



Jersey

**SECURITY INTERESTS (JERSEY)  
LAW 2012**

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Jersey

## SECURITY INTERESTS (JERSEY) LAW 2012

### Arrangement

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Jersey

## SECURITY INTERESTS (JERSEY) LAW 2012

A LAW to make provision about security interests in intangible movable property and about assignments of receivables.

Commencement [[see endnotes](#)]

### PART 1

#### INTERPRETATION

##### 1 Definitions

In this Law, unless the context otherwise requires –

“account debtor” means the person owing the monetary obligation under a receivable;

“administration of the States” includes department of the States;

“assign” means sell (or otherwise transfer for value) otherwise than by way of security;

“assignee” in relation to a receivable means a person to whom the receivable is assigned;

“assignor” in relation to a receivable means a person who assigns the receivable;

“attach”, in relation to a security interest, is defined by virtue of Article 17;

“cash proceeds” means proceeds in the form of money, cheques or drafts, or in the form of deposit accounts in banks or similar deposit-taking institutions;

“collateral” means intangible movable property that is subject to a security interest;

“continuing security interest” means a security interest that –

- (a) exists consequent to a security agreement entered into before 2nd January 2014 which is still in force on 2nd January 2014; and
- (b) is created in accordance with the Security Interests (Jersey) Law 1983<sup>1</sup> at any time on or after 5th April 1983;

“control” has the meaning set out in Article 3;

“country” includes any state, territory, province, or other part of a country;

“deposit account” means a current, deposit, or other, account maintained with a bank, or another deposit-taking institution, and evidencing a depositor’s right to the payment of money;

“documentary intangible” means a negotiable instrument or negotiable investment security;

“event of default”, in relation to a security agreement, means –

- (a) the failure to pay or otherwise to perform the obligation secured under the security agreement when due; or
- (b) an event that, under the security agreement, gives the secured party the right to enforce the security;

“financing change statement” means data transmitted to the registrar, in accordance with Article 62 and other provisions set out by or under this Law, in order to amend a financing statement or to discharge a registration;

“financing statement” means data transmitted to the registrar in accordance with Article 62 and other provisions set out by or under this Law (and, for the avoidance of doubt, includes a financing change statement where the context so requires);

“grantor” means the person who grants a security interest, whether or not the person is also the obligor in relation to the obligation secured by the security interest;

“individual” includes members of any group of individuals acting together;

“intangible movable property” and “intangible” (as a noun) mean movable property other than goods, and include cash (being cash that is not money) and licences and quotas having commercial value, whether or not they are transferable;

“intellectual property” includes any copyright, patent, trademark, design right and trade secret and any other intellectual property of any description;

“intermediary” means a person who maintains for others, or both for others and on his or her own account, registers or accounts to which investment securities may be credited or debited, but does not include a person who –

- (a) acts as registrar or transfer agent for the issuer of investment securities;
- (b) records in the person’s own books details of investment securities credited to securities accounts maintained by an intermediary for other parties for whom the person acts as manager or otherwise in a purely administrative capacity; or
- (c) maintains registers or accounts in the capacity of operator of a settlement system;

“investment security” means –

- (a) an investment specified in any of paragraphs 1 to 8 and 10 of Schedule 1 to the Financial Services (Jersey) Law 1998<sup>2</sup>;
- (b) a unit in a unit trust not already referred to in paragraph (a); or



(c) an interest in an investment referred to in paragraph (a) or in a unit referred to in paragraph (b),

and –

- (i) includes anything referred to in paragraph (a), (b) or (c) that is held with an intermediary;
- (ii) includes a right relating to anything referred to in paragraph (a), (b) or (c); and
- (iii) excludes money received in respect of anything referred to in paragraph (a), (b), (c), (i) or (ii);

“investment security held with an intermediary” means the rights of an account holder resulting from a credit of the relevant investment security to a securities account;

“Jersey company” means a company, or other person who is not an individual, registered or otherwise formed in Jersey;

“Jersey individual” means –

- (a) in relation to an individual who has one or more places of business, an individual whose only or principal place of business is Jersey; or
- (b) in relation to an individual who does not have a place of business, an individual whose only or principal residence is in Jersey;

“knowledge” has the same meaning as in the Supply of Goods and Services (Jersey) Law 2009<sup>3</sup>;

“Minister” means the Chief Minister;

“money” means currency authorized as a medium of exchange by the law of Jersey or of any other country;

“negotiable instrument” means –

- (a) a bill of exchange or promissory note; or
- (b) any other writing that evidences a right to payment of money and is of a kind that, in the ordinary course of business, is transferred by delivery with any necessary endorsement;

“negotiable investment security” means an investment security that by law or usage is transferable by delivery or by delivery and endorsement;

“obligor” means a person who owes payment or performance of an obligation secured by a security interest, whether or not the person is the grantor of the security interest;

“Order” means Order made under this Law by the Minister;

“original collateral” means collateral from which proceeds are derived;

“perfect” is defined by virtue of Article 21;

“perfected by control”, in relation to a security interest, means perfected by virtue of the secured party’s taking control of the collateral;

“perfected by possession”, in relation to a security interest in a documentary intangible, means perfected by virtue of the secured party’s taking possession of the relevant negotiable instrument or of the certificate embodying the right to the relevant negotiable security;

“perfected by registration”, in relation to a security interest or an assignment of a receivable, means perfected by virtue of the registration of a financing statement in respect of the security interest or the assignment of the receivable;

“prescribed” means prescribed by Order;

“proceeds” means identifiable or traceable property, being intangible movable property in which the grantor of a security interest acquires an interest and that is derived directly or indirectly from a dealing with the collateral that is subject to the security interest or from a dealing with the proceeds of such collateral, and includes –

- (a) a right to an insurance payment or other payment as indemnity or compensation for loss (or reduction in value) of collateral; and
- (b) a right to an insurance payment or other payment as indemnity or compensation for loss (or reduction in value) of proceeds of collateral,

but does not include interest, dividends or other income derived from collateral;

“purchase” means acquisition for value, whether by sale, lease, discount, assignment, negotiation, mortgage, pledge, lien, issue, reissue, or any other consensual transaction, that creates an interest in intangible movable property;

“purchase money security interest” means –

- (a) a security interest taken in collateral by a seller to the extent that it secures the obligation to pay all or part of the collateral’s purchase price; or
- (b) a security interest taken in collateral to the extent that it secures an obligation to repay part or all of so much of any value (being value given to the grantor for the purpose of enabling the grantor to acquire rights in the collateral) as is in fact applied to acquire those rights;

“receivable” means a monetary entitlement, whether or not earned by performance, arising from –

- (a) the supply of goods or services (other than insurance services); or
- (b) the supply of energy,

but does not include a loan, a deposit account or a right to payment embodied in a negotiable instrument or an investment security;

“the register” means the register maintained under Part 8;

“to register”, in relation to a financing statement, means enter in the register;

“registered”, in relation to a security interest or an assignment of a receivable (for example, in the expression “registered security interest”), refers to the fact that the security interest or assignment is the subject of a registered financing statement;

“registration”, in relation to a security interest or an assignment of a receivable (for example, in the expression “registration of a security

interest”), refers to the registration of a financing statement in respect of the security interest or assignment;

“registrar” means the registrar referred to in Article 60;

“secured party” means a person who holds a security interest for the person’s own benefit or for the benefit of another person, or for the benefit of both;

“securities account” –

- (a) means an account maintained by an intermediary, being an account to which investment securities may be credited or debited; and
- (b) includes a reference to the investment securities so credited;

“security agreement” means an agreement that creates or makes provision for a security interest, and includes –

- (a) an agreement that varies, renews or extends a security agreement; and
- (b) writing that evidences a security agreement;

“security interest” has the meaning set out in Article 1A;

“settlement system” means a system for the holding and transfer of investment securities on records of the issuer or other records that constitute the primary record of entitlement to investment securities as against the issuer;

“temporarily perfected”, in relation to a security interest, means temporarily perfected in accordance with Part 3;

“transfer” includes an assignment and a novation, whether by way of security or otherwise;

“value”, in the phrase “for value” and in references to the giving of value –

- (a) means something sufficient to support an onerous contract, that is, a *contrat à titre onéreux*; and
- (b) includes an antecedent debt or liability;

“verification statement” means a statement served under Article 64(2);

“writing” includes –

- (a) the recording of words in a permanent and legible form;
- (b) the recording of words by electronic means in such a way that they can be retrieved and read; and
- (c) the display of words, by any form of electronic or other means of communication, that is subsequently recorded by electronic means in such a way that they can be retrieved and read.<sup>4</sup>

#### **1A Meaning of “security interest”<sup>5</sup>**

- (1) In this Law, “security interest” means an interest in intangible movable property, being an interest that, under a security agreement, secures payment or secures the performance of an obligation.
- (2) For the purposes of paragraph (1), the following do not matter –

- (a) the form of the transaction that creates or provides for the security interest;
  - (b) the person who has title to the relevant collateral.
- (3) Without limiting paragraph (1), in this Law, “security interest” includes the interest of a secured party under a transfer of title by way of security, under a mortgage, pledge, or contractual lien, or under any other encumbrance that is by way of security.

## **2 Successors included**

For the avoidance of doubt, a reference in this Law to a grantor, obligor or secured party includes a reference to a successor or assign of, respectively, the grantor, obligor or secured party.

## **3 Meaning of “control”**

- (1) A secured party has control of collateral in any of the circumstances set out in paragraphs (3) to (6).
- (2) For the purposes of this Article any right of the grantor to substitute equivalent collateral or withdraw excess collateral does not of itself mean that collateral is not under the control of the secured party.
- (3) A secured party has control of a deposit account if –
- (a) the deposit account is transferred into the name of the secured party with the written agreement of the grantor and the bank, or other institution, with which the deposit account is held;
  - (b) the grantor, the secured party and the bank or other institution have agreed in writing that the bank, or other institution, with which the deposit account is held will comply with instructions from the secured party directing the disposition of funds in the deposit account;
  - (c) the deposit account is assigned (by way of security) to the secured party by instrument in writing signed by or on behalf of the grantor and notice of the assignment is given in writing to the bank, or other institution, with which the deposit account is held; or
  - (d) the secured party is the bank, or other institution, with which the deposit account is held.
- (4) A secured party has control of a securities account maintained by an intermediary if –
- (a) the securities account is transferred into the name of the secured party with the written agreement of the grantor and of the intermediary;
  - (b) the grantor, the secured party and the intermediary have agreed in writing that the intermediary will comply with instructions from the secured party directing the disposition of investment securities credited to the securities account; or
  - (c) the secured party is the intermediary.

- 
- (5) A secured party has control of an investment security (being an investment security that is represented by a certificate and is not a bearer security) if he or she is registered with the issuer of the security as holder of the security or is in possession of the certificate.
- (6) <sup>6</sup>
- (7) For the avoidance of doubt, a secured party may for the purposes of this Article have control of something because another person has control of the thing for or on behalf of the secured party, whether as trustee or in some other capacity.

## PART 2

### SCOPE OF LAW

#### 4 Application of Law<sup>7</sup>

This Law applies (subject to anything provided by or under Article 4A or 95 or by Schedule 2) only to the following –

- (a) a security interest created, after Part 3 comes into force, in any of the following –
- (i) one or more documentary intangibles situated in Jersey,
  - (ii) one or more directly-held non-negotiable investment securities listed on a register maintained –
    - (A) in Jersey,
    - (B) by a Jersey company, or
    - (C) by a Jersey individual,
  - (iii) one or more securities accounts with an intermediary where the accounts are maintained in Jersey,
  - (iv) one or more deposit accounts maintained in Jersey,
  - (v) any intellectual property created under the law of Jersey other than intellectual property registered on a register of intellectual property in Jersey,
  - (vi) all or any rights, title and interest of any person in and to a security interest created under this Law or a continuing security interest (or all or any rights, title and interest of any person under or in relation to any security agreement relating to a security interest created under this Law or a continuing security interest) whether or not the grantor of the security interest or continuing security interest is a Jersey company or a Jersey individual,
  - (vii) all or any rights, title and interest of any person in and to any intangible movable property (whether or not such intangible movable property is situated in Jersey) where such intangible movable property is held on trust and the governing law of such trust is Jersey law,
  - (viii) all or any rights, title and interest of any person in and to any intangible movable property situated in Jersey where such intangible

movable property is held on trust (whether or not the governing law of such trust is Jersey law),

- (ix) any intangible movable property not referred to in any of subparagraphs (i) to (viii) where such intangible movable property consists of all or any rights, title and interest in and to any obligations owed under any contract, agreement, or instrument, that is governed by Jersey law (whether or not the person who owes such obligations is a Jersey company or a Jersey individual),
  - (x) any intangible movable property not referred to in any of subparagraphs (i) to (viii) where such intangible movable property consists of all or any rights, title and interest in and to any obligations owed under any contract, agreement, or instrument, that is governed by foreign law and the person who owes such obligations is a Jersey company or a Jersey individual,
  - (xi) all or any rights and interest of any partner in any partnership established or incorporated under Jersey law (where ‘partnership’ includes, without limitation, a partnership established under the customary law of Jersey, a limited partnership established under the Limited Partnerships (Jersey) Law 1994<sup>8</sup>, a limited liability partnership registered under the Limited Liability Partnerships (Jersey) Law 2017<sup>9</sup>, an incorporated limited partnership established under the Incorporated Limited Partnerships (Jersey) Law 2011<sup>10</sup> and a separate limited partnership established under the Separate Limited Partnerships (Jersey) Law 2011<sup>11</sup>),
  - (xii) any intangible movable property not referred to in any of subparagraphs (i) to (xi) where such intangible movable property is situated in Jersey;
- (b) an assignment, after Part 6 comes into force, of a receivable payable by a Jersey company or a Jersey individual;
  - (c) an interest, or transaction, prescribed by Order for the purposes of this Article.

#### **4A Exceptions to application of Law to certain security interests<sup>12</sup>**

Security interests may be prescribed to which, in all or any prescribed circumstances, any prescribed provision of this Law shall not apply or shall apply only to the extent prescribed.

#### **5 Parties may agree that Law applies to agreement**

- (1) If 2 or more persons reach agreement that, in their relations with each other, this Law shall apply to an agreement (whether or not it is the same as the first-mentioned agreement) –
  - (a) to which those persons are parties;
  - (b) that relates to intangible movable property; and
  - (c) that creates or makes provision for a security interest in that property, being a security interest that would, except for the

operation of Article 4, be a security interest to which this Law applies,

nothing in this Law shall prevent this Law from so applying.

- (2) <sup>13</sup>
- (3) For the purposes of this Article, the intangible movable property referred to in paragraph (1)(b) may be situated anywhere in the world.

## **6 Security interests in own obligation<sup>14</sup>**

To avoid doubt, it is hereby declared that for the purposes of this Law –

- (a) a bank, or other deposit-taking institution, that has an obligation to pay money to a depositor in respect of a deposit account held by the depositor at the bank or institution may take a security interest from the depositor in the bank's or institution's own such obligation;
- (b) an intermediary that has an obligation to deliver or transfer securities, or money, cheques or drafts, to the holder of a securities account with the intermediary may take a security interest from the holder of the account in the intermediary's own such obligation; and
- (c) a company incorporated with a share capital may take a security interest from any of its shareholders in its own shares.

## **7 Secured party with title to collateral**

The fact that the secured party and not the grantor may hold title to collateral under a security agreement shall not affect the application of any provision of this Law relating to rights, obligations, or remedies, under or in respect of the agreement.

## **8 Interests excluded<sup>15</sup>**

- (1) Except as provided by any Order made under Article 4(c), this Law shall not apply to or in respect of, or affect, any of the following interests –
- (a) a lien, or other encumbrance or interest in movable property, created by any other enactment or by the operation of any rule of law;
- (b) a lien created by the articles of association of a company;
- (c) any right of set-off, netting, or combination of accounts;
- (d) any interest in a ship or aircraft, or any share in a ship or aircraft.
- (2) This Law shall not apply to or in respect of, or affect, any interest prescribed by Order for the purposes of this Article.

## **9 Transactions excluded**

- (1) Except as provided by any Order made under Article 4(c), this Law shall not apply to an interest created or provided for by any of the following transactions –

- (a) a transfer of an unearned right to payment under a contract to a person who is to perform the transferor's obligations under the contract;
  - (b) a transfer of present or future wages, salary, pay, commission, or any other compensation for labour or personal services of an employee;
  - (c) an assignment for the general benefit of creditors of the person making the assignment;
  - (d) a transfer of a right to damages in tort;
  - (e) an assignment of receivables made solely to facilitate the collection of the receivables on behalf of the person making the assignment;
  - (f) an assignment of a single receivable or negotiable instrument in whole or in partial satisfaction of a pre-existing indebtedness;
  - (g) an assignment of receivables as part of a sale of a business, unless the seller remains in apparent control of the business after the sale;
  - (h) any –
    - (i) assignment,
    - (ii) mortgage, or
    - (iii) assignment, by way of security, of a mortgage, of a ship or aircraft or of any share of a ship or aircraft;
  - (i) a transfer or other transaction by way of security in respect of a fishing quota or fishing entitlement;
  - (j) a sale coupled with a repurchase;
  - (k) stock lending or securities lending.<sup>16</sup>
- (2) This Law shall not apply to an interest created or provided for by any transaction prescribed by Order for the purposes of this Article.<sup>17</sup>

## 10 Subordination agreements

- (1) For the purposes of this Law, an agreement (“a subordination agreement”) between creditors of the same obligor, under which one creditor (“the junior creditor”) subordinates his or her rights as such a creditor to the rights of another of those creditors (“the senior creditor”) as such a creditor, does not create or provide for a security interest unless the agreement expressly provides that it does so.
- (2) For the purposes of this Law, where –
- (a) a subordination agreement exists; and
  - (b) it, or a further agreement, provides that sums received by the junior creditor from the obligor shall –
    - (i) be transferred to the senior creditor, and
    - (ii) after being so received and before being so transferred, be held on trust for the senior creditor,

no security interest in favour of the senior creditor is created or provided for unless it is expressly created, or expressly provided for, by agreement.



**11 Loi (1880) sur la propriété foncière**

For the avoidance of doubt, it is hereby declared that nothing in –

- (a) the Loi (1880) sur la propriété foncière; or
- (b) the rule of law *donner et retenir ne vaut*,

shall affect the validity of a security interest.

**12 Exclusive application of this Law<sup>18</sup>**

No security interest to which Part 3 of this Law applies at any time may be created under the law of Jersey at that time except in accordance with this Law as in force at that time.

**13 Capacity to give security under foreign law**

- (1) In this Article –

“foreign law” means any law other than the law of Jersey;

“person” means a person having the capacity to create a security interest under this Law;

“property” means (despite anything in this Part) all property, whether tangible or intangible, vested, contingent or future, and whether or not regarded by the law of Jersey as *immeubles*, and includes choses in action.

- (2) If at any time on or after 5th April 1983 (including any time after this Article comes into force) a person that is –
- (a) incorporated, resident or domiciled in Jersey;
  - (b) a limited liability partnership registered under the Limited Liability Partnerships (Jersey) Law 2017<sup>19</sup>; or
  - (c) a separate limited partnership registered under the Separate Limited Partnerships (Jersey) Law 2011<sup>20</sup>,

gives security governed by foreign law over property situated outside Jersey, the person giving the security shall (without prejudice to the person’s actual capacity, if any, at any time) be deemed to have had capacity to give it under the law of Jersey.<sup>21</sup>

**14 Notice and knowledge**

- (1) Registration of a financing statement or financing change statement shall not constitute constructive notice of the existence of the statement (or constructive notice of its contents) to any person, or constructive knowledge of the existence of the statement (or constructive knowledge of its contents) by any person.
- (2) Any priority under this Law of a perfected security interest, or of a perfected assignment of a receivable, over a security interest applies even if the first-mentioned security interest was acquired, or the assignment of the receivable was made, with actual knowledge of the last-mentioned security interest.

- (3) Any priority under this Law of a perfected security interest in a receivable, or of a perfected assignment of a receivable, over an assignment of a receivable applies even if the security interest was acquired, or the first-mentioned assignment was made, with actual knowledge of the last-mentioned assignment of the receivable.

### **PART 3**

#### **ATTACHMENT AND PERFECTION**

##### **15 Security interest created by agreement**

- (1) A security interest to which this Law applies may only be created by agreement.
- (2) For the avoidance of doubt –
- (a) a security interest in the nature of a hypothec may be created over intangible movable property; and
  - (b) a security interest may be created by the parties to a security agreement to secure the obligation of a third party.
- (3) Except as otherwise provided by this Law or any other enactment, a security agreement, and any security interest created by a security agreement, shall be effective according to the terms of the agreement and enforceable as –
- (a) between the parties to the agreement;
  - (b) against purchasers of the collateral;
  - (c) against creditors of the grantor;
  - (d) against the Viscount (or a liquidator or administrator); and
  - (e) against third parties generally.
- (4) A security interest is extinguished in accordance with the provisions of the agreement by which it was created, by subsequent agreement between the parties to that agreement, by release of the collateral, or by the operation of this Law or any other enactment.

##### **16 Description of proceeds not required for enforceability against third parties**

Except as otherwise provided in this Law, a security interest in proceeds shall be enforceable against a third party whether or not the security agreement contains a description of the proceeds.

##### **17 Attachment: effect**

The effect of the attachment of a security interest to collateral is that the security interest becomes enforceable against the grantor and with respect to the collateral.

**18 Attachment: general rule**

- (1) Except as provided in Articles 19 and 20, a security interest attaches to collateral under a security agreement at the time when the following 3 conditions are satisfied –
  - (a) value has been given in respect of the security agreement;
  - (b) the grantor has rights in the collateral, or the power to grant rights in the collateral to a secured party;
  - (c) one or both of the following clauses are satisfied –
    - (i) there is possession or control of the collateral by the secured party or on the secured party's behalf by a person other than the grantor or obligor,
    - (ii) the security agreement is in writing signed by or on behalf of the grantor and contains a description of the collateral that is sufficient to enable the collateral to be identified,or instead at a later time that the parties to the security agreement have determined by that or another agreement.
- (2) For the purposes of this Article, a description of collateral is sufficient to enable the collateral to be identified if the description is –
  - (a) a description of the collateral by item;
  - (b) a description of the collateral by type;
  - (c) a statement that the security agreement covers all present and future collateral; or
  - (d) a statement that the security agreement covers all present and future collateral except for specified items or types, and the collateral is not within those exceptions.
- (3) For the purposes of this Article, the attachment of a security interest to collateral is not affected just because the grantor retains, in the absence of a contrary direction from the secured party, the right to deal with the collateral free from the security interest and without a duty to account for the proceeds or to replace the collateral.

**19 After-acquired property**

- (1) A security agreement may provide for a security interest in after-acquired property.
- (2) Subject to any agreement to the contrary between the parties to a security agreement, the relevant security interest attaches to after-acquired property on the acquisition by the grantor of rights in the property and without the need for specific appropriation of the property by the grantor.
- (3) An assignment of a future receivable vests the receivable in the assignee on the acquisition of the receivable by the assignor and without the need for specific appropriation by the assignor.
- (4) In this Article, “after-acquired property” means intangible movable property that is acquired by a grantor after a security agreement is entered into by the grantor.

**20 Investment securities: automatic attachment and perfection in favour of intermediary**

- (1) A security interest in favour of an intermediary attaches to a person's investment securities held with the intermediary, and is perfected, if –
  - (a) the person buys the investment securities through the intermediary in a transaction in which the person is under an obligation to pay the purchase price to the intermediary on or before the purchase; and
  - (b) the intermediary credits the investment securities to the buyer's securities account before the buyer pays the intermediary.
- (2) The security interest secures the buyer's obligation to pay for the investment securities.

**21 Perfection: general**

- (1) Except as otherwise provided in this Law, a security interest is perfected when both of the following conditions are satisfied –
  - (a) the security interest has attached; and
  - (b) any further steps required under this Law for perfection have been completed.
- (2) For the purposes of paragraph (1), the order in which those conditions are satisfied makes no difference.
- (3) An assignment of a receivable is perfected by registration.

**22 Perfection by possession, control or registration**

- (1) Possession of collateral by the secured party, or on the secured party's behalf by a person other than the grantor or obligor, perfects a security interest in collateral that is a documentary intangible.
- (2) In paragraph (1), possession means possession of the relevant negotiable instrument or of the certificate embodying the right to the relevant negotiable investment security.
- (3) Control of collateral by the secured party, or on the secured party's behalf by a person other than the grantor or obligor, perfects a security interest in collateral of any of the kinds referred to in paragraphs (3) to (6) of Article 3.
- (4) Registration perfects a security interest in any type of collateral except investment securities to which a security interest has attached as referred to in Article 20.
- (5) Subject to Article 23, perfection by possession, control or registration continues only while the possession, control or registration (respectively) is maintained.

**23 Continuity of perfection where later perfection in another way**

A security interest is continuously perfected if –

- (a) the security interest is perfected in one way;
- (b) the security interest is subsequently perfected in another way; and
- (c) there is no intervening period during which the security interest is unperfected.

#### **24 Continuation of security interests in proceeds**

Except as otherwise provided in this Law, a security interest in collateral that is dealt with or otherwise gives rise to proceeds –

- (a) continues in the collateral, unless the secured party expressly or impliedly authorized the dealing; and
- (b) extends to such of the proceeds as are capable, according to Part 2, of being the subject of a security interest to which this Law applies.

#### **25 Continuous perfection of security interests in proceeds**

A security interest in proceeds is a continuously perfected security interest in proceeds if –

- (a) the security interest in the original collateral is perfected by registration of a financing statement that contains a description of the proceeds that would be sufficient to perfect a security interest in original collateral of the same kind; or
- (b) the security interest in the original collateral is perfected by registration of a financing statement that contains a description of the original collateral, and the proceeds –
  - (i) are of a kind that is within the description of the original collateral,
  - (ii) are of a kind that is capable, according to Part 2, of being the subject of a security interest to which this Law applies and are acquired before the expiration of 30 days after the security interest in the original collateral attached to them,
  - (iii) are cash proceeds, or
  - (iv) consist of a right to an insurance payment or other payment as indemnity or compensation for loss (or reduction in value) of the collateral or proceeds of the collateral.

#### **26 Temporary perfection of security interests in proceeds**

A security interest in proceeds is temporarily perfected until the expiration of 30 days after the security interest in the original collateral attached to the proceeds, if –

- (a) the security interest in the original collateral is perfected; and
- (b) the security interest in the proceeds is not continuously perfected under Article 25.

**27 Temporary perfection: negotiable instrument or investment security returned to grantor**

A security interest in a negotiable instrument or an investment security is temporarily perfected until the expiration of 30 days after the secured party made the negotiable instrument or investment security available to the grantor, if –

- (a) the security interest was perfected by possession or control;
- (b) the security interest was, immediately before the negotiable instrument or investment security was made available to the grantor, still perfected; and
- (c) the secured party gave possession or control of the negotiable instrument or investment security to the grantor for sale, exchange, presentation, collection, renewal, or registration of a transfer.

**28 Perfection under this Law if collateral moved to Jersey**

- (1) This Article applies to a security interest created under the law of a jurisdiction other than Jersey if –
  - (a) the collateral was situated in that other jurisdiction at the time when the security interest attached;
  - (b) this Law would have applied to the security interest if the collateral had instead been situated in Jersey at that time; and
  - (c) the collateral has been moved to Jersey since that time.
- (2) If the security interest was a perfected security interest under the law of the other jurisdiction when the collateral was moved to Jersey –
  - (a) the security interest shall be temporarily perfected (as from the time of its perfection under the law of the other jurisdiction) by virtue of this paragraph until the expiration of 30 days after the day on which the collateral was moved to Jersey;
  - (b) the security interest may be perfected under this Part; and
  - (c) if the security interest is perfected under this Part within the 30 days referred to in sub-paragraph (a), that perfection shall be as from the time of the perfection of the security interest under the law of the other jurisdiction.
- (3) If the security interest was not a perfected security interest under the law of the other jurisdiction at the time when the collateral was moved to Jersey –
  - (a) the security interest may be perfected under this Part; and
  - (b) that perfection shall be as from the time of the perfection of the security interest under this Part.

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**PART 4****PRIORITY IN GENERAL****29 Priority when Law provides no other way of determining priority**

- (1) Where this Law provides no other way of determining priority the following rules apply –
- (a) a perfected security interest has priority over an unperfected security interest in the same collateral;
  - (b) a perfected assignment of a receivable has priority over an unperfected assignment of the same receivable or an unperfected security interest in the same receivable;
  - (c) a perfected security interest in a receivable has priority over an unperfected assignment of the same receivable;
  - (d) except in the cases set out in sub-paragraphs (f) and (j), priority among perfected security interests in the same collateral (where perfection has been continuous) goes to the security interest in relation to which any of the following events first occurred –
    - (i) a financing statement was registered,
    - (ii) the secured party, or another person on the secured party's behalf, took possession or control of the collateral,
    - (iii) the security interest was temporarily perfected in accordance with this Law;
  - (e) except in the case set out in sub-paragraph (f), priority among perfected assignments of receivables (where perfection has been continuous) goes to the assignment in relation to which a financing statement was first registered;
  - (f) if collateral is a receivable and there are one or more perfected security interests in the receivable and one or more perfected assignments of the receivable, priority among those interests (whether security interests or assignments), where perfection has been continuous, goes to the interest in relation to which either of the following events first occurred –
    - (i) in the case of a security interest or assignment, a financing statement was registered,
    - (ii) in the case of a security interest, the interest was temporarily perfected in accordance with this Law;
  - (g) priority among unperfected security interests in the same collateral is to be determined by the order of attachment of the security interests;
  - (h) priority among unperfected assignments of the same receivable is to be determined by the order in which the assignments occurred;
  - (i) if collateral is a receivable and there are one or more unperfected security interests in the receivable and one or more unperfected assignments of the receivable, priority among those interests (whether security interests or assignments) is to be determined by

the order of events, where an event is either the attachment of a security interest or an assignment, as each case requires;

- (j) priority among security interests perfected by attachment is to be determined by the order of attachment of the security interests.<sup>22</sup>
- (2) For the purposes of paragraph (1), a continuously perfected security interest or assignment of a receivable is to be treated at all times as perfected by the method by which it was originally perfected.
- (3) For the purposes of paragraph (1)(j), a security interest in after-acquired property, being a security interest that attaches as referred to in Article 19(2), shall be taken to have attached at the time of the making of the security agreement that provided for the security interest in the after-acquired property.<sup>23</sup>
- (4) For the purposes of this Article, the time of registration, possession, or perfection, in relation to a security interest in original collateral is also the time of registration, possession, or perfection, in relation to the same security interest in relation to proceeds.<sup>24</sup>

### **30 Special priority rules for certificated investment securities, securities accounts and deposit accounts<sup>25</sup>**

- (1) This Article applies only to conflicting security interests in –
  - (a) an investment security represented by a certificate (a “certificated investment security”);
  - (b) a securities account; or
  - (c) a deposit account.
- (2) Despite paragraphs (3), (5) and (6), a security interest in a deposit account at a bank, or other deposit-taking institution, where the security interest is perfected by control in the circumstances referred to in Article 3(3)(a) has priority over a security interest held in the deposit account by the bank or other deposit-taking institution.
- (3) Despite paragraphs (5) and (6), a security interest held by a bank or other deposit-taking institution in a deposit account maintained at the bank or other institution has priority over a security interest held by another secured party in the same deposit account.
- (4) Despite paragraphs (5) to (8), a security interest in a securities account maintained by an intermediary, where the security interest is perfected by control in the circumstances referred to in Article 3(4)(a) has priority over a security interest held in the securities account by the intermediary.
- (5) A security interest in respect of which a secured party has possession or control of a certificated investment security, control of a securities account or control of a deposit account has priority over a security interest (in the same investment security or account) in respect of which a secured party does not have that possession or control.
- (6) Conflicting security interests under which each secured party has possession or control of a certificated investment security, control of a securities account or control of a deposit account rank according to the order in which possession or control was acquired.



- (7) Conflicting security interests granted by an intermediary in a securities account rank equally if under those security interests no secured party has control.
- (8) Despite paragraphs (5), (6) and (7), a security interest held by an intermediary in a securities account maintained with the intermediary has priority over a conflicting security interest held by another party.
- (9) In cases to which none of paragraphs (2) to (8) applies, priority between conflicting security interests in the same certificated investment security, the same securities account or the same deposit account is governed by Article 29.

### **30A Bank's right of set-off not affected<sup>26</sup>**

Nothing in this Part affects any right of set-off that a bank, or other deposit-taking institution, may have against a person that is a secured party in respect of a security interest in a deposit account maintained at the bank or other institution unless –

- (a) the security interest is perfected by control in the circumstances referred to in Article 3(3)(a); and
- (b) the set-off is based on a claim against a person that is the grantor or obligor in respect of the security interest.

### **30B Intermediary's right of set-off not affected<sup>27</sup>**

Nothing in this Part affects any right of set-off that an intermediary may have against a person that is a secured party in respect of a security interest in a securities account maintained by the intermediary unless –

- (a) the security interest is perfected by control in the circumstances referred to in Article 3(4)(a); and
- (b) the set-off is based on a claim against a person that is the grantor or obligor in respect of the security interest.

### **31 Priority where security interest transferred**

- (1) A security interest that is transferred has the same priority as it had immediately before the transfer.
- (2) If the same security interest is transferred more than once by the same secured party, priority in the security interest goes –
  - (a) if a transferee has possession or control of the collateral, to the transferee who has possession or control of the collateral; or
  - (b) if no transferee has possession or control of the collateral, to the transferee whose transfer is the transfer in relation to which a financing statement or financing change statement was first registered.

**32 Voluntary subordination**

- (1) A secured party may, in a security agreement or otherwise, subordinate the secured party's security interest to any other interest.
- (2) An agreement to subordinate a security interest to another interest is effective according to its terms between the parties to the agreement.
- (3) However, a transferee of a subordinated security interest is not bound by an agreement referred to in paragraph (2) unless, at the time of the transfer –
  - (a) a financing statement or financing change statement has been registered in respect of the subordination;
  - (b) the transferee is a party to the agreement referred to in paragraph (2); or
  - (c) the agreement transferring the security interest provides otherwise.

**33 Further advances and priorities in relation to further advances<sup>28</sup>**

- (1) A security agreement may provide that the obligations secured under it may include obligations as to further advances.
- (2) A security interest shall not be extinguished by repayment of a current advance if the security agreement makes provision as referred to in paragraph (1), unless the parties have agreed otherwise.
- (3) A security interest relating to obligations as to advances and further advances has the same priority in respect of all advances whether or not they are made under an obligation.
- (4) In this Article –

“advance” –

  - (a) means the payment of money, the provision of credit, or the giving of other value; and
  - (b) includes, to the extent that the agreement for that payment, provision or giving so specifies, any liability of the debtor to pay interest, credit costs, or other charges or costs, in connection with that payment, provision or giving or in connection with the creation, attachment, perfection or enforcement of any security interest securing the advance;

“debtor” means the person who is the debtor in relation to an advance;

“further advance” means an advance that is –

  - (a) secured by a security agreement; and
  - (b) made after the initial advance secured by the security agreement.<sup>29</sup>

**34 Priority of purchase money security interest in intangible movable property and proceeds<sup>30</sup>**

- (1) A security interest in collateral that is intangible movable property or its proceeds has priority over another security interest in the same collateral given by the same grantor if –

- (a) the first-mentioned security interest is a purchase money security interest and the other is not; and
  - (b) the first-mentioned security interest is perfected not later than 30 days after the day on which it attached.
- (2) However, paragraph (1) does not apply in a case where Article 30 applies.

## **PART 5**

### TAKING FREE

#### **35 Taking collateral free of unperfected security interests**

A person who acquires collateral for value takes the collateral free of an unperfected security interest in the collateral, unless the unperfected security interest was created or provided for by a transaction to which the person was a party.

#### **36 Creditor who receives payment of debt takes free**

- (1) A creditor who receives payment of a debt owing by an obligor through an obligor-initiated payment takes that payment free of any security interest in the following –
  - (a) the funds paid;
  - (b) any intangible that was the source of the payment;
  - (c) any negotiable instrument used to effect the payment.
- (2) Paragraph (1) applies whether or not the creditor had knowledge of the security interest at the time of the payment.
- (3) Paragraph (1) does not apply if the creditor, in receiving payment as referred to in that paragraph, acts in collusion with the obligor to defeat the rights of the person who has the security interest referred to in that paragraph.
- (4) In paragraph (1), “obligor-initiated payment” means a payment made by the obligor through the use of –
  - (a) a negotiable instrument;
  - (b) an electronic funds transfer; or
  - (c) a debit, a transfer order, an authorization, or a similar written payment mechanism executed by the obligor when the payment was made.

#### **37 Holder of negotiable instrument**

Nothing in this Law affects the law in relation to the rights of a person who is a holder in due course of a negotiable instrument.

**38 Purchaser of investment security takes free**

- (1) If –
  - (a) a person gives value for an investment security represented by a certificate; and
  - (b) the person takes possession of the certificate,  
the person takes the investment security free of any security interest in the investment security in favour of another party even if the person knows of such a security interest.
- (2) However, paragraph (1) does not apply if, at the time when the person agrees to acquire the investment security, the person knows that its disposition to the person would be in breach of the security agreement that created the security interest.
- (3) In a case to which Article 30 does not apply, if –
  - (a) a person gives value for an investment security held with an intermediary; and
  - (b) the investment security held with the intermediary is transferred to a securities account held in the person's name with the same or another intermediary,  
the person takes the investment security held with the intermediary free of any security interest, in the investment security held with the intermediary, in favour of another party even if the person knows of such a security interest.
- (4) However, paragraph (3) does not apply if, at the time when the person agrees to acquire the investment security, the person knows that its disposition to the person would be in breach of the security agreement that created the security interest.

**PART 6****ASSIGNMENTS OF RECEIVABLES****39 Effect of restriction on assignment (whether or not by way of security)**

- (1) A term in a contract that prohibits or restricts the assignment of one or more receivables, in the case of assignment in breach of the prohibition or restriction –
  - (a) is binding on the assignor, but only to the extent of making the assignor liable in damages for the breach;
  - (b) is ineffective as against the assignee; and
  - (c) does not affect the validity of the assignment.
- (2) In this Article, “assignment” means assignment whether or not by way of security.

**40 Account debtor's duty (where assignment not by way of security)**

- (1) An account debtor under a receivable is bound by the assignment of the receivable, and has a duty to make payment to the assignee, only if –
  - (a) the account debtor has been given notice of the assignment in writing by or with the authority of the assignor; and
  - (b) the notice identifies the account assigned and requires the account debtor to pay the assignee.
- (2) Payment to the assignor of an assigned receivable discharges the account debtor under the receivable (to the extent of the payment) only if made without the account debtor's knowledge of the assignment.
- (3) In this Article, "assignment" means assignment otherwise than by way of security.

**41 Rights of assignee of receivable (whether or not assignment is by way of security)**

- (1) The rights of an assignee of a receivable are subject to –
  - (a) any defences to the assigned claim, being defences that the account debtor under the receivable could have asserted against the assignor;
  - (b) any rights of set-off, being rights that the account debtor could have asserted against the assignor in respect of claims against the assignor –
    - (i) accruing before the account debtor acquired knowledge of the assignment, or
    - (ii) closely connected with the assigned claim.
- (2) Paragraph (1)(a) does not apply if the account debtor has entered an enforceable agreement not to assert defences to claims arising out of the relevant contract.
- (3) In this Article, "assignment" means assignment whether or not by way of security.

**PART 7****ENFORCEMENT OF SECURITY INTERESTS****42 Interpretation**

In this Part, except Article 43, a reference to collateral includes a reference to its proceeds.

**43 Enforcement**

- (1) The power of enforcement in respect of a security interest shall become exercisable when –
  - (a) an event of default has occurred in relation to the security agreement that created or made provision for the security interest; and

- (b) the secured party has served on the grantor written notice specifying the event of default.
- (2) A secured party may exercise the power of enforcement in respect of a security interest by doing any of the following in relation to the collateral that is subject to such security interest, or in relation to any proceeds of that collateral –
  - (a) appropriating the collateral or proceeds;
  - (b) selling the collateral or proceeds;
  - (c) taking any of the following ancillary actions –
    - (i) taking control or possession of the collateral or proceeds,
    - (ii) exercising any rights of the grantor in relation to the collateral or proceeds,
    - (iii) instructing any person who has an obligation in relation to the collateral or proceeds to carry out the obligation for the benefit of the secured party;
  - (d) applying any remedy that the security agreement provides for as a remedy that is exercisable pursuant to the power of enforcement, to the extent that the remedy is not in conflict with this Law.
- (3) The secured party may do more than one of the things set out in paragraph (2) to the extent that those things are not in conflict.
- (4) This Article does not prevent the secured party from taking such other action in respect of the collateral as is permitted by the security agreement and is not in conflict with this Law, whether before or after the power of enforcement becomes exercisable.

#### **44 Notice of appropriation or sale of collateral**

- (1) A secured party who, under this Part, appropriates collateral shall, not less than 14 days before appropriating the collateral, give written notice to the following persons –
  - (a) the grantor;
  - (b) any person who, 21 days before the appropriation, has a registered security interest in the collateral;
  - (c) any person other than the grantor who has an interest in the collateral and has, not less than 21 days before the appropriation, given the secured party notice of that interest.
- (2) A secured party who, under this Part, sells collateral shall, not less than 14 days before selling the collateral, give written notice to the following persons –
  - (a) the grantor;
  - (b) any person who, 21 days before the sale, has a registered security interest in the collateral;
  - (c) any person other than the grantor who has an interest in the collateral and has, not less than 21 days before the sale, given the secured party notice of that interest.

- (3) Paragraph (2) does not apply to the extent that –
- (a) the collateral is a quoted investment security, or anything else prescribed for the purposes of this paragraph;
  - (b) the secured party believes on reasonable grounds that the collateral will decline substantially in value if it is not disposed of within 14 days after the relevant event of default; or
  - (c) for any other reason, the Royal Court orders, on an *ex parte* application, that notice need not be given under paragraph (2).
- (4) If the secured party and another person have agreed in writing in one or both of the following terms –
- (a) that notice need not be given under this Article to the other person;
  - (b) for notice under this Article to be given to the other person within a period different from that specified in this Article,
- this Article shall, in relation to that person, have effect subject to that term or those terms.

#### **45 Methods of sale of collateral**

- (1) A secured party may effect a sale of collateral under this Part by auction, public tender, private sale, or another method.
- (2) A secured party is not prevented by this Part from buying collateral that the secured party sells under this Part.

#### **46 Duty to obtain fair valuation or fair price**

- (1) A secured party who appropriates collateral under this Part owes a duty –
- (a) to take all commercially reasonable steps to determine the fair market value of the collateral, as at the time of the appropriation; and
  - (b) to act in other respects in a commercially reasonable manner in relation to the appropriation.
- (2) A secured party who sells collateral under this Part owes a duty –
- (a) to take all commercially reasonable steps to obtain fair market value for the collateral, as at the time of the sale;
  - (b) to act in other respects in a commercially reasonable manner in relation to the sale; and
  - (c) to enter any agreement for or in relation to the sale only on commercially reasonable terms.
- (3) A duty under this Article is owed to the following persons –
- (a) the grantor;
  - (b) any person who has a security interest in the collateral in the following circumstances –
    - (i) a financing statement relating to the security interest has, not less than 21 days before the appropriation or sale, been registered, and

- (ii) the registration remains effective immediately before the appropriation or sale;
- (c) any person, other than the grantor, who has an interest in the collateral and has, not less than 21 days before the appropriation or sale, given the secured party written notice of that interest.

#### **47 Extinction of subordinate security interests on appropriation or sale**

If collateral is appropriated or sold under this Part, all security interests in the collateral and its proceeds that are subordinate to the security interest of the secured party who appropriated or sold the collateral shall be extinguished on the appropriation or sale of the collateral.

#### **48 Secured party to give statement of account to grantor and others**

If collateral is appropriated or sold by a secured party under this Part after an event of default, the secured party shall, within the 14 days after the day on which the collateral is appropriated or sold, give each of the persons referred to in Article 49(1)(a) to (c) a statement of account in writing, showing –

- (a) the gross value realized by virtue of the appropriation or the amount of the gross proceeds of sale;
- (b) the amount of the secured party's reasonable costs incurred in relation to the appropriation or sale (being the costs referred to in Article 51(2) or (3) respectively);
- (c) the amount of any other reasonable expenses incurred by the secured party in enforcing the security agreement after the event of default;
- (d) the net value of the collateral, or net proceeds, referred to in Article 51(2) or (3) respectively; and
- (e) the surplus owing by, or debt owing to, the secured party, as the case may be.

#### **49 Distribution of surplus**

- (1) If a secured party has appropriated, or sold, collateral under this Part, the secured party shall pay the following persons the amount of any resulting surplus by satisfying the claims of those persons in the following order –
  - (a) first any person who has a subordinate security interest in the collateral and has registered a financing statement over that security interest (where the registration remained effective immediately before the appropriation or sale);
  - (b) then any other person (other than the grantor) who has given the secured party notice that that person claims an interest in the collateral and in respect of which the secured party is satisfied that that person has a legally enforceable interest in the collateral;
  - (c) finally the grantor.



- (2) Where 2 or more persons have subordinate security interests to which paragraph (1)(a) applies, they shall be paid in the order of priority of those security interests as determined under Part 4.
- (3) The application of paragraph (1) to a security interest is not affected by the extinction of the security interest under Article 47.

#### **50 Surplus may be paid into court**

- (1) The secured party may alternatively discharge its obligation under Article 49 to pay any amount of resulting surplus by paying that amount into the Royal Court.
- (2) The surplus may then only be paid out if the Royal Court so orders on application by a person entitled to the surplus.
- (3) That entitlement shall be determined in accordance with Article 49.

#### **51 When does a surplus exist?**

- (1) For the purposes of Articles 49 and 50, there is a resulting surplus if –
  - (a) a secured party has appropriated the collateral under this Part, and the net value of the collateral exceeds –
    - (i) the amount of the debt owed to the secured party by the obligor (where the collateral secures payment), or
    - (ii) the monetary value of the obligation owed to the secured party (where the collateral secures performance of a non-monetary obligation); or
  - (b) a secured party has sold the collateral under this Part, and the net proceeds of the sale exceed –
    - (i) the amount of the debt owed to the secured party by the obligor (where the collateral secures payment), or
    - (ii) the monetary value of the obligation owed to the secured party (where the collateral secures performance of a non-monetary obligation).
- (2) In paragraph (1)(a), “net value of the collateral” means the value of the collateral, minus the secured party’s reasonable costs incurred (for example, the cost of having the collateral valued) of, and incidental to, the appropriation.
- (3) In paragraph (1)(b), “net proceeds” means the proceeds of the sale minus the secured party’s reasonable costs incurred in, and incidental to, taking possession or control of, holding, valuing, and preparing the sale of, and selling, the collateral.

#### **52 Court may facilitate realization of collateral**

The Royal Court may, on application by the secured party when an event of default occurs in relation to a security agreement, make any of the following orders if it appears to the Court reasonably necessary to do so in order to make it

possible or practicable for the secured party to exercise his or her rights under this Part –

- (a) an order for delivery of collateral to the secured party;
- (b) an order transferring collateral into the name of the secured party;
- (c) an order vesting title to the collateral in the secured party free of the right of redemption or reinstatement under Article 54;
- (d) an order enforcing an instruction given under Article 43(2)(c)(iii);
- (e) any other order.

### **53 Effect of disposal of collateral to purchaser for value and in good faith**

- (1) A purchaser, for value and in good faith, of collateral appropriated or sold by a secured party takes the collateral free from the following interests –
  - (a) the interest of the grantor;
  - (b) any interest subordinate to that of the grantor;
  - (c) any interest subordinate to that of the secured party.
- (2) Paragraph (1) applies whether or not –
  - (a) there has been compliance with this Part in relation to the collateral; or
  - (b) registrations relating to security interests that are subordinate to the security interest of the secured party appropriating or selling the collateral have been removed from the register.

### **54 Entitled persons may redeem collateral; grantor may reinstate agreement**

- (1) Paragraphs (2) and (4) apply at any time before a secured party under a security agreement appropriates the relevant collateral under this Part, enters into any agreement to sell the collateral under this Part, or has otherwise acted irrevocably in relation to the collateral, after an event of default.
- (2) A person who is listed in Article 44(1)(a) to (c) or (2)(a) to (c) may redeem the collateral by –
  - (a) tendering fulfilment of the obligations secured by the collateral; and
  - (b) paying a sum equal to the reasonable costs incurred referred to in Article 51(2) or (3), as the case requires, and any other reasonable expenses incurred by the secured party in enforcing the security agreement after the event of default.
- (3) The grantor's right to redeem the collateral has priority over any other person's right to redeem the collateral.
- (4) The grantor may reinstate the security agreement by –
  - (a) paying any sums actually in arrears in relation to the security agreement;
  - (b) otherwise remedying anything that is an event of default under the security agreement; and

- (c) paying a sum equal to the reasonable costs of seizing, holding, processing, and preparing the collateral for appropriation, or sale, under this Part (if those expenses have actually been incurred by the secured party) and any other reasonable expenses incurred by the secured party in enforcing the security agreement.
- (5) Paragraph (4) shall apply subject to –
- (a) the security agreement; and
  - (b) any written agreement between the secured party and the grantor entered into after the relevant event of default.

#### **55 Limit on reinstatement of security agreement**

Unless otherwise agreed, the grantor is not entitled to reinstate a security agreement –

- (a) more than twice, if the security agreement provides for payment in full by the grantor not later than one year after the day on which value was given by the secured party in respect of the agreement; or
- (b) more than twice in each year, if the security agreement provides for payment by the grantor during a period greater than one year after the day on which value was given by the secured party in respect of the agreement.

#### **56 Secured party's powers not affected by insolvency**

If the grantor of a security interest becomes bankrupt or the grantor or the grantor's property is subjected, whether in Jersey or elsewhere, to any other judicial arrangement or proceeding consequent upon insolvency, that shall not affect the power of a secured party to appropriate or sell collateral, or otherwise act in relation to collateral, under this Part.

#### **57 Certain provisions of Bankruptcy (Désastre) (Jersey) Law 1990 not affected**

- (1) Except as provided by Article 59 and paragraph (2), nothing in the law relating to bankruptcy (including the Bankruptcy (Désastre) (Jersey) Law 1990<sup>31</sup>) affects the operation of this Law.
- (2) However, nothing in this Law affects the operation of Articles 14(1), 17, 17A or 17B of the Bankruptcy (Désastre) (Jersey) Law 1990.

#### **58 Certain provisions of Companies (Jersey) Law 1991 not affected**

- (1) Except as provided by paragraph (2), nothing in the Companies (Jersey) Law 1991<sup>32</sup> affects the operation of this Law.
- (2) However, nothing in this Law affects the operation of Articles 2A(7), 127(3), 176(3), 176A(2) or 179(5) of the Companies (Jersey) Law 1991.

**59 Limited avoidance of security interest or assignment in case of bankruptcy**

- (1) In the case of the bankruptcy of the grantor of a security interest, the security interest is void as against the Viscount (or liquidator) and the grantor's creditors unless the security interest is perfected before the grantor becomes bankrupt.
- (2) In the case of the bankruptcy of the assignor of a receivable, the assignment of the receivable is void as against the Viscount (or liquidator) and the assignor's creditors unless the assignment is perfected before the assignor becomes bankrupt.

**PART 8****REGISTRATION****60 Appointment of registrar**

- (1) The registrar of companies under the Companies (Jersey) Law 1991 shall be the registrar for the purposes of this Law.
- (2) The registrar shall –
  - (a) for the purposes of this Law, maintain a register; and
  - (b) have such other functions as are prescribed by or under this Law.
- (3) A reference in the Companies (Jersey) Law 1991 to functions of the registrar under that Law shall include a reference to the functions of the registrar under this Law.

**61 Register**

The register shall consist of –

- (a) financing statements and financing change statements; and
- (b) such other matter as is authorized or required by or under this Law to be entered or registered in the register.

**62 Contents of registration**

- (1) Registration of a security interest, or of an assignment of a receivable, or of any transfer, assignment, subordination, discharge, amendment or other action or matter in respect of a security interest or assignment of a receivable, shall consist of such data, in such form, as the Minister may prescribe by Order.
- (2) In the absence of any such Order, or to the extent that such an Order is silent on any matter, the registration shall consist of such details as the registrar may reasonably require or permit.

**63 Timing and other formalities**

- (1) A financing statement may be registered before or after –

- (a) the security agreement is made to which the financing statement relates;
  - (b) the assignment of a receivable occurs to which the financing statement relates; or
  - (c) the security interest has attached, being the security interest created by the security agreement to which the financing statement relates.
- (2) A financing statement or financing change statement may relate to one or more security agreements or assignments of receivables.
- (3) The registrar may refuse to register a financing statement or a financing change statement, or may cause registration of it to be refused –
- (a) if the data in it are not in such form as would enable the data to become an entry that meets the requirements of Article 62; or
  - (b) if the fee required by the registrar is not paid for its registration.

#### **64 Registration**

- (1) A financing statement or financing change statement is taken to be registered at the time when –
- (a) a registration number, date and time have been given to the statement in the register; and
  - (b) the statement and information relating to it are stored in durable form and readily capable of being searched and read.
- (2) The registrar shall serve, or cause to be served, a verification statement, as soon as reasonably practicable after a financing statement or financing change statement has been registered.
- (3) The verification statement shall –
- (a) give notice of the fact that the financing statement or financing change statement has been registered and of the time and date of the registration; and
  - (b) be served on the applicant for registration of the financing statement or financing change statement.

#### **65 Applicant to pass on verification statement**

The applicant for registration of a financing statement or financing change statement shall, not later than 30 days after the day on which the verification statement was served on the applicant, serve a copy of the verification statement on the person shown in the register as grantor in relation to the relevant security interest or on the person shown in the register as assignor of the relevant receivable, unless that person has in writing waived the right to receive it or that person is the applicant.

#### **66 Registration invalid only if seriously misleading**

- (1) The validity of the registration of a financing statement or financing change statement is not affected by any defect, irregularity, omission, or error in

the entry relating to the registration unless the defect, irregularity, omission, or error is seriously misleading.

- (2) Without limiting the operation of paragraph (1), a registration is invalid if there is a seriously misleading defect, irregularity, omission, or error, in any name, or registration number, required by or under Article 62 in respect of the registration.
- (3) In order to establish that a defect, irregularity, omission, or error is seriously misleading, it is not necessary to prove that any person has actually been misled by it.
- (4) Failure to include a sufficient description of collateral in a financing statement or financing change statement shall not affect the validity of the registration of the statement to the extent that the statement relates to other collateral in respect of which a sufficient description has been included in the statement.

### **67 Duration of registration**

Except as otherwise provided in this Law or in an Order, the registration of a financing statement or financing change statement shall be effective until the first of the following events occurs –

- (a) in any case, the registration of the statement is discharged, or removed from the register;
- (b) if a duration, or expiry date, for its registration is provided for in the statement, the period expires or the date arrives;
- (c) if no duration, or expiry date, for its registration is provided for in the statement, the period of 10 years expires, being the 10 years that begin on the day on which and at the time at which the statement was registered.

### **68 Renewal of registration**

- (1) However, the registration of a financing statement or financing change statement may be renewed by registering a financing change statement in respect of the earlier registration at any time while the earlier registration is effective.
- (2) Except as otherwise provided in this Law or in an Order, renewal shall extend the period for which the earlier registration is effective so that it is instead effective until the first of the following events occurs –
  - (a) in any case, the registration of the later statement is discharged, or removed from the register;
  - (b) if a duration, or expiry date, for its registration is provided for in the later statement, the period expires or the date arrives;
  - (c) if no duration, or expiry date, for its registration is provided for in the later statement, the period of 10 years expires, being the 10 years that begin on the day on which and at the time at which the later statement was registered.

**69 Registration reflecting transfer where prior registration**

- (1) A financing change statement may be registered if –
  - (a) all or part of a security interest that is perfected by registration has been transferred; or
  - (b) all or part of a receivable that has been the subject of a perfected assignment has been further assigned.
- (2) If a security interest in part, but not all, of a collateral is transferred, the financing change statement that may be so registered shall include a description of that part of the collateral.

**70 Registration reflecting transfer where no prior registration**

- (1) If a secured party with a security interest that is not perfected by registration transfers the security interest, a financing statement may be registered in which the transferee is disclosed as the secured party.
- (2) If the assignee of a receivable subject to an unperfected assignment assigns the receivable, a financing statement may be registered in which the new assignee is disclosed as the assignee.

**71 Registration of transfer may be made any time**

A financing change statement or financing statement, as the case may be, relating to a transfer of a security interest or the further assignment of a receivable may be registered before or after the transfer or further assignment.

**72 Transferee becomes secured party or assignee**

- (1) After the registration of a financing change statement disclosing the transfer of a security interest, the transferee of the security interest shall become, for the purposes of this Law, the secured party in respect of the security interest.
- (2) After the registration of a financing change statement disclosing the further assignment of a receivable that had been the subject of an assignment, the further assignee shall become, for the purposes of this Law, the assignee in respect of the receivable.

**73 Registration to reflect subordination**

If a security interest or assignment of a receivable has been subordinated to the interests of a person other than the secured party or assignee, a financing change statement may be registered in relation to the subordination at any time during the period when registration of the security interest or of the assignment of the receivable is in force.

**74 Voluntary amendment or discharge of registration**

- (1) A discharge of a registration or an amendment to a registration may be effected by registering a financing change statement at any time during the

period when the first-mentioned registration is in force, whether or not the discharge, or the amendment, of the registration is specifically provided for in this Part.

- (2) Only the person named in the registration as secured party may register that statement in respect of a security interest, and only the person named in the registration as assignee may register that statement in respect of an assignment of a receivable.
- (3) A discharge or amendment so effected shall be effective from the time when the financing change statement is registered.

#### **75 Demand for registration of financing change statement**

- (1) The person named as grantor in a registration of a security interest, or any person with an interest in property that falls within a collateral description included in a registration of a security interest, may serve a written demand to the effect specified in paragraph (2) on the person named as secured party in the registration if –
  - (a) all of the obligations under the relevant security agreement have been performed;
  - (b) the person named as secured party in the registration has agreed to release part or all of the collateral described in the registration;
  - (c) the collateral described in the registration includes an item or kind of property that is not collateral under the relevant security agreement;
  - (d) no relevant security agreement exists between the parties named in the registration, and the person named in the registration as the secured party has not entered an agreement to give value, being an agreement that is to be secured by the relevant security agreement; or
  - (e) the security interest has been extinguished in accordance with this Law.
- (2) The demand is that the person named as secured party in the registration register a financing change statement within the 30 days after the day on which the demand is served –
  - (a) discharging the registration in a case referred to in paragraph (1)(a), (d) or (e);
  - (b) amending or discharging the registration so as to reflect the terms of the agreement in a case referred to in paragraph (1)(b); or
  - (c) amending the collateral description to exclude items or kinds of property that are not collateral under the agreement in a case referred to in paragraph (1)(c).
- (3) The person named as grantor in the registration of the assignment of a receivable may serve on the person named in the registration as assignee of the receivable a demand to the effect specified in paragraph (4) if –
  - (a) the debt has been discharged; or
  - (b) no assignment between the 2 persons has in fact occurred.



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- (4) The demand is that the person named as assignee in the registration register a financing change statement, within the 30 days after the day on which the demand is served, discharging the registration.

#### **76 Procedure where no compliance with demand**

- (1) A person who has served a demand under Article 75 may apply to the registrar for the registration of a financing change statement to the effect referred to in Article 75(2) or (4) if the party on whom the demand under Article 75 was served –
- (a) has not complied with the demand within the 30 days after the day when it was served; and
  - (b) has not, within those 30 days, served on the person and on the registrar notice of objection to the registration of a financing change statement to that effect.
- (2) If, on such an application, the registrar is satisfied of the matters specified in paragraph (1)(a) and (b), the registrar shall register the financing change statement.

#### **77 Court order**

- (1) A person who has served a demand under Article 75 may apply to the Royal Court for an order requiring the registrar to register a financing change statement to the effect referred to in Article 75(2) or (4) if the party on whom the demand under Article 75 was served –
- (a) has not complied with the demand within the 30 days after the day when it was served; and
  - (b) has, within those 30 days, served on the person and on the registrar notice of objection to the registration of a financing change statement to that effect.
- (2) If, on such an application, and after examining the objection, the Royal Court is not satisfied that the objection is justified and is satisfied that it is in the interests of justice to make the order applied for, the Court may make the order applied for.
- (3) The Royal Court may make such other order as it thinks proper for the purpose of giving effect to an order made under paragraph (2).

#### **78 No fee for compliance with demand**

A party on whom a demand is served under Article 75 shall not charge any fee for compliance with the demand, unless the party and the person serving the demand otherwise agree.

#### **79 Registration to be automated**

- (1) A function that is required or permitted by or under this Law to be performed by or under the authority of the registrar in relation to the

register shall, to the extent that it does not require the exercise of discretion on the registrar's part, be carried out by an automated system.

- (2) The system shall –
  - (a) allow a person to apply directly on the system for automatic registration of a financing statement or financing change statement;
  - (b) allow fees to be paid, being fees referred to in Article 90;
  - (c) reject incomplete or informal applications;
  - (d) store financing statements and financing change statements in durable form as a register;
  - (e) store other data required or permitted by or under this Law to be stored in relation to the register;
  - (f) issue a verification statement;
  - (g) allow a person to search the register directly;
  - (h) produce search reports; and
  - (i) allow a person to do such other things as are required or permitted by or under this Law to be done by the person in relation to the register.
- (3) Nothing in this Article prevents the imposition by the registrar of reasonable conditions for the use of the system.

## **80 Removal of data from register**

- (1) Data in a registration may be removed from the register –
  - (a) when the registration is no longer effective; or
  - (b) to the extent of the discharge of the registration.
- (2) Data in a registration may be removed from the register if the registrar is satisfied that the data are frivolous or vexatious.
- (3) The registrar shall, before he or she makes a decision that he or she is satisfied as referred to in paragraph (2), take reasonable steps to serve on the person named in the registration as secured party (in the case of a security interest) or assignee (in the case of the assignment of a receivable) notice to show, within the 30 days after the day when those steps are complete, that the data are not frivolous or vexatious.
- (4) If the person so named fails within those 30 days to show to the registrar's satisfaction that the data are not frivolous or vexatious, the registrar may, in the registrar's discretion, remove the data from the register.

## **81 Restoration of registration**

- (1) If data in a registration are removed from the register in accordance with Article 80(4), the Royal Court may, on the application of the person referred to in that paragraph, make an order directing that the data be restored to the register if it is satisfied that the data are neither frivolous nor vexatious.

- (2) The Royal Court may make such other order as it thinks proper for the purpose of giving effect to an order made under paragraph (1).
- (3) The registrar (and any other person to whom an order under this Article is directed) shall comply with the order.
- (4) The registrar may restore data to the register (or restore a registration that has been discharged) if it appears to the registrar that the data have been incorrectly removed from the register (or the registration incorrectly discharged) because of an administrative or clerical error made by or under the authority of the registrar.
- (5) A registration to which data have been restored (or a registration restored) under this Article shall be regarded as having continued in force as if the relevant data had not been removed from the registration (or the relevant registration had not been discharged).
- (6) However, the operation of paragraph (4) or (5) in relation to a registration is subject to any order that the Royal Court may make on application by a person named in the registration immediately before the removal of data (or discharge of registration) or by any other person who would be affected by the restoration of the data (or of the registration).

## **82 Correction of errors or omissions**

The registrar may, with the consent of the person named in a registration as secured party (in the case of a security interest) or assignee (in the case of the assignment of a receivable), correct any administrative or clerical error, or an administrative or clerical omission, made by or under the authority of the registrar in the registration.

## **83 Access to register**

- (1) The public shall be entitled to make searches of the register and to obtain written reports setting out the information in the register relevant to those searches.
- (2) The registrar shall make the register reasonably accessible to the public for the purposes of allowing the operation of the system referred to in Article 79, searches to be made and any other requirements of this Law to be met.

## **84 Printed search result as evidence**

A printed search result that purports to be issued by or under the authority of the registrar shall be admissible as evidence and is, in the absence of evidence to the contrary, proof of the registration of any financing statement or financing change statement to which the search relates, including –

- (a) the date and time of registration of the statement; and
- (b) the order of registration of the statement as indicated by the registration number (if any), or date and time, set out in the printed search result.

**PART 9**  
**MISCELLANEOUS**

**85 Secured party to provide information**

- (1) The grantor in respect of a security interest may require the secured party to provide the grantor free of charge with any of the following –
  - (a) a copy of the security agreement;
  - (b) a statement in writing of the amount of the indebtedness under the security agreement and of the terms of payment of the indebtedness;
  - (c) a description of the collateral under the security agreement.
- (2) Subject to paragraph (3), a secured party shall comply with a requirement under paragraph (1) within the 30 days after the day when notice of the requirement is served on the secured party.
- (3) A secured party may satisfy a requirement under paragraph (1)(c) by –
  - (a) requiring (within the 30 days referred to in paragraph (2)) the grantor to provide a list or description of the collateral; and
  - (b) having received the list or description, providing the grantor, within 30 days after the receipt of the list or description, with the secured party's approval or corrections of that list or description.
- (4) Paragraph (1)(c) does not apply if the security interest extends over all of the grantor's intangible movable property.
- (5) Paragraph (1) does not apply if the copy, statement, or description, required is, or is required to be, available under any other enactment or rule of law to the person who made the requirement.
- (6) A person who fails to comply with this Article shall be guilty of an offence and liable to a fine of level 3 on the standard scale.

**86 Exemption from Article 85**

- (1) The Royal Court may, on application by a secured party, make an order exempting the secured party from compliance with a requirement made under Article 85 in whole or in part if the Court is satisfied that, in the circumstances, it would be unreasonable for the secured party to have to comply in whole or in part with the requirement.
- (2) The Royal Court may, on application by a secured party, make an order extending the time for compliance with a requirement made under Article 85 if the Court is satisfied that, in the circumstances, it would be unreasonable for the secured party to have to comply with the requirement within the 30 days after the day on which he or she is served with notice of the requirement.
- (3) The Royal Court may make such other order as it thinks proper for the purpose of giving effect to an order made under paragraph (1) or (2).
- (4) Article 85 shall not apply to the extent of any exemption by order of the Royal Court under this Article.

- (5) The application of an expression of time in Article 85 is subject to any extension of that time by order of the Royal Court under this Article.
- (6) Article 85 shall not apply in such circumstances as the Minister may by Order prescribe.

### **87 Order for compliance**

If, without reasonable excuse, a secured party has failed to comply with a requirement under Article 85, the Royal Court may, on application by the grantor who made the requirement, or by any other person who has an interest in the matter, make one or both of the following orders –

- (a) an order that the secured party comply with the requirement;
- (b) such other order as the Court thinks proper.

### **88 Failure to comply with order**

If a person fails to comply with an order under Article 87, the Royal Court may, on application by the grantor who made the requirement under Article 85 –

- (a) make an order declaring that the security interest to which the requirement relates is to be treated as unperfected or discharged, and directing the registrar to remove from the register any registration of the security interest; or
- (b) make such other order as it thinks fit for the purpose of giving effect to the order under Article 87.

### **89 Obligation to disclose successor**

- (1) If a grantor in respect of a security interest does not know the identity, or address, of the current secured party in relation to the security interest, the grantor may require a person who was a secured party in relation to the security interest and of whom the grantor does know the identity and address to inform the grantor of the name and address of the person's immediate successor in interest and of the latest successor in interest.
- (2) The person shall comply with the requirement to the extent that those matters are known to the person.
- (3) A person who fails to comply with this Article shall be guilty of an offence and liable to a fine of level 3 on the standard scale.

### **90 Fees**

- (1) The registrar may require the payment to the registrar of fees for or in respect of –
  - (a) the performance of any duty, or the exercise of any power, of the registrar under this Law; or
  - (b) the use of, or access to, the system referred to in Article 79.

- (2) Those fees shall be fees published by the Jersey Financial Services Commission in accordance with Article 15(5) of the Financial Services Commission (Jersey) Law 1998<sup>33</sup>, and may include periodic fees in respect of registrations maintained on the register.

## **91 Rules of court**

The power to make rules of court under the Royal Court (Jersey) Law 1948<sup>34</sup> shall include a power to make rules for the purposes of this Law and proceedings under this Law.

## **92 Orders**

- (1) The Minister may make Orders, not inconsistent with this Law, for or with respect to any matter that by this Law is required or permitted to be prescribed by Order or that is necessary or convenient to be prescribed by Order for carrying out or giving effect to this Law and, in particular, but without prejudice to the generality of the foregoing, for or with respect to any of the following –
- (a) procedures, requirements, and other matters, in respect of the register and its operation, including access to it, its location, suspension of its operation, suspension of access to it and the hours when it is to be accessible;
  - (b) procedures, requirements, and other matters, in respect of registration (or entering in the register) under this Law, including the following –
    - (i) the description of collateral, or of proceeds, that is to be included in financing statements and financing change statements,
    - (ii) the description of receivables and their assignments that is to be included in financing statements and financing change statements,
    - (iii) a requirement to describe by serial number,
    - (iv) the form and content of financing statements, of financing change statements, and of other data authorized or required by or under this Law to be entered or registered in the register,
    - (v) the effectiveness, renewal, repetition, discharge, expiry, and amendment, of registration;
  - (c) the data to be entered in the register to effect, renew, repeat, discharge, or amend, registration;
  - (d) any other matters relating to registration under this Law;
  - (e) procedures, requirements, and other matters, in respect of the form and use of verification statements to confirm a registration;
  - (f) procedures, requirements, and other matters in respect of searching the register, including criteria on which a search may be conducted, the method of disclosure and the form and content of search results;
  - (g) forms in general for the purposes of this Law;

- (h) procedures, requirements, and other matters in respect of notices for the purposes of this Law, including the matters in respect of which notices are required and the form of notices under this Law;
  - (i) the functions of the registrar.
- (2) An Order made under this Law may contain such transitional, consequential, incidental or supplementary provisions, or such savings, as appear to the Minister to be necessary or expedient for the purposes of the Order.
- (3) A reference in this Article to procedures does not include the procedure of any court.

### **93 Regulations**

- (1) The States may by Regulations amend Parts 1, 2 and 4.
- (2) The States may make Regulations, not inconsistent with this Law, for or with respect to any matter that by this Law is required or permitted to be prescribed by Regulations or that is necessary or convenient to be prescribed by Regulations for carrying out or giving effect to this Law.
- (3) Regulations made under this Law may contain such transitional, consequential, incidental or supplementary provisions, or such savings, as appear to the States to be necessary or expedient for the purposes of the Regulations.

### **94 Savings, and transitional and consequential provisions**

- (1) The Schedule shall have effect.
- (2) The States may, by Regulations, make provision of a saving or transitional nature consequent on the enactment of this Law, and those Regulations may, but are not required to, amend the Schedule.
- (3) The States may, by Regulations, amend any enactment (other than this Law) consequentially on the enactment of this Law.
- (4) A provision of Regulations made under this Article (or a provision of the Schedule as amended by Regulations made under this Article) may, if the Regulations (or the Schedule as so amended) so provide, come into force on the day on which this Article comes into force or on a later day.
- (5) To the extent to which any such provision comes into force on a date that is earlier than the date on which notice has been published (as required by Article 3 of the Official Publications (Jersey) Law 1960<sup>35</sup>) of its making, the provision does not operate so as –
- (a) to affect, in a manner prejudicial to any person (other than the States or an administration of the States), the rights of that person existing before the latter date; or
  - (b) to impose liabilities on any person (other than the States or an administration of the States) in respect of anything done or omitted to be done before the latter date.

**95 Citation**

This Law may be cited as the Security Interests (Jersey) Law 2012.



**SCHEDULE<sup>36</sup>**

(Article 94)

**1 Interpretation**

In this Schedule –

“any law” includes customary law and any enactment;

“before Part 6 comes into force” includes a time before this Schedule is enacted or comes into force;

“new-Law assignment” means an assignment, after Part 6 comes into force, of a receivable payable by a Jersey company or a Jersey individual;

“prior assignment” means an assignment, before Part 6 comes into force, of a receivable payable by a Jersey company or a Jersey individual;

“prior law” means –

- (a) in paragraphs 2, 3 and 4, the provisions of the Security Interests (Jersey) Law 1983<sup>37</sup> and of any law (other than this Law or any enactment made under this Law) that is capable of application to a continuing security interest, as those provisions are in force from time to time; or
- (b) in paragraph 6, the provisions of any law (other than this Law or any enactment made under this Law) that is capable of application to a prior assignment, as those provisions are in force from time to time.

**2 Prior law applies to continuing security interest**

The prior law (and not this Law) shall continue to apply to a continuing security interest.

**3 Adding new collateral means a new security interest is created**

(1) This paragraph applies if –

- (a) persons have entered into an agreement (“agreement B”) and they are already parties to another agreement (“agreement A”) that created a continuing security interest;
- (b) agreement B is entered into after Part 3 comes into force and purports to extend the continuing security interest to collateral to which the continuing security interest did not apply immediately before Part 3 came into force; and
- (c) agreement A did not (immediately before the time when Part 3 came into force) provide for the continuing security interest to include after-acquired property of a class within which the collateral referred to in clause (b) falls.

(2) If this paragraph applies –

- (a) the continuing security interest shall not be affected by agreement B;

- (b) the security interest to which the collateral referred to in subparagraph (1)(b) is subject shall not be the continuing security interest but a security interest created under this Law; and
- (c) the prior law (and not this Law) shall continue to apply to the continuing security interest.

#### **4 Parties may agree otherwise in relation to themselves**

- (1) Paragraphs 2 and 3 do not prevent the parties to a continuing security interest from agreeing that, in their relations with each other, this Law (and not the prior law) shall apply to the continuing security interest.
- (2) To the extent of such an agreement, and despite paragraphs 2 and 3, in the parties' relations with each other –
  - (a) this Law shall apply to the continuing security interest; and
  - (b) the prior law shall not apply to the continuing security interest.

#### **5 Priority as between continuing security interests and certain security interests and assignments**

- (1) A continuing security interest over collateral has priority over any security interest created under this Law in the same collateral, unless the secured party in respect of the continuing security interest otherwise agrees.
- (2) A continuing security interest over collateral that is a receivable has priority over a new-Law assignment of the same receivable, whether or not the assignment is perfected under this Law, unless the secured party in respect of the continuing security interest otherwise agrees.

#### **6 Prior assignments of receivables**

- (1) Except as provided in this paragraph, the prior law (and not this Law) shall apply to a prior assignment.
- (2) Paragraph (2) of Article 59 shall apply to a prior assignment on and from the day on which that paragraph and Part 6 are both in force, but a reference in that paragraph to perfection includes registration of a financing statement in respect of a prior assignment as referred to in subparagraph (3).
- (3) After Part 8 comes into force, and whether or not Part 6 is in force, a financing statement may be registered under Part 8 in respect of a prior assignment.
- (4) Despite anything in Part 8, such registration shall take effect at the later of the following times –
  - (a) when Part 6 comes into force;
  - (b) when the financing statement is actually registered,but shall not take effect if discharged before the later of those times.

- (5) Such registration does not affect the operation of sub-paragraph (1) in relation to a prior assignment, but sub-paragraph (6) shall apply to determine questions of priority that relate to the prior assignment.
- (6) As between 2 or more assignments of the same receivable –
  - (a) the prior law (and not this Law) shall apply to determine questions of priority as between or among such assignments as are prior assignments, whether or not financing statements have been registered under this Law in respect of one or more of those assignments; and
  - (b) this Law shall apply to determine questions of priority as between any prior assignment and any new-Law assignment, according to –
    - (i) whether or not the assignments are perfected assignments, and
    - (ii) the times at which the registrations of financing statements in respect of them took effect.
- (7) A perfected security interest created under this Law over collateral that is a receivable has priority over a prior assignment of the same receivable, being an assignment that is not a perfected assignment at the time when the security interest is perfected.

**ENDNOTES****Table of Legislation History**

<b>Legislation</b>	<b>Year and No</b>	<b>Commencement</b>
Security Interests (Jersey) Law 2012	L.24/2012	1 October 2013 – Articles 1 to 4A, 8, 9, 14(1), 60 to 84, 90 to 93, 95 and 96, and paragraphs 1 and 6 of Schedule 2; 2 January 2014 – remainder.
Security Interests (Amendment of Law) (Jersey) Regulations 2013	R&O.102/2013	1 October 2013
States of Jersey (Transfer of Functions No. 6) (Economic Development and Treasury and Resources to Chief Minister) (Jersey) Regulations 2013	R&O.107/2013	19 July 2013
Security Interests (Amendment of Law) (No. 2) (Jersey) Regulations 2013	R&O.128/2013	1 October 2013
Limited Liability Partnerships (Jersey) Law 2017 (as applied by revision powers under the Law Revision (Jersey) Law 2003)	L.2/2017	1 August 2018 (R&O.74/2018)

**Table of Renumbered Provisions**

<b>Original</b>	<b>Current</b>
94	Spent, omitted
95	94
96(1)	95
96(2)	Spent, omitted
Schedule 1	Spent, omitted
Schedule 2	Schedule

**Table of Endnote References**


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<sup>1</sup>	<i>chapter 13.775</i>
<sup>2</sup>	<i>chapter 13.225</i>
<sup>3</sup>	<i>chapter 05.800</i>
<sup>4</sup> Article 1	<i>amended by R&amp;O.102/2013, R&amp;O.107/2013, R&amp;O.128.2013</i>
<sup>5</sup> Article 1A	<i>inserted by R&amp;O.102/2013</i>
<sup>6</sup> Article 3(6)	<i>repealed by R&amp;O.102/2013</i>
<sup>7</sup> Article 4	<i>substituted by R&amp;O.102/2013, amended by L.2/2017</i>
<sup>8</sup>	<i>chapter 13.500</i>
<sup>9</sup>	<i>chapter 13.475</i>
<sup>10</sup>	<i>chapter 13.370</i>
<sup>11</sup>	<i>chapter 13.780</i>
<sup>12</sup> Article 4A	<i>inserted by R&amp;O.102/2013</i>

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- <sup>13</sup> Article 5(2) *repealed by R&O.102/2013*  
<sup>14</sup> Article 6 *substituted by R&O.102/2013*  
<sup>15</sup> Article 8 *substituted by R&O.102/2013*  
<sup>16</sup> Article 9(1) *numbered and amended by R&O.102/2013*  
<sup>17</sup> Article 9(2) *added by R&O.102/2013*  
<sup>18</sup> Article 12 *substituted by R&O.102/2013*  
<sup>19</sup> *chapter 13.475*  
<sup>20</sup> *chapter 13.780*  
<sup>21</sup> Article 13(2) *amended by L.2/2017*  
<sup>22</sup> Article 29(1) *amended by R&O.102/2013*  
<sup>23</sup> Article 29(3) *added by R&O.102/2013*  
<sup>24</sup> Article 29(4) *added by R&O.102/2013*  
<sup>25</sup> Article 30 *substituted by R&O.102/2013*  
<sup>26</sup> Article 30A *added by R&O.102/2013*  
<sup>27</sup> Article 30B *added by R&O.102/2013*  
<sup>28</sup> Article 33 *substituted by R&O.102/2013*  
<sup>29</sup> Article 33(4) *amended by R&O.128/2013*  
<sup>30</sup> Article 34 *substituted by R&O.102/2013*  
<sup>31</sup> *chapter 04.160*  
<sup>32</sup> *chapter 13.125*  
<sup>33</sup> *chapter 13.250*  
<sup>34</sup> *chapter 07.770*  
<sup>35</sup> *chapter 15.440*  
<sup>36</sup> Schedule 2 *substituted by R&O.102/2013, amended by R&O.128/2013*  
<sup>37</sup> *chapter 13.775*