor by the relevant authority in Kenya that authorized the foreign unincorporated organization to conduct its activities; or

(ii) issued by the relevant authority in the jurisdiction of incorporation, where the

secured creditor has not been issued with a certificate of compliance in Kenya.”

8. Regulation 11 of the principal Regulations is amended by deleting sub-regulation (3).

9. Regulation 12 of the principal Regulations is amended—

- (a) in sub-regulation (1) by deleting the words “register an amendment notice shall apply in” and substituting therefor the word “amend an initial notice shall submit an amendment notice”;
- (b) in sub-regulation (2) by deleting the word “application made)” and substituting therefor the words “amendment notice submitted”;
- (c) in sub-regulation (3) by deleting the word “registered notice” and substituting therefor the words “registered initial notice”;
- (d) in sub-regulation (4) by deleting the words “registering an amendment notice, issue to the registrant a notice” and substituting therefor the words “registration of an amendment notice, issue to the registrant a confirmation of registration of an amendment notice”;
- (e) in sub-regulation (5) by deleting the words “The notice issued under sub-regulation (4) shall contain a copy of the information contained in the registered amendment notice” and substituting therefor the words “A confirmation of registration of an amendment notice under sub-regulation (4) shall include”.

10. Regulation 13 of the principal Regulations is amended —

- (a) in sub-regulation (3) by deleting the words “a notice to the secured creditor” and substituting therefor the words “a notification to a secured creditor of grantor’s request for amendment or cancellation”; and
- (b) in sub-regulation (4) by deleting the word “notice” and substituting therefor the word “notification” wherever it appears in this sub-regulation.

11. Regulation 14 of the principal Regulations is amended—

- (a) in sub-regulation (1) by deleting the words “register a cancellation notice shall apply” and substituting therefor the word “cancel an initial notice shall submit a cancellation notice”;
- (b) in sub-regulation (2) by deleting the word “application” and substituting therefor the words “cancellation notice”;
- (c) in sub-regulation (3) by deleting the words “registering a cancellation notice, issue to the registrant a notice” and substituting therefor the words “the registration of a cancellation notice, issue to the registrant a confirmation of registration of a cancellation notice”;

- (d) in sub-regulation (4) by deleting the words “the notice issued under sub-regulation (3) shall contain a copy of the information contained in the registered cancellation notice” and substituting therefor the words “confirmation of registration of a cancellation notice under sub-regulation (3) shall include”.

12. Regulation 16 of the principal Regulations is amended by inserting the words “most recent” immediately after the words “through the”.

13. The principal Regulations are amended by deleting the First Schedule and substituting therefor the following new Schedule—

FIRST SCHEDULE

FORMS

FORM 1

(r.6(1))

SEARCH REQUEST

Search criteria:

Grantor Identifier

Type of Grantor

Kenyan Citizen

Foreign Resident

Foreigner

Kenyan incorporated organization

Kenyan unincorporated organization

Foreign incorporated organization

Foreign unincorporated organization

Identifier.....

(ID number/Passport number/Registration number)

Collateral Serial Number:.....

FORM 2

(r. 6(2))

SEARCH CERTIFICATE

Grantor

Identifier.....

(ID number/Passport number/Registration number)

Name:

Postal address:

Email address:

Secured Creditor

Name

Postal address:

Email address:.....

Collateral

Type:

Description of Collateral.....

Serial Number (if any):.....

Maximum Amount Secured.....
Date and time of registration:
Date and time of search

.....
(Registrar)

FORM 3

(r. 8(1))

INITIAL NOTICE

Particulars of Grantor

Type of Grantor

- Kenyan Citizen
- Foreign Resident
- Foreigner
- Kenyan incorporated organization
- Kenyan unincorporated organization
- Foreign incorporated organization
- Foreign unincorporated organization

Details of the Grantor

Grantor 1:

Identifier.....

(ID number/Passport number/Registration number)

Name:

Postal address:

Email address:

Telephone/mobile number:.....

Grantor 2:

Identifier.....

(ID number/Passport number/Registration number)

Name:

Postal address:

Email address:

Telephone/mobile number:.....

Consensual

Non-consensual

Particulars of a Consensual Secured Creditor**Type of the Consensual Secured Creditor or their representative**

- Kenyan Citizen
- Foreign Resident
- Foreigner
- Kenyan incorporated organization
- Kenyan unincorporated organization
- Foreign incorporated organization
- Foreign unincorporated organization

Details of the Consensual Secured Creditor or their representative**Consensual Secured Creditor 1 or their representative:**

Name:

Identifier

(ID number/Passport number/Registration number)

Postal address:

Email address:

Telephone/mobile number:.....

Consensual Secured Creditor 2 or their representative:

Name:

Identifier

(ID number/Passport number/Registration number)

Postal address

Email address:

Telephone/mobile number:.....

Details of the Collateral**Type of Collateral**

- Motor vehicle/Trailer
- Livestock
- Crops
- Negotiable documents
- Intellectual property
- Securities
- Negotiable instruments
- Deposit/Bank accounts

- Household items
- Equipment or Machinery
- Inventory including stock in trade
- Consumer goods other than household items
- Attachment to immovable property
- All present and after acquired property
- Others

Description of Collateral :

.....
.....

Serial Number of the collateral

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

Maximum Amount Secured

Has grantor's authorization been obtained?

- Yes
- No

Particulars of a Non-Consensual Secured Creditor

Type of Non-Consensual Secured Creditor

- Official receiver¹
- Landlord/Representative
- Judgment creditor²
- Government agency³
- Other (specify)

Details of the Non-Consensual Secured Creditor:

Name:

Postal address:

Email address:

Telephone/mobile number:

Details of the Collateral

Type of Collateral

- Motor vehicle/Trailer
- Livestock
- Crops

¹This may include bankruptcy trustee, liquidator, administrator

²This may include judgment on matrimonial property, child maintenance, civil judgments, commercial judgments

³ This may include land registries, Kenya revenue authority, companies registry etc

- Negotiable Documents
- Intellectual property
- Securities
- Negotiable instruments
- Deposit/Bank accounts
- Household items
- Equipment or Machinery
- Inventory including stock in trade
- Consumer goods other than household items
- Attachments to immovable property
- All present and after acquired property
- Others

Description of the Collateral

.....

.....

.....

Serial number of the Collateral.....

Date of judgment/decreed/order (if any):.....(dd/mm/yyyy)

Amount Owed or Amount Specified In Judgment/Decree/Order:.....(Currency)

FORM 4

(r. 8(3))

CONFIRMATION OF REGISTRATION OF AN INITIAL NOTICE

Registration Number of Initial Notice

Particulars of Grantor

Type of Grantor

- Kenyan Citizen
- Foreign Resident
- Foreigner
- Kenyan incorporated organization
- Kenyan unincorporated organization
- Foreign incorporated organization
- Foreign unincorporated organization

Details of the Grantor

Grantor 1:

Identifier

(ID number/Passport number/Registration number)

Name:

Postal address:

E-mail address:

Telephone/mobile number:

Grantor 2:

Identifier.....

(ID number/Passport number/Registration number)

Name:

Postal address:

E-mail address:

Telephone/mobile number:

PART B

- Consensual
- Non-consensual

Particulars of a Consensual Secured Creditor

Type of the Consensual Secured Creditor or their representative

- Kenyan Citizen
- Foreign Resident
- Foreigner
- Kenyan incorporated organization
- Kenyan unincorporated organization
- Foreign incorporated organization
- Foreign unincorporated organization

Details of the Consensual Secured Creditor or their representative

Consensual Secured Creditor 1 or their representative:

Name:

Identifier.....

(ID number/Passport number/Registration number)

Postal address:

E-mail address:

Telephone/mobile number:

Consensual Secured Creditor 2 or their representative:

Name:.....

Identifier.....

(ID number/Passport number/Registration number)

Postal address:.....

Email address:.....

Telephone/mobile number:

Details of the Collateral

Type of Collateral

Motor vehicle/Trailer

Livestock

Crops

Negotiable Documents

Intellectual property

Securities

Negotiable instruments

Deposit/Bank accounts

Household items

Equipment or Machinery

Inventory including stock in trade

Consumer goods other than household items

Attachments to immovable property

All present and after acquired property

Others

Description of Collateral :

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

Serial Number of the collateral

Period of Effectiveness:.....(days/months/years)

Has grantor's authorization been obtained?

Yes

No

Particular of a Non-Consensual Secured Creditor**Type of Non-Consensual Secured Creditor**Official receiver⁴

Landlord/Representative

Judgment creditor⁵Government agency⁶

Other (specify)

Details of the Non-Consensual Secured Creditor :

Non-Consensual Secured Creditor:

Name:.....

Postal address:

Email address:.....

Telephone/mobile number:

Particulars of the Collateral**Type of Collateral**

Motor vehicle/Trailer

Livestock

Crops

Negotiable Documents

Intellectual property

Securities

Negotiable instruments

Deposit/Bank accounts

Household items

Equipment or Machinery

Inventory including stock in trade

Consumer goods other than household items

Attachments to immovable property

All present and after acquired property

Others

⁴This may include bankruptcy trustee, liquidator, administrator⁵This may include judgment on matrimonial property, child maintenance, civil judgments, commercial judgments⁶This may include land registries, Kenya revenue authority, companies registry etc

Description of Collateral

 Serial number of the Collateral
 Date of judgment/decree/order (if any):...(dd/mm/yyyy)
 Amount Owed Or Amount Specified In Judgment/Decree/Order:.....(Currency)
 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
3. Particulars of the amendment.....

FORM 6

(r. 12(4))

CONFIRMATION OF REGISTRATION 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; or
 other
- 4. Particulars of the amendment

- 5. Reason for Cancellation

FORM 8

(r. 13(3))

NOTIFICATION TO A 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 identifier and name of Grantor)..... requested amendment/cancellation of the registered notice, registration number(insert registration number of the notice).....and registered 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 notification.

Dated this day of 20...

.....
(Registrar)

SECURED CREDITORS RESPONSE

Do you consent to the registration of the amendment/ cancellation to the registered 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))

A CONFIRMATION OF REGISTRATION OF A 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)

Dated the 25th June, 2019.

P. K. KARIUKI,
Attorney- General.