Important Disclaimer
This does not constitute an official translation and the translator cannot be held responsible for any inaccuracy or omission in the translation. The text should be used for information purposes only and legal advice should be sought as and when appropriate.
With the term „entry“, the Hungarian lawyers describe a part of the real property register. Hence, the different terms registration, registry and entry.

Charge - Common Rules - General Regulations Section 251

(1) On the basis of the charge, the chargee, if the chargor fails to perform, may seek satisfaction – unless the law rules otherwise – in priority to other claims from the charged asset serving to secure her/his claim determined or determinable in money. Securing claims unenforceable in judicial proceedings with a charge is null and void.

(2) A Charge may be created to secure future or conditional claims.

(3) The extent of responsibility regarding the charged asset corresponds to the claim for which the charged asset serves as security. The charge covers the interests, the cost of the enforcement of the claim, and the charge, furthermore the necessary expenditure spent on the charged asset.

(4) By transferring the claim the charge is also transferred to the new creditor. The charge – unless the law rules otherwise – may be assigned only together with the claim.

The Charged Asset

Section 252

(1) The charged asset may be any tangible thing, any transferable right or claim.

(2) Subject to the agreement of the parties the charge may also cover the proceeds of the charged asset. However, if the charged asset is not in the possession of the chargee, the charge does not cover the yield already separated from the asset, unless enforcement commenced prior to the separation of the yield.

Section 253

(1) If the charge covers more than one asset in order to secure one single claim, in case of doubt all charged assets shall serve to secure the whole claim.

(2) If the charged assets are owned by more than one person and their legal relation does not imply otherwise, they shall be liable towards each other proportionately to the values of the charged assets. If satisfaction takes place in a rate exceeding the actual involvement of a party, that party may demand the proportionate reimbursement of the surplus from the other owners.

The Creation of a Charge Section

254

(1) A charge may be created by way of agreement, statutory regulation or court decision, and in case a legal regulation rules so by other administrative ruling.

(2) The charge agreement shall be concluded in writing. Statutory regulations may determine further formal requirements for the creation of specifically created charges on certain assets.

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The Enforcement of a Charge

Section 255

(1) Satisfaction from charged assets – unless a statutory regulation makes an exception – takes place on the basis of a court decision by way of enforcement.

(2) An agreement established prior to the occurrence of the right of satisfaction is null and void if it stipulates that the chargee acquires the ownership of the charged asset in case the chargor fails to perform.

Section 256

(1) Rights over the charged assets that were acquired after the charge was created, do not affect the chargeholder’s right of satisfaction unless a legislative act rules otherwise. If several charges secure the same asset, unless a legislative act rules otherwise, the chargees are entitled to satisfaction according to the order of creation of their charges (priority).

(2) If one charge secures several assets, the chargee may determine the order of enforcement. However, only as much of the charged assets may be realised, as is necessary for satisfaction.

Section 257

(1) The Parties may agree in writing prior to the occurrence of the right of satisfaction to jointly realise the charged asset – by fixing the lowest sales price or, respectively, its method of calculation, and setting the final date counted from the time the right of satisfaction arises. The agreement shall become null in case the parties fail to realise the charged asset within the period of time or according to the terms stipulated in the agreement.

(2) If the charged asset has an officially registered market price, or if the chargee is in the business of providing loan against security – including all credit institutions with regard to their loans secured with a charge – the parties may also agree, on the conditions contained in paragraph (1), that the chargee may sell the charged asset herself/himself without judicial enforcement.

(3) If paragraph (2) is not applicable, or the parties do not wish to apply it, they may agree on the conditions stipulated in paragraph (1) that the chargee may commission a person professionally or officially dealing with providing loans against security or organising auctions to sell the charged asset.

Section 258

(1) The person authorised to realise the charged asset or to commission somebody to this effect [section 257 paragraphs (2)-(3)] on the basis of this right – acting in the name and for the owner of the charged asset – shall be entitled to transfer the title of ownership of the charged asset. If the charged asset is not in her/his possession she/he may demand that it be handed over for the purpose of realisation.

(2) The chargor shall be notified of the method, place and time of the sale prior to the sale of the charged asset.
(3) The proceeds from the sale of the charged asset are due to the chargee, but the chargee shall account for the proceeds with the chargor, and shall hand over to the chargor the proceeds from the realisation that exceed the amount of the claim, its incidental claims as well as the incurring expenses of the sale. An agreement concluded prior to the termination of the charge that exempts the chargee from the obligation to account should be null and void.

(4) A statutory regulation may establish further rules relating to the method of sale without judicial enforcement.

The Termination of the Charge

Section 259

(1) If the owner of the charged asset and the debtor of the claim (personal debtor) are different persons, and the chargee was satisfied from the charged asset, the charge shall terminate and the claim together with its other security rights shall pass to the owner to the extent of the satisfaction.

(2) If the chargee is otherwise satisfied by other than the personal debtor, the charge shall pass to the satisfying person, to the extent of the debt or the recourse claim arising from the satisfaction. This person may require that the charged asset be handed over or that the declaration necessary for the registration of the charge be issued to her/him for her/his benefit.

(3) The charge shall terminate if the debt terminates or is transferred without the assignment of the charge except when – on the basis of statutory provisions – the charge is maintained to secure the recourse claim.

(4) The charge shall also terminate in the event that the chargee acquires the ownership of the charged asset, or the owner of the charged asset acquires the claim secured with the charge, however the charge is maintained – if the owner acquiring the claim is not a personal debtor – with respect to chargees following in the order of priority.

(5) The charge shall terminate if the law rules so according to the rules of enforcement or other proceedings.

Section 260

(1) The charge shall also terminate if the charged asset is destroyed.

(2) If the owner is responsible for the destruction or devaluation of the charged asset, furthermore, if the charge was created on the basis of an obligatory security and the chargee is not responsible for the damage, an appropriate new charged asset or further collateral that corresponds to the devaluation may be demanded from the owner or the person obliged to provide security.

(3) The insurance premium serving to replace the destruction of the charged asset or its devaluation, the compensation or other value received shall substitute the charged assets or shall serve to supplement the charge. In the case of a registered charge, both the owner and the chargee may require that the value be used for the restoration of the charged asset.

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(4) If the charged asset is sold in order to prevent damage, the purchase price shall substitute the charged asset. For the realisation – if there is no unavoidable difficulty therefor - the consent of the owner is required.

2 Charges over Tangibles

Registered Charge

Section 261

(1) In case of a registered charge, the charged asset shall remain in the possession of the chargor who shall be entitled to its designated use, utilisation, however, the chargor shall maintain it in intact state. If the chargor or a third person endangers the intact character of the charged asset, the chargee may request the prohibition of the endangering action and may request measures necessary for the prevention of the danger.

(2) If the deterioration of the state of the charged asset endangers the satisfaction of the claim, the chargee may request the restoration of the charged asset or the provision of additional collateral to the extent necessary to cover the endangerment. If the chargor does not comply with the demand of the chargee within appropriate time, the chargee may exercise his right of satisfaction.

(3) No registered charge can be created on a part of the asset, however, the whole of the chargor’s ownership interest in a jointly owned asset can be offered for charge. A registered charge over real property may be only created on a complete property registered as an independent unit in the real property registry, or on the chargor’s whole ownership interest in the registered property.

Section 262

(1) Real property can only be charged with the creation of a registered charge. For the purpose of the creation of a registered charge on real property, in addition to the charge agreement, the registration of the registered charge in the real property registry is necessary.

(2) For the purpose of creating a registered charge on other assets – unless a statutory provision provides otherwise – the charge agreement shall be drawn up in a public notary's instrument and the charge shall be registered in the registry kept in accordance with a separate act at the Hungarian National Chamber of Public Notaries (‘charge registry’). If the charge covers several pieces of assets, or if the individual designation of the charged asset is not possible, the charged asset or assets may also be defined according to type and quantity or by general description.

(3) In case of a registration into the registry according to paragraphs (1)-(2) — in addition to other data of registration – the amount of the claim (in case of future claims the highest amount wished to be secured) together with its incidentals shall be indicated, the latter may be indicated by reference to the content of the charge agreement. The decrease or increase of the claim shall affect the charge regardless of the content of the entry.
(4) The owner may also register in the real property registry that, within a year, she/he intends to encumber the property with a registered charge to the extent not exceeding the amount specified in the entry. If the registration of the registered charge is requested within the deadline set in the entry, the priority of the charge shall correspond to the position of the registration (priority) in the entry.

(5) Assets for which the chargor acquires the right of disposal subsequent to the conclusion of the charge agreement may also be the subject of a registered charge recorded in the charge registry — the effect of which depends on the acquisition of the right of disposal. The priority of such a charge is determined by the time of registration, however, this rule may not be referred to against a person for the benefit of whom a charge was created by the person who earlier had the right of disposal.

(6) The registered charge registered in the charge registry shall terminate if the charged asset is sold in trade or in the ordinary course of business activity to a bona fide buyer. It shall also terminate, if the title of ownership of an asset belonging to usual things of every day life is acquired by a bona fide buyer in return for counter-performance.

**Section 263**

(1) If the charge secures claims that arise or could arise from a legal relation or title of execution specified in the charge agreement, the entry shall contain the legal relation or title of execution and the highest value within which the chargee may seek satisfaction from the charged asset (registered framework charge).

(2) If a new debtor enters the legal relation, the registered framework charge shall cover, in addition to the earlier claims, also those claims, with which the new debtor is encumbered according to the legal relationship.

(3) In case the legal relation specified in the charge agreement terminates and there is no remaining debt arising from the relation or according to the title of execution specified in the charge agreement, the chargor may require that the chargee waive her/his registered framework charge.

**Section 264**

(1) The registered charge also terminates if the claim becomes superannuated.

(2) The owner, simultaneously with the deletion of the recorded registered charge, in the order of its priority and to the extent of its termination, may create a new registered charge involving no greater encumbrance, or may maintain the order of priority of the deleted registration for the period of one year. The owner may disclaim this right with respect to a third person or a chargee registered in an order subsequent to the priority of the disclaimer. In such a case the owner may exercise his rights concerning his priority only with the consent of the person with respect to whom he disclaimed it.

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Possessory charge Section 265

(1) For the creation of a possessory charge, the constitution of a charge agreement and the handing over of the charged asset are necessary. The charged asset may also be given into the possession of a third person (charge holder). In the context of trade relationships, a charge may be acquired in bona fide, even if the person who handed over the charged asset was not its owner.

(2) A possessory charge may not be acquired either on a part of an asset or on an ownership interest in a part of an asset. Nor can an asset be secured by a possessory charge if this is excluded by law.

(3) The chargee of a possessory charge shall keep the charged asset intact and return it to the chargor when the charge terminates.

(4) Given the absence of special provisions, the chargee may not use the charged asset and may not utilise it, but she/he is entitled and obliged to collect its natural proceeds. Proceeds shall primarily serve to cover the necessary expenses. The chargee shall render an account of the proceeds.

(5) If there is a danger of deterioration of the state of the charged asset or significant loss of its value is feared, the chargor or the owner may request to return the charged asset while offering another appropriate security at the same time.

(6) The possessory charge terminates if the chargee of the possessory charge returns the charged asset to its owner. It shall also terminate in the event that the chargee involuntarily loses possession of the charged asset and within one year neither regains possession of the charged asset nor goes to court for this purpose.

Floating charge

Section 266

(1) A floating charge may be created on the whole of a business association without legal entity or on a part of it that operates as a separate economic unit (as set) without having to define the things, rights and receivables constituting the asset (parts of the asset), by concluding the charge agreement in form of a notary instrument and registering the charge in the charge registry. A floating charge also covers assets obtained by the chargor subsequent to the conclusion of the charge agreement as of the time when the chargor acquires the right of disposal, however, it shall terminate with regard to those parts of the asset that leave the debtors asset.

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2 The following chapter describes what we referred to as a floating charge, however, this form of a charge can only be created over a certain economic unit well described by the translation as “enterprise”. Both versions are therefore correct and it would be just a matter of taste, which term to use. 3 The Hungarian word in parenthesis undoubtedly means asset in English, although according to the content of the paragraph, it correctly could be described as an enterprise. However, this is just not the wording of the legal text in the original.
(2) When the right of satisfaction occurs, the chargee of the floating charge may seek satisfaction either in a way that maintains the unity of the asset, or by transforming the charge, with a written notice delivered to the chargor, into a charge encumbering the assets specified therein. For the creation of the charges, the notice of transformation does not substitute the requirements necessary in addition to the charge agreement.

(3) The priority of the floating charge and the priority of the charge created by the transformation of a floating charge shall be determined by the date of registration of the floating charge. However, the chargee may not refer to this priority with regard to a person who, on any of the assets falling within the pool of charged assets,
a) Acquired a charge prior to its inclusion in the pool of assets,
b) Acquired a registered charge in a registry other than the charge registry,
c) Acquired a possessory charge or a charge over rights or receivables during trade.

(4) In the event that the value of the charged asset decreases to the extent that satisfaction is endangered, the chargee may perform the notice of transformation before the right of satisfaction occurs.

(5) The chargor shall notify the chargee about the devaluation of the charged enterprise as far as it endangers satisfaction. In their agreement, the parties may define the extent of the devaluation that qualifies as an endangering to satisfaction. They may also agree that the chargee may supervise the management of the business of the chargor.

(6) Otherwise, a floating charge is subject to the rules of a registered charge.

4 Charge on Rights and Receivables

Section 267

(1) A charge on rights and receivables may be created by agreement. The charge may also cover rights and receivables to be acquired in the future. The rights and receivables constituting the charged asset may be defined by general description. If the existence of the right or the receivables is certified by authentic registration, and the relating legal regulation stipulates that the registration be the precondition for the creation of a charge, the charge is created upon its registration in the registry. A charge may also be created on a specified part of a divisible claim.

(2) For the enforcement of the charge the debtor of the right or receivables shall be notified about the establishment of the charge. Upon request of the chargee, the chargor shall hand over the documents necessary for the enforcement of the charge.

(3) The chargor of the charge on rights or receivables may only with the consent of the chargee make any declaration terminating or changing adversely the grounds of the chargee's satisfaction. In case the charged asset is a claim of an account holder against the account-holding bank, this provision shall restrict the account holder’s right of disposal over the bank account only when the parties explicitly provided for this in the charge agreement.

Section 268

(1) If the charged receivables become due prior to the occurrence of the right of satisfaction, the debtor of the charged receivables — unless the charge agreement rules otherwise — may perform
only jointly to the chargee and the beneficiary of the receivables, however, a pecuniary claim must be performed by deposit at the court to the benefit of both creditors if it is required so by any of them. If the charged receivable aims at the provision of a tangible, and according to the charge agreement the chargee is entitled to the right of possession of the tangible that is to be provided, the debtor of the receivable may perform solely to the chargee.

(2) If the charged receivables become due subsequent to the date when the right of satisfaction can be exercised, and the charged receivables are not realised in the course of the enforcement of the charge, the chargor of the charged receivables – unless the charge agreement rules otherwise - may perform solely to the chargee.

(3) If the charged receivables are to be performed to the hands of the chargee, in case of a performed pecuniary claim the rules governing surety\(^4\), in case of the performance of a claim for other assets the rules of possessory charge\(^5\) shall be applicable.

(4) If either the maturity of charged receivables or the exercising of the charged right depends on a declaration or other conditions to be performed by the creditor of the charged receivable, the chargee may make these declarations subsequent to the occurrence of the right of satisfaction or may fulfil the preconditions necessary for the maturity of the charged receivable.

(5) If the charged asset is a right or receivable, while applying the general rules relating to charge, the creditor of the right or receivable shall be deemed the owner of the charged asset, and the right or receivable shall be deemed the ownership interest in the charged asset.

5 Independent charge

Section 269

(1) A charge may also be created over an asset without securing a personal claim against the chargor. In such a case, the chargee – to the extent of the amount and its incidental claims specified in the charge agreement – may seek satisfaction solely from the charged asset encumbered with the charge.

(2) Unless the parties agree otherwise, for the satisfaction of the chargee the termination of the independent charge by the chargor or the chargee is necessary, and the notice period shall be six months.

(3) An independent charge may be assigned. The chargor may put forward her/his rights and objections arising from the legal relation serving for the ground of the independent charge solely against the direct acquirer of the independent charge or her/his legal successor acquiring the independent charge for free, or who was aware of the legal relation serving for its ground at the time of its acquisition.

(4) The independent charge – while maintaining its priority ranking – may be transformed into a charge securing a claim and the latter into an independent charge by the parties with an agreement to this effect, and if the charge is registered, in addition to the agreement, by registering it in the registry.

\(^4\) The rules governing surety are stipulated in sections 270-271; right after the pledge law provisions, and is not part of the translation.
\(^5\) Stipulated in section 265 of the pledge law provisions.
(5) Otherwise, the independent charge shall be governed by the provisions contained in sections 25 1-268.

This part has been forgotten in the translation.