

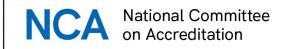
Syllabus Commercial Law

Revised for April 2025

Candidates are advised that the syllabus may be updated from time-to-time without prior notice.

Candidates are responsible for obtaining the most current syllabus available.





Commercial Law

PART I: Secured Transactions

1. Background to Personal Property Security Act ("P.P.S.A.")

See: <u>Secured Transactions in Personal Property, Cases, Texts and Materials,</u> **eight edition** (2018) by Anthony Duggan (hereafter "**Duggan**"), Mark Selick and Michael Burke (Emond publishers).

Note to students: This textbook does not cover those portions of this Commercial Law course that involve the sale of goods, and penalties/liquidated damages.

The Personal Property Security Act, R.S.O. 1990, cP10 (hereafter "P.P.S.A."), including amendments

Personal Property Security Regulations, R. Reg. O. 1990, Reg. 912

See: Duggan at p. 1-6; 18-20; 99-100

2. Application of P.P.S.A.

- a) Conditional Sale Agreements and Chattel Mortgages
 - Duggan at p. 509 (precedent of a conditional sale agreement)
 - Duggan at p. 510 (precedent of a chattel mortgage)
 - Duggan at p. 9 11
 - National Trailer Convoy of Canada v. Bank of Montreal (1980), 10 B.L.R. 196 (Ont. H.C.)
 - Joseph Group of Companies v. Pickles Tents and Awnings Ltd (1981), 127 D.L.R. (3d) 176 (Man. C.A.)
- **b)** Accounts s. 1(1) P.P.S.A.
 - Grosvenor Park Media v. Arc Productions 2020 ONSC 5651 (Ont. S.C.)
- c) Consignments s. 2(a) P.P.S.A.
 - Duggan at p. 66-68
 - Re Toyerama (1980), 34 C.B.R. (N.S.) 153 (Ont. S.C.)
 - Re Stephanians Persian Carpets (1980), 34 C.B.R. (N.S.) 35 (Ont. S.C.)
 - Newcourt Credit Group v. G.A. Finance (1998), 13 P.P.S.A.C.(2d) 372 (Ont. Gen. Div.)
 - B. COLBURN, "Consignment Sales and the P.P.S.A." (1981-82), 6 Can. Bus. L.J. 40 at 62



- **d)** Chattel Leases s. 1 new definition of "lease for a term of more than one year"; and s.2(c) P.P.S.A. as amended by S.O. 2006, chap. 34, Schedule "E"
 - Duggan at p. 64 66; p. 269 270. P. 417 418
 - Re Connacher Oil and Gas 2017 ABQB 769, reprinted in Duggan at p. 419
 - Re Doran (2006), 9 P.P.S.A.C.(3d) 99 (N.S.S.C.)
 - Continental Shed Rentals v Trustee in Bankruptcy, 2024 NBCA 86
- e) <u>Assignment of Accounts Receivable</u> s. 2(b); 40(2) PPSA as amended by S.O. 2006, chap. 34, Schedule "E"
 - Duggan at p. 29
 - Dimmitt and Owens Financial v. Big V Pharmacies (1999) 14 P.P.S.A.C.(2d) 47 (Ont. Gen. Div.)

3. Attachment and Perfection of a Security Interest

- a) Attachment
 - When does a security interest attach s. 11; 19 P.P.S.A.
 - Duggan at p. 75 81; p. 110 113
 - Credit Suisse Canada v. 1133 Yonge St. Holdings (1999), 14 P.P.S.A.C.(2d) 61 (Ont. C.A.)
- **b)** Registration of a Security Interest
 - i. By registration of a financing statement s. 23; 28(5); 45; 46(5); 51 P.P.S.A.
 - Duggan at p. 158 -170; p. 512
 - ii. Lapse s. 48(1), (2), (3), (5); 30(6); 69 P.P.S.A.
 - Heidelberg Graphic Equipment v. Arthur Anderson Inc. (1992), 4 P.P.S.A.C.(2d) 116 (Ont. Gen. Div.) reprinted in Duggan at p. 173
 - Bank of Nova Scotia v. Royal Bank (1999), 14 P.P.S.A.C. (2d) 10 (B.C.S.C.)
 - Asklepeion Restaurants v. 791259 Ontario Ltd. (1998), 13 P.P.S.A.C.(2d) 295 (Ont. C.A.)
 - Thomas v. Input Capital Corp. (2020), 12 P.P.S.A.C. (4th) 339 (Sask. C.A.)
 - Duggan at p. 134; p. 180
 - iii. <u>Errors in the Financing Statement</u> s. 46(4), 46.1, 46.2, 46.3 P.P.S.A.; R. Reg.O. 1990, Reg. 912, s. 1, 2, 3, 9(2), 16, 18
 - Duggan at p. 189 194; p. 204 206
 - Re Lambert (1994), 20 O.R. (3d) 108 (C.A.) reprinted in Duggan p. 194



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- Fairbanx Corp v. Royal Bank of Canada 2010 ONCA 385 reprinted in Duggan p. 246
- iv. By Possession of the Collateral: s. 22 P.P.S.A.
 - Duggan at p. 121-125
 - Re Dzarzinskas (1982), 15 B.L.R. 317 (Ont. H.C.)
 - Re M.C. United Masonry (1983), 142 D.L.R. (3d) 470 (Ont. C.A.)
- c) Personal Guarantees s.17 P.P.S.A.
 - First City Capital v. Hall (1993), 11 O.R. (3d) 792 (C.A.)
 - Toronto Dominion Bank v. McCowan (1995), 9 P.P.S.A.C. (2d) 176 (Ont. C.A.)
 - Bank of Nova Scotia v. Antoine (1998), 13 P.P.S.A.C. (2d) 231 Ont. Gen. Div.)
- d) Property Acquired in the Future
 - i. After Acquired Property s. 12(1); 45(4) P.P.S.A.
 - Duggan at p. 11 12; p. 96 97
 - Pickles Tents and Awnings (supra)
 - Re West Bay Sales and Hitachi (1978), 88 D.L.R. (3d) 743 (Ont. S.C.)
 - ii. Future Advances s. 1(1); 13; 30(3), (4); 38 P.P.S.A.
 - Duggan at p. 100 101: p. 231 233

4. Priorities

- a) Major Priorities Section s. 30(1) P.P.S.A.
 - Duggan at p. 153 -154; p. 219 221; 226 227
 - B.M.P. and Daughters Investment Corp. v. 941242 Ontario Ltd. (1992), 11 O.R. (3d) 81 (Ont. Gen. D)
 - Sperry v. CIBC (1984-85), 4 P.P.S.A.C. 314 (Ont. C.A.)
 - CIBC v. Otto Tim Enterprises (1995), 10 P.P.S.A.C.(2d) 228 (Ont. C.A.)
- **b)** Judgment Creditors s. 20(1)(a)(ii) P.P.S.A.
 - Re CMHC (1995), 22 O.R. (3d) 190 (Ont. Gen. D.)
- c) Effect of Non-perfection as Against Trustee in Bankruptcy s. 20(1)(b)
 - Duggan at p. 136; p. 155 156
 - Re Giffen (1998), 13 P.P.S.A.C.(2d) 255 (S.C.C.) reprinted in Duggan at p. 134





- Royal Bank v. Cutler Forest Products, 2024 ONCA 118
- d) As Against a Transferee for Value s. 20(1)(c)
 - Duggan at p. 151 152
 - Royal Bank v. Dawson Motors (1981), 15 B.L.R. 83 (Ont. Co. Crt)
 - Robert Simpson Company v. Shadlock (1981), 31 O.R. (2d) 612 Ont. H.Ct.) reprinted in Duggan at p. 221
- e) Purchases in the Ordinary Course of Seller's Business s. 28(1) and 28(1.1) P.P.S.A. as amended
 - Duggan at p. 327 329; p. 334 335
 - Fairlane Boats v. Leger (1980), 1 P.P.S.A.C. 218 (Ont. H.C.)
 - Ford Motor Credit v. Centre Motors (1982), 137 D.L.R. (3d) 634 (Ont. H.C.)
 - Camco Inc. v. Olsen Realty (1986), 50 Sask R. 161 (C.A.), reprinted in Duggan at p. 330
- f) Purchase Money Security Interest s. 1(1) new amended definition; 33(1), (2),(3) P.P.S.A.; note amendment to s. 33(1)(b) in S.O. 2006, chap. 34, Schedule "E"
 - Duggan at p. 253 258; p. 274 277; p. 285 286
 - Unisource Canada v. Laurentian Bank (2000), 47 O.R. (3d) 616 (Ont. C.A.) reprinted in Duggan at p. 265
 - Re: 1151162 Ontario Ltd. (1998), 13 P.P.S.A.C. (2d) 16 (Ont. Gen. Div.)
 - First City Capital v. Arthur Anderson Inc. (1984-85), 4 P.P.S.A.C. 74 (Ont. H.C.)

5. <u>Security Interests Excluded from Scope of P.P.S.A.</u>

- **a)** Liens s. 4(1)(a) P.P.S.A.
 - Duggan at p. 69
 - Commercial Credit Corp. v. Harry Shields (1981), 122 D.L.R. (3d) 736 (Ont. C.A.) reprinted in Duggan at p.69

6. <u>Default -- Rights and Remedies Under P.P.S.A.</u>

- a) <u>Seizure</u> s. 59(5); 63(5); 64(3); 65; 67(1),(2),(3),(4) P.P.S.A.
 - Duggan at p. 405 407; p. 427 431
- b) <u>Dispositions Must be Commercially Reasonable</u> s.57.1; 59(1); 62; 63(1),(2); 64 P.P.S.A.
 - Duggan at p. 433 439



- Canadian Imperial Bank of Commerce v. Haley (1979), 100 D.L.R. (3d) 470 (N.B.C.A.)
- Donnelly v. International Harvester Credit Corp. (1983), 22 B.L.R. 66 (Ont. H.C.); aff'd 150 D.L.R. (3d) 184
- Royal Bank v. HCB Thickson Ltd. 2019 ONSC 7084 (Ont. S.C.)

c) <u>Distinction Between Receivership and Bankruptcy</u>

- i. Receivership s. 60; 63(7)(g) P.P.S.A.
- Duggan at 450
- Standard Trust Co. v. Turner Crossing Inc. (1992), 4 P.P.S.A.C. (2d) 238 (Sask. Q.B.)
- ii. Bankruptcy
- Re Plante (1996), 11 P.P.S.A.C. (2d) 48 (Ont. C.A.)

PART II: Penalties and Liquidated Damages

1. Case Law

G.H.L. Fridman, Law of Contract in Canada, (7th ed.). Carswell publishers, at p. 983 - 992.

- **Note to students:** it is <u>not</u> suggested that you should purchase this Textbook, since this Course only covers a few pages from this Textbook.
- H.F. Clarke v. Thermidaire (1975), 54 D.L.R. (3d) 385 (S.C.C.)
- Clydebank Engineering v. Don Ramos, [1905] A.C. 6 [H.L.]
- Cellulose Acetate v. Widnes, [1933] A.C. 20 (H.L.)
- Campbell Discount v. Bridge, [1962] A.C. 600 [H.L.]

2. Economic Analysis of Law

Clarkson et al., "Liquidated Damages v. Penalties: Sense or Nonsense" [1978]
 Wisconsin L.R. 351 https://repository.law.wisc.edu/s/uwlaw/item/16202

PART III - Sale of Goods

1. Introduction to Sale of Goods Act

- a) Sale of Goods Act, R.S.O. 1990, c. S-1, as amended (hereafter "SGA")
- **b)** Definitions
 - i. Contract for goods, or contract for services
 - ter Neuzen v. Korn, [1995] 10 W.W.R. 1 (S.C.C.)



- ii. Specific Goods S.G.A. s.1(1)
- iii. Unascertained Goods

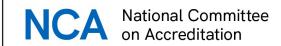
2. Rules for Determining Passing of Property

G.H.L. Fridman, Sale of Goods (6th ed.). Carswell publishers, at p.61-85.

Note to students: it is <u>not</u> suggested that you should purchase this Textbook, since this Course only covers very few pages from this Textbook.

- a) S.G.A. s. 17 and 18; s. 19 Rule 1
- **b)** S.G.A. s. 19 Rule 2
 - Jerome v. Clements Motor Sales (1959), 15 D.L.R. (2d) 686
- c) S.G.A. s. 19 Rules 3 and 4
- d) S.G.A. s. 19 Rule 5 (i)
 - Wardar's Import and Export v. Norwood, [1968] 2 A.E.R. 602
 - Caradoc Nurseries v. Marsh (1959), 19 D.L.R. (2d) 491
 - Pullman Trailmobile v. Hamilton Transport (1979), 96 D.L.R. (3d) 322
 - Pignataro v. Gilroy, [1919] 1 K.B. 459
 - Hayes Brothers v. Can. Perm. Trust (1976), 15 N.B.R. (2d) 166 (C.A.)





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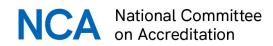
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