



REGISTRATION UNDER THE MOVABLE PROPERTY SECURITY RIGHTS ACT

The year 2017 saw the enactment of the Movable Property Security Rights Act (“the Act”) whose object is: to facilitate the use of movable property as collateral for credit facilities and to provide for the registration of security rights in movable property.

Security rights that were created before the coming into effect of the Act are defined as prior security rights. If such a right was effective against third parties under prior law, its effectiveness continues under the Act and only dissipates on the earlier of the following two conditions:

- Expiration of the time of effectiveness under prior law; and
- The expiration of nine (9) months after the coming into force of the Act.

Accordingly, if a prior security right is not registered within the first nine (9) months after the Act came into force, it loses its third party effectiveness regardless of the fact that its time of effectiveness under prior law is yet to lapse.

The nine month grace period comes to an end on the **16th of February 2018**, the Act having entered into force by way of Legal Notice No. 77 of 2017 published on the 16th of May 2017.

To maintain the effectiveness of the prior security right against third parties, the security right has to be registered under the Act.

Registration can still be done after 16th February 2018 however the risk is that a third party that may have registered a security right on the same asset prior to such re-registration could argue priority.

The registration process in the Collateral Registry is an online process and would need a Kenyan Corporation or a Kenyan Citizen’s details to be in the data base. The updating of the registry database with the details of Kenyan Corporations and Kenyan Citizens is an exclusive process done by the Registry.

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