

STATUTORY INSTRUMENT
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THE BORROWERS AND LENDERS ACT, 2014
(ACT NO. 13 OF 2014)

THE BORROWERS AND LENDERS (COLLATERAL REGISTRY) Short title
REGULATIONS, 2016

IN EXERCISE of the powers conferred upon it by section 54 of the Borrowers and Lenders Act, 2014 the Governor hereby makes the following Regulations—

PART I—PRELIMINARY.

1. In these Regulations, unless the context otherwise requires— Interpretations.

“Act” means the Borrowers and Lenders Act, 2014
(Act No. 13 of 2014);

“address” means-

- (i) a physical address or a post office box number, city, postal code and country;
or
- (ii) an electronic address;

“amendment” means a modification with respect to information contained in a previously registered security interest to which the amendment relates;

“Bank” means the Bank of Sierra Leone established by the Bank of Sierra Leone Act, 2011 (Act No. 15 of 2011);

“designated field” means the space on the registration form designated for entering the specified type of information;

“discharge” means the registration of satisfaction of a secured obligation or a debt, evidenced in a judgment or order in accordance with section 20 of the Act;

“form” means an application form used to enter registration information that is electronically communicated to the Collateral Registry and includes an initial, an amendment and a discharge registration form;

“Governor” means the Governor of the Bank of Sierra Leone;

“registrant” means a person who submits the form to the Collateral Registry;

“Registrar” means the person appointed under subsection (2) of section 15 of the Act, to manage, supervise and administer the operations of the Collateral Registry;

“registration number” means a unique number assigned to an initial form by the Collateral Registry on its registration and permanently associated with that registered form and any related form;

“serial-numbered collateral” means a motor vehicle, a trailer, or a mobile home that have a serial number permanently marked on or attached by the manufacturer; and

“serial number” means the serial number located on the chassis or body frame of a motor vehicle, a trailer, or a mobile home permanently marked on or attached by the manufacturer.

PART II – ESTABLISHMENT OF COLLATERAL REGISTRY.

2. (1) Subject to section 15 of the Act, there is hereby established a Collateral Registry as a unit or department within the Bank responsible for the registration of security interests on movable property, judgments and orders issued subject to paragraph (c) of subsection (2) of section 31 of the Act. Establishment of Collateral Registry.

(2) Notwithstanding the generality of sub-regulation (1), the Collateral Registry shall-

- (a) not conduct scrutiny of the content of forms or search requests, and shall not make any changes to the content of a form or search request;

- (b) assign a registration number to a registered initial form and associate all amendment and discharge forms which contain that registration number with the initial registered form;
- (c) record information in the forms submitted by registrants into the Registry record without delay and in the order in which each form was submitted;
- (d) record the date and time on which information in a form is entered into the Registry record;
- (e) not amend or delete information contained in the Registry record;
- (f) remove a registered form from the Registry record only upon the expiration of the period of effectiveness;
- (g) archive information removed from the Registry record for 5 years in accordance with subsection (4) of section 30 of the Anti-Money Laundering and Combating of Financing of Terrorism Act, 2012 in a manner that enables the information to be retrieved by the Registrar; and
- (h) preserve information contained in the Registry record and reconstruct it in the event of loss or damage.

(3) The Collateral Registry shall allow holders of user accounts to electronically attach files to initial and amendment forms.

(4) Electronic access to the Collateral Registry services shall be available at all times and where the Registrar considers that it is not practical to provide access to the services, the Registrar may

- (a) refuse access to the Collateral Registry services; or
- (b) otherwise suspend its operation, in whole or in part.

(5) Where the Registrar refuses access to the Collateral Registry services, or otherwise suspends its operation in whole or in part, the Registrar shall publish a notice or otherwise notify the users giving details of the refusal or other suspension of operation.

3. (1) Subject to subsection (2) of section 15 of the Act, there shall be a Registrar who shall be appointed by the Bank on such terms and conditions as shall be specified in his letter of appointment.

Appointment
of Registrar.

(2) A Registrar appointed under sub-regulation (1), shall be responsible to manage, supervise and administer the operations of the Collateral Registry.

4. (1) The Collateral Registry shall charge for services rendered, such fees as prescribed in the schedule.

Fees.

(2) No fees shall be paid to the Collateral Registry for the registration of discharge forms.

Registration
of security
Interest.

5. (1) Subject to the Act, a lender may register a security interest covering a collateral created by a borrower in his favour.

(2) A lender who wishes to register a security interest under sub-regulation (1) shall submit a registration form to the Collateral Registry.

(3) A lender shall not submit a registration form under sub-regulation (2) unless he has -

(a) established a user account with the Collateral Registry; and

(b) paid the prescribed fees.

(4) The Registrar shall prepare and keep an index of registered security interests in the Collateral Registry as public records.

(5) The Registrar shall issue a certificate of the registration which shall be evidence of registration in any court proceedings.

(6) The Registrar shall, upon request and payment of the prescribed fee, issue a printed search result in the form of a certificate which shall be irrefutable evidence of the existence of information in the Registry as of the date and time of its issuance.

Right to
search.

6. (1) For the purposes of requesting a search or obtaining a search certificate under sub-regulation (2) of Regulation 7, a person may submit a search request to the Collateral Registry.

(2) A search request shall not be submitted to the Collateral Registry under sub-regulation (1) unless it –

- (a) is in the prescribed form; and
- (b) contains information that provides an identity of the borrower required under Regulation 12 or a serial number as prescribed under sub-regulation (3) of Regulation 14.

7. (1) Upon receipt of a search request submitted under Search results. Regulation 6, the Registrar shall-

- (a) provide a search result that indicates the date and time when the search was performed;
- (b) set forth all information in each registered form that contains information matching the search criterion exactly; or
- (c) indicate that no registered form contains information matching the search criterion exactly.

(2) The Registrar shall issue a certificate of the registration or a printed search result in accordance with subsections (4) and (5) of section 16 of the Act.

