



# Personal Property Securities Regulations 2010<sup>1</sup>

**Select Legislative Instrument 2010 No. 291**

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I, QUENTIN BRYCE, Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following Regulations under the *Personal Property Securities Act 2009*.

Dated 24 November 2010

QUENTIN BRYCE  
Governor-General

By Her Excellency's Command

ROBERT McCLELLAND  
Attorney-General

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## Contents

<b>Part 1</b>	<b>Preliminary</b>	
<b>Division 1</b>	<b>Preliminary</b>	
	1.1 Name of Regulations	4
	1.2 Commencement	4
<b>Division 2</b>	<b>General application of the Act</b>	
	1.3 Application of the Act to external Territories	4
	1.4 Interests to which the Act does not apply	4
	1.5 Interests to which the Act applies	5
<b>Division 3</b>	<b>Definitions</b>	
	1.6 Definitions	5
	1.7 Meaning of <i>motor vehicle</i>	10
	1.8 Meaning of <i>security interest</i>	11
<b>Part 2</b>	<b>General rules for security interests</b>	
	2.1 Taking motor vehicles free of security interests	12
	2.2 Taking motor vehicles from prescribed persons	12
<b>Part 3</b>	<b>Specific rules for certain security interests</b>	
<b>Part 4</b>	<b>Enforcement of security interests</b>	
	4.1 Relationship with consumer credit legislation	14
<b>Part 5</b>	<b>Personal Property Securities Register</b>	
	5.1 Access to register	17
	5.2 Notification of suspension of access to register	17
	5.3 What the register contains	17
	5.4 Prohibited registration	18
	5.5 Financing statements	20
	5.6 Verification statements — publication as alternative	20
	5.7 Access to the register prohibited	21

	Page
5.8 Search — criteria	21
5.9 Administrative process — statements in relation to amendment demand	21
5.10 Removal of data	22
<b>Part 6</b>	<b>Judicial proceedings</b>
<b>Part 7</b>	<b>Operation of laws</b>
7.1 When Act prevails — formal requirements relating to agreements	24
<b>Part 8</b>	<b>Miscellaneous</b>
<b>Part 9</b>	<b>Transitional provisions</b>
9.1 Transitional meaning of <i>watercraft</i>	26
9.2 Temporary perfection rule — exception	26
9.3 Sunset of Part 9	26
<b>Schedule 1</b>	<b>Financing statement matters for items of the table in subsection 153 (1) of the Act</b>
Part 1	27
Part 2	27
Part 3	33
Part 4	36
Part 4	37
<b>Schedule 2</b>	<b>Financing statement matters for the table in section 154 of the Act</b>
Part 1	39
Part 2	39
Part 2	39

**Regulation 1.1**

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## **Part 1 Preliminary**

### **Division 1 Preliminary**

#### **1.1 Name of Regulations**

These Regulations are the *Personal Property Securities Regulations 2010*.

#### **1.2 Commencement**

These Regulations commence on the day after they are registered.

### **Division 2 General application of the Act**

#### **1.3 Application of the Act to external Territories**

For subsection 7 (3) of the Act, the following are external Territories:

- (a) the Territory of Christmas Island;
- (b) the Territory of Cocos (Keeling) Islands.

#### **1.4 Interests to which the Act does not apply**

- (1) For paragraph 8 (1) (l) of the Act, the Act does not apply to a right or interest in personal property mentioned in section 260-5 of Schedule 1 to the *Taxation Administration Act 1953*.
- (2) For item 6 of the table in subsection 8 (2) of the Act, section 74 of the Act applies to an interest in personal property mentioned in the following provisions of the Act:
  - (a) paragraph 8 (1) (b);
  - (b) paragraph 8 (1) (c);
  - (c) subparagraph 8 (1) (f) (ii);
  - (d) subparagraph 8 (1) (f) (iv).

## **1.5 Interests to which the Act applies**

- (1) For subsection 8 (3) of the Act, the Act applies to:
  - (a) a mortgage-backed security; and
  - (b) if transferred to a person in connection with the issue by the person of a mortgage-backed security — a real property mortgage loan.
- (2) In this regulation:

*mortgage-backed security* has the meaning given by section 286 of the *Duties Act 2001* (Qld).

## **Division 3 Definitions**

### **1.6 Definitions**

In these Regulations:

*ACN* (short for ‘Australian Company Number’) is the number given by ASIC to a company on registration under the *Corporations Act 2001*.

*Act* means the *Personal Property Securities Act 2009*.

*agriculture* means personal property that is crops or livestock.

*aircraft* means:

- (a) a machine or craft that:
  - (i) can derive support in the atmosphere from the reactions of the air, other than the reactions of the air against the earth’s surface; and
  - (ii) has nationality and registration marks assigned to it under the Chicago Convention; or
- (b) an aircraft engine; or
- (c) an airframe; or
- (d) a helicopter.

## Regulation 1.6

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***aircraft engine*** has the meaning given by the definition of ‘aircraft engines’ in the Aircraft Protocol.

*Note* The Aircraft Protocol contains the following definition of ‘aircraft engines’:

“aircraft engines” means aircraft engines (other than those used in military, customs or police services) powered by jet propulsion or turbine or piston technology and:

- (i) in the case of jet propulsion aircraft engines, have at least 1750 lb of thrust or its equivalent; and
- (ii) in the case of turbine-powered or piston-powered aircraft engines, have at least 550 rated take-off shaft horsepower or its equivalent,

together with all modules and other installed, incorporated or attached accessories, parts and equipment and all data, manuals and records relating thereto.

***Aircraft Protocol*** means the *Protocol on Matters Specific to Aircraft Equipment*, done at Cape Town on 16 November 2001.

*Note* The Aircraft Protocol is a Protocol to the *Convention on International Interests in Mobile Equipment*, done at Cape Town on 16 November 2001.

***airframe*** has the meaning given by the definition of ‘airframes’ in the Aircraft Protocol.

*Note* The Aircraft Protocol contains the following definition of ‘airframes’:

“airframes” means airframes (other than those used in military, customs or police services) that, when appropriate aircraft engines are installed thereon, are type certified by the competent aviation authority to transport:

- (i) at least eight (8) persons including crew; or
- (ii) goods in excess of 2750 kilograms,

together with all installed, incorporated or attached accessories, parts and equipment (other than aircraft engines), and all data, manuals and records relating thereto.

***all present and after-acquired property*** means:

- (a) personal property over which the grantor has an interest at the registration time for the financing statement for a security interest or prescribed property; and
- (b) personal property acquired after the registration time for the financing statement for the security interest or prescribed property.

***all present and after-acquired property, except*** means all present and after-acquired property, except for an item or class of personal property stated in the financing statement for the interest.

***AML-CTF Act*** means the *Anti-Money Laundering and Counter-Terrorist Financing Act 2006*.

***ARBN*** (short for ‘Australian Registered Body Number’) is the number given by ASIC to a registrable body on registration under Part 5B.2 of the *Corporations Act 2001*.

***ARSN*** (short for ‘Australian Registered Securities Number’) is the number given by ASIC to a registered scheme on registration under section 601EB of the *Corporations Act 2001*.

***ASIC*** means the Australian Securities and Investments Commission.

***Australian Business Register*** means the register established under section 24 of the *A New Tax System (Australian Business Number) Act 1999*.

*Note* The Australian Business Register can be viewed at <http://www.abr.business.gov.au>.

***chassis number***, for a motor vehicle, means the numbers or letters, or both, that:

- (a) are attached to or stamped on the vehicle’s chassis by the vehicle’s manufacturer; and
- (b) appears to uniquely identify the vehicle.

***Chicago Convention*** means the Convention on International Civil Aviation done at Chicago on 7 December 1944, as amended by the Protocols mentioned in subsection 3A (2) of the *Air Navigation Act 1920*.

***helicopter*** has the meaning given by the definition of ‘helicopters’ in the Aircraft Protocol.

*Note* The Aircraft Protocol contains the following definition of ‘helicopters’:

“helicopters” means heavier-than-air machines (other than those used in military, customs or police services) supported in flight chiefly by the reactions of the air on one or more power-driven rotors on substantially vertical axes and which are type certified by the competent aviation authority to transport:

- (i) at least five (5) persons including crew; or

**Regulation 1.6**

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- (ii) goods in excess of 450 kilograms, together with all installed, incorporated or attached accessories, parts and equipment (including rotors), and all data, manuals and records relating thereto.

***hull identification number***, for a watercraft, means a number that:

- (a) is in a form and of a size, specified in one of the following Standards, published by the International Organization for Standardization:
  - (i) International Standard No ISO 10087:1995 (E), titled ‘Small craft—Hull identification—Coding system’;
  - (ii) International Standard No ISO 10087:2006, titled ‘Small craft—Craft identification—Coding system’; and
- (b) is permanently attached to, and located in the positions on, the hull of a vessel specified by a Standard mentioned in paragraph (a); and
- (c) is allocated to the watercraft by:
  - (i) a registration authority of a State or Territory; or
  - (ii) a person authorised by a registration authority of a State or Territory; or
  - (iii) the watercraft’s manufacturer; and
- (d) appears to uniquely identify the watercraft.

***manufacturer’s number***, for an aircraft or motor vehicle, or an outboard motor to which regulation 9.1 applies, means the numbers or letters, or both, that:

- (a) are permanently attached to or stamped on a permanent part of the aircraft, motor vehicle or outboard motor by its manufacturer; and
- (b) appears to uniquely identify the aircraft, motor vehicle or outboard motor.

***migrated security interest*** has the meaning given by section 332 of the Act.

***National Names Index*** means the index of that title created by ASIC.



**original registration time**, for migrated data registered under section 333 of the Act, means the time at which the security interest or prescribed property was first registered on the transitional register.

**outboard motor** means an internal combustion engine that:

- (a) has a propeller and a manufacturer's number; and
- (b) is designed to be attached to a boat or vessel; and
- (c) is intended for use to propel a boat or vessel.

**prescribed property** means personal property mentioned in subregulation 5.3 (1).

**registered scheme** has the meaning given by section 9 of the *Corporations Act 2001*.

**registration time** has the meaning given by subsection 160 (1) of the Act.

**responsible entity** has the meaning given by section 9 of the *Corporations Act 2001*.

**small aircraft** means an aircraft other than an airframe, aircraft engine or helicopter.

**vehicle identification number**, for a motor vehicle, means a number allocated to the vehicle in accordance with national standards, as in force from time to time, made under the *Motor Vehicle Standards Act 1989*.

**watercraft** means a boat or vessel, other than a seaplane, that:

- (a) is used, or intended to be used, in navigation by water or for any other purpose on water; and
- (b) that has:
  - (i) a hull identification number; or
  - (ii) an official number, within the meaning of the *Shipping Registration Regulations 1981*, issued by the Registrar of Ships (within the meaning of the *Shipping Registration Act 1981*).

*Note 1* For the meaning of **watercraft**, see also regulation 9.1.

*Note 2* Several other words and expressions used in these Regulations have the meaning given by the Act, for example:

- ABN
- account
- after-acquired property

## Regulation 1.7

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- chattel paper
- crops
- financial property
- goods
- intangible property
- intermediated security
- investment instrument
- livestock
- National Credit Code
- negotiable instrument
- transitional register.

### 1.7 Meaning of *motor vehicle*

- (1) For the definition of motor vehicle in section 10 of the Act, personal property described in subregulation (2) or (3) is a motor vehicle.
- (2) The personal property:
  - (a) is built to be propelled, wholly on land, by a motor that forms part of the property; and
  - (b) either:
    - (i) is capable of a speed of at least 10 km/h; or
    - (ii) has 1 or more motors that have a total power greater than 200 W; and
  - (c) has any of the following:
    - (i) a vehicle identification number;
    - (ii) a chassis number;
    - (iii) the manufacturer's number; and
  - (d) does not run on rails, tram lines or other fixed path.
- (3) The personal property:
  - (a) is capable, when being towed by, or attached to, a motor vehicle, of travelling at a speed greater than 10 km/h; and
  - (b) is:
    - (i) without motive power and designed for attachment to a motor vehicle; or

**Regulation 1.8**

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- (ii) a piece of machinery or equipment that is equipped with wheels and designed to be towed behind a motor vehicle; and
- (c) has any of the following:
  - (i) a vehicle identification number;
  - (ii) a chassis number;
  - (iii) the manufacturer's number.

**1.8 Meaning of *security interest***

For paragraph 12 (5) (b) of the Act, the extinguishment of a beneficial interest in an account or chattel paper is not a security interest.

**Regulation 2.1**

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**Part 2                      General rules for security interests****2.1            Taking motor vehicles free of security interests**

For subsections 45 (1) and (3) of the Act, a motor vehicle described in regulation 1.7 is prescribed.

**2.2            Taking motor vehicles from prescribed persons**

For paragraph 45 (3) (b) of the Act, the seller or lessor of a motor vehicle is in a prescribed class if the seller or lessor:

- (a) holds a licence (however described) to deal or trade in that kind of motor vehicle; and
- (b) the licence is issued by a licensing authority in the State or Territory where the sale or lease of the motor vehicle happens.

**Part 3**                      **Specific rules for certain  
security interests**

*Note* This Part heading is reserved for future use.

**Regulation 4.1**

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**Part 4                      Enforcement of security interests****4.1                      Relationship with consumer credit legislation**

For subsection 119 (2) of the Act, a provision in Chapter 4 of the Act mentioned in an item of the table is taken to have been complied with, in the circumstances for the Act mentioned in the item, if a provision of the National Credit Code (the *NCC*) mentioned in the item has been complied with, in the circumstances for the NCC mentioned in the item.

<b>Item</b>	<b>Provision of Act</b>	<b>Circumstances for Act</b>	<b>Provision of NCC</b>	<b>Circumstances for NCC</b>
1	Section 130	At least 10 business days before collateral is to be disposed of, the secured party gives notice to the grantor and to any secured party with a higher priority	Section 102	Within 14 days after taking possession of collateral under a mortgage, the secured party provides a notice to the debtor, and does not sell the goods within 21 days after providing the notice
2	Sections 128 and 131	After seizing collateral, a secured party disposes of the collateral by sale, lease or licence, having first obtained the market value or, if the collateral does not have a market value, the best price reasonably available	Section 104	An outstanding obligation has not been paid within 21 days after receiving a notice under section 102 of the National Credit Code and the secured party sells the goods, in accordance with section 103, for at least the estimated value, to a nominated person or to another person for the best price reasonably available

**Regulation 4.1**

<b>Item</b>	<b>Provision of Act</b>	<b>Circumstances for Act</b>	<b>Provision of NCC</b>	<b>Circumstances for NCC</b>
3	Section 132	<p>After the sale of mortgaged goods, a secured party, on request by the grantor, higher secured parties and the debtor, gives a notice that contains the following information:</p> <ul style="list-style-type: none"> <li>(a) the total amount received from the sale;</li> <li>(b) the enforcement expenses, amounts paid to other secured parties;</li> <li>(c) amounts paid to other secured parties;</li> <li>(d) the balance owing to the grantor or by the debtor to the secured party</li> </ul>	Subsection 104 (3)	<p>After the sale of mortgaged goods, a secured party gives the mortgagor a notice that contains the following information:</p> <ul style="list-style-type: none"> <li>(a) the gross amount realised;</li> <li>(b) the net proceeds of the sale;</li> <li>(c) the amount required to pay out the credit contract;</li> <li>(d) any further recovery action that the secured party intends to take against the grantor;</li> <li>(e) any other information prescribed by these Regulations</li> </ul>

**Regulation 4.1**

<b>Item</b>	<b>Provision of Act</b>	<b>Circumstances for Act</b>	<b>Provision of NCC</b>	<b>Circumstances for NCC</b>
4	Section 140	A secured party distributes funds received in the following order: <ul style="list-style-type: none"> <li>(a) interests with a higher priority;</li> <li>(b) enforcement costs;</li> <li>(c) higher ranking security interests;</li> <li>(d) the secured interests of the enforcing party;</li> <li>(e) lower priority security interests;</li> <li>(f) the grantor</li> </ul>	Section 105	A secured party deducts the following amounts from any money received from a sale: <ul style="list-style-type: none"> <li>(a) the secured amount that is outstanding;</li> <li>(b) the amount payable to discharge any prior mortgage;</li> <li>(c) the amounts payable to discharge any subsequent mortgages of which the secured party has notice;</li> <li>(d) the secured party's reasonable enforcement expenses</li> </ul>



## **Part 5                      Personal Property Securities Register**

### **5.1            Access to register**

For paragraph 147 (4) (b) of the Act, the Registrar may suspend the operation of the register for up to 4 hours, after giving notice of the suspension in accordance with subsection 147 (6) of the Act at least 7 days before the suspension.

### **5.2            Notification of suspension of access to register**

For paragraph 147 (6) (a) of the Act, the Registrar must publish the notice on a website maintained by the Registrar on the Internet.

### **5.3            What the register contains**

- (1) For paragraph 148 (c) of the Act, the following types of personal property are prescribed:
  - (a) a motor vehicle that has been impounded, immobilised or forfeited, or is subject to an impoundment, immobilisation or forfeiture application, under a law that provides for impoundment, immobilisation or forfeiture of a motor vehicle because it is being used, or has been used, in the commission of certain offences;
  - (b) personal property that is subject to a notice or an order, or is confiscated or forfeited, under a provision of a proceeds of crime law;
  - (c) personal property that is subject to an order of a court or tribunal (however described) that:
    - (i) prevents or restricts a person dealing with the property; or
    - (ii) enforces another court order (however described); or
    - (iii) orders the sale or other disposal of all or part of the property;

**Regulation 5.4**

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- (d) personal property that:
- (i) is not mentioned in paragraph (a), (b) or (c); and
  - (ii) immediately before the registration commencement time, could have been registered on a transitional register maintained under a law of the Commonwealth, a State or a Territory.

*Note* For subparagraph (d) (ii), **transitional register** has the meaning given by section 330 of the Act.

- (2) In this regulation:

**court order** does not include an order made under a proceeds of crime law.

**proceeds of crime law** means:

- (a) the *Mutual Assistance in Criminal Matters Act 1987*; or
- (b) the *Proceeds of Crime Act 1987*; or
- (c) the *Proceeds of Crime Act 2002*; or
- (d) a law of a State or Territory that is a corresponding law within the meaning given by section 338 of the *Proceeds of Crime Act 2002*.

**5.4 Prohibited registration**

- (1) For paragraph 150 (3) (d) of the Act, the following registrations are prohibited:
- (a) a registration of a financing statement or a financing change statement for a motor vehicle mentioned in paragraph 5.3 (1) (a), if the application for registration is made by a person other than:
    - (i) a police commissioner; or
    - (ii) a person authorised to register personal property on a transitional register; or
    - (iii) a person authorised by a relevant agency to register data in relation to prescribed property;
  - (b) a registration of a financing statement or a financing change statement for personal property mentioned in paragraph 5.3 (1) (b), if the application for registration is made by a person other than:
    - (i) a proceeds of crime authorised person; or

**Regulation 5.4**

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- (ii) a person authorised to register personal property on a transitional register; or
    - (iii) a person authorised by a relevant agency to register data in relation to prescribed property;
  - (c) a registration of a financing statement or a financing change statement for personal property that is subject to an order of a court or tribunal (however described) mentioned in paragraph 5.3 (1) (c), if the application for registration is made by a person other than:
    - (i) the person who applied for the order; or
    - (ii) if the order was made on the court's own initiative — the person in whose favour the order is made;
  - (d) a registration of a financing statement or a financing change statement for personal property that is mentioned in paragraph 5.3 (1) (d), if the application for registration is made by a person other than:
    - (i) a person authorised to register personal property on a transitional register; or
    - (ii) a person authorised by a relevant agency to register data in relation to prescribed property;
  - (e) a registration of a financing statement or a financing change statement for property prescribed under paragraph 148 (c) of the Act, if the registration is in relation to a security interest in the property.
- (2) In this regulation:
- court order*** does not include an order made under a proceeds of crime law.
- police commissioner*** means:
- (a) the Commissioner of the Australian Federal Police; or
  - (b) the head (however described) of the police force or service of a State or Territory.
- proceeds of crime authorised person*** means:
- (a) an appropriate officer under the *Proceeds of Crime Act 1987*; or
  - (b) an authorised officer under the *Proceeds of Crime Act 2002*; or

**Regulation 5.5**

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- (c) an authorised person (however described) under a law of a State or Territory that is a corresponding law within the meaning of the *Proceeds of Crime Act 2002*, whose duties correspond to the duties of an authorised officer under that Act.

***proceeds of crime law*** means:

- (a) the *Mutual Assistance in Criminal Matters Act 1987*; or
- (b) the *Proceeds of Crime Act 1987*; or
- (c) the *Proceeds of Crime Act 2002*; or
- (d) a law of a State or Territory that is a corresponding law within the meaning of the *Proceeds of Crime Act 2002*.

***relevant agency*** means an agency that administers:

- (a) a law of the Commonwealth, a State or a Territory that establishes a transitional register; or
- (b) any other law of the Commonwealth, a State or a Territory that provides for registration of personal property on a transitional register.

**5.5 Financing statements**

- (1) Schedule 1 sets out matters prescribed for items of the table in subsection 153 (1) of the Act.
- (2) Schedule 2 sets out matters prescribed for items of the table in section 154 of the Act.

**5.6 Verification statements — publication as alternative**

- (1) For subsection 158 (1) of the Act, the Registrar may publish a verification statement by publishing the statement on a website maintained by the Registrar on the Internet.
- (2) A statement published under subregulation (1) must not include the date of birth of a grantor.

**Regulation 5.7**

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**5.7 Access to the register prohibited**

- (1) For paragraph 170 (3) (d) of the Act, access to data on the register is prohibited if:
  - (a) a court has ordered that access to the data is not permitted; or
  - (b) the Registrar considers that it is in the public interest that access to the data should not be permitted.
- (2) For paragraph (1) (b), the Registrar must take into account the following matters:
  - (a) whether it is necessary to prevent or lessen a serious and imminent threat to the life or health of the individual whose personal details are recorded in the financing statement or of another person;
  - (b) the interests of a person undertaking a search authorised by section 171 or 172 of the Act;
  - (c) the interests of the secured party in ensuring that notice of the security interest is accessible by authorised searchers;
  - (d) whether, in all the circumstances, the public interest in protecting the privacy of the individual grantor's information outweighs the public interest in providing access to data.

**5.8 Search — criteria**

For subsection 171 (2) of the Act, the method by which the results of a search are to be worked out must allow for case-insensitive searching.

**5.9 Administrative process — statements in relation to amendment demand**

For paragraph 180 (3) (b) of the Act, the following statements must be made on the form:

- (a) that the person has given an amendment demand to the secured party, as required by section 178 of the Act;
- (b) that the amendment demand was given at least 5 business days before the day that the statement was given to the Registrar;

**Regulation 5.10**

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- (c) that:
  - (i) no collateral described in the registration secures any obligation (including a payment) owed by a grantor to the secured party; or
  - (ii) the collateral in which the person has an interest does not secure any obligation (including a payment) owed by a grantor to the secured party;
- (d) that:
  - (i) the approved form is accompanied by any written response to the amendment demand received from the secured party; or
  - (ii) no written response was received from the secured party;
- (e) that there are no proceedings currently before a court (including a court of appeal) that relate to the amendment demanded;
- (f) that the person will notify the Registrar if proceedings that relate to the amendment demanded come before a court (including a court of appeal);
- (g) that the security agreement providing for the security interest is not an instrument or other document:
  - (i) by which a person issues or guarantees, or provides for the issue or guarantee of, an obligation secured by a security interest; or
  - (ii) in which another person is appointed as trustee for the person to whom the obligation secured by the security interest is owed;
- (h) that the information contained in the form is correct.

**5.10 Removal of data**

- (1) For paragraph 184 (1) (c) of the Act, the Registrar may remove data from the register if the removal of the data is required by a court order.
- (2) For subparagraph 184 (1) (e) (ii) of the Act, removal of data is required urgently if a court order requires the data to be removed urgently.

## **Part 6**                      **Judicial proceedings**

*Note* This Part heading is reserved for future use.

**Regulation 7.1**

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**Part 7                      Operation of laws****7.1            When Act prevails — formal requirements relating to agreements**

For paragraph 263 (1) (c) of the Act, the following laws are prescribed:

- (a) *Bills of Sale Act 1886* (SA);
- (b) *Goods Securities Act 1986* (SA);
- (c) *Liens on Fruit Act 1923* (SA);
- (d) *Mercantile Law Act 1936* (SA);
- (e) *Stock Mortgages and Wool Liens Act 1924* (SA);
- (f) *Bills of Sale Act 1900* (Tas);
- (g) *Stock, Wool, and Crop Mortgages Act 1930* (Tas);
- (h) *Instruments Act* (NT).



## **Part 8**                      **Miscellaneous**

*Note* This Part heading is reserved for future use.

**Regulation 9.1**

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**Part 9 Transitional provisions****9.1 Transitional meaning of *watercraft***

The definition of *watercraft* in regulation 1.6 includes an outboard motor that has a manufacturer's number if:

- (a) the outboard motor is subject to a transitional security interest; and
- (b) before the registration commencement time, the outboard motor was registered on a transitional register, under legislation that conferred priority on security interests that are registered.

**9.2 Temporary perfection rule — exception**

- (1) For subsection 322 (3) of the Act, a transitional security interest is prescribed if, before the registration commencement time it was:
  - (a) registrable on a transitional register, under legislation that conferred priority on security interests that are registered; and
  - (b) not registered.
- (2) Subregulation (1) does not apply to a transitional security interest if:
  - (a) it is a charge that, under section 262 of the *Corporations Act 2001*, is required to be registered; and
  - (b) for subsection 265 (9) of *Corporations Act 2001*, it is taken not to have been registered.

**9.3 Sunset of Part 9**

This Part ceases to have effect after the end of the month that is 24 months after the registration commencement time.

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## **Schedule 1      Financing statement matters for items of table in subsection 153 (1) of Act**

(subregulation 5.5 (1))

### **Part 1            Matters for items 1 and 2**

#### **1.1            Definitions for Part 1**

In this Part:

***individual:***

- (a) includes a sole trader who has an ABN for the enterprise for which the security interest is granted or held; and
- (b) does not include an individual who is a partner in a partnership or a trustee of a trust if the partnership or trust has an ABN for the enterprise for which the security interest is granted or held.

#### **1.2            Individual secured party or grantor**

- (1) For items 1 and 2 of the table in subsection 153 (1) of the Act, this clause applies if the secured party or grantor is an individual.
- (2) The details mentioned in each item of the table, from the source mentioned for the item, are prescribed for the individual mentioned in the item.
- (3) For subclause (2), the prescribed details are the details mentioned in the item of the table that:
  - (a) applies to the individual; and
  - (b) has the lowest item number.
- (4) For a grantor, in addition to the details mentioned in each item of the table, the grantor's date of birth is prescribed.

- (5) The source for a grantor's date of birth is the source in an item of the table that:
- (a) includes details of dates of birth; and
  - (b) applies to the grantor; and
  - (c) has the lowest item number.

<b>Item</b>	<b>Individual</b>	<b>Details</b>	<b>Source</b>
1	Individual whose details are recorded in a transitional register, for a migrated security interest	Individual's surname and given names, as recorded on the transitional register	Transitional register
2	Individual grantor who is known to the secured party, because of the operation of the AML-CTF Act	Individual's surname and given names, as known to the secured party, because of the operation of the AML-CTF Act	Current data known by the secured party, because of the operation of the AML-CTF Act
3	Individual who holds a current driver's licence	Individual's surname and given names, as recorded on the individual's driver's licence	Current driver's licence issued by a State or Territory licensing authority to the individual
4	Individual who holds a current proof of identity or current proof of age card	Individual's surname and given names, as recorded on a proof of identity or proof of age card issued by a State or Territory body	Current proof of identity or current proof of age card issued by a State or Territory body to the individual
5	Individual who holds a current Australian passport	Individual's surname and given names, as recorded on the individual's current Australian passport	Current Australian passport issued to the individual
6	Individual who holds a current visa, issued by the Australian Government	Individual's surname and given names, as recorded on the individual's current Australian visa	Current Australian visa issued for the individual

Item	Individual	Details	Source
7	Individual who holds a current passport other than an Australian passport	Individual's surname and given names, as recorded on the individual's current passport issued by the jurisdiction in which the individual ordinarily resides	Current passport issued by the jurisdiction in which the individual ordinarily resides
8	Any other individual	Individual's surname and given names, as recorded on the individual's birth certificate	Birth certificate issued for the individual

### 1.3 Body corporate secured party or grantor

- (1) For items 1 and 2 of the table in subsection 153 (1) of the Act, this clause applies if the secured party or grantor is a body corporate that:
  - (a) is a trustee and has an ARSN; or
  - (b) is not a trustee.
- (2) The details mentioned in each item of the table, from the source mentioned for the item, are prescribed for the body corporate mentioned in the item.
- (3) For subclause (2), the prescribed details are the details mentioned in the item of the table that:
  - (a) applies to the body corporate; and
  - (b) has the lowest item number.

Item	Body corporate	Details	Source
1	Body corporate for which details have been included on the transitional register, for a migrated security interest	Body corporate number or name of body corporate, as recorded on the transitional register	Transitional register
2	Body corporate that is the responsible entity of a registered scheme, if the scheme has an ARSN	Registered scheme's ARSN	National Names Index

Item	Body corporate	Details	Source
3	Body corporate that has an ACN	ACN	National Names Index
4	Body corporate that has an ARBN	ARBN	National Names Index
5	Any other body corporate	Name of body corporate, as provided for in body corporate's constitution or equivalent document	Body corporate's constitution or equivalent document

#### 1.4 Secured party or grantor is a partner

- (1) For items 1 and 2 of the table in subsection 153 (1) of the Act, this clause applies if the secured party or grantor is a partner in a partnership.
- (2) The details mentioned in each item of the table, from the source mentioned for the item, are prescribed for the partner mentioned in the item.
- (3) For subclause (2), the prescribed details are the details mentioned in the item of the table that:
  - (a) applies to the partner; and
  - (b) has the lowest item number.

Item	Partner	Details	Source
1	Partner of a partnership for which details of the partnership have been included on the transitional register, for a migrated security interest	ABN, name of partner or name that identifies partnership, as recorded on the transitional register	Transitional register
2	Partner of a partnership that holds or has an interest in collateral in the course of, or for, an enterprise that has been allocated an ABN	ABN	Australian Business Register

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Item	Partner	Details	Source
3	Partner in any other partnership	Details mentioned in the item in the table in clause 1.2 that applies to the partner	Source of the details mentioned in the item in the table in clause 1.2 that applies to the partner

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### 1.5 Secured party or grantor is a trustee

- (1) For items 1 and 2 of the table in subsection 153 (1) of the Act, this clause applies if the secured party or grantor is:
  - (a) a body corporate that is a trustee of a trust that:
    - (i) has an ABN; and
    - (ii) does not have an ARSN; or
  - (b) any other trustee of a trust.
- (2) The details mentioned in each item of the table, from the source mentioned for the item, are prescribed for the trustee mentioned in the item.
- (3) For subclause (2), the prescribed details are:
  - (a) for a trustee that is an individual — the details mentioned in the item of the table in clause 1.2 that:
    - (i) applies to the trustee; and
    - (ii) has the lowest item number; and
  - (b) in any other case — the details mentioned in the item of the table that:
    - (i) applies to the trustee; and
    - (ii) has the lowest item number.
- (4) In this clause:

***trustee details*** means:

  - (a) the ABN allocated to the enterprise carried on by the trust; or
  - (b) the ACN or ARBN allocated to the trustee; or
  - (c) the name of the trust or trustee.

Schedule 1	Financing statement matters for items of table in subsection 153 (1) of Act
Part 1	Matters for items 1 and 2

Item	Trustee	Details	Source
1	Trustee of a trust for which details of the trust have been included on the transitional register, for a migrated security interest	Trustee details, as recorded on the transitional register	Transitional register
2	Trustee of a trust that holds or has an interest in collateral in the course of, or for, an enterprise that has been allocated an ABN	ABN	Australian Business Register
3	Trustee of any other trust	Trustee details mentioned in paragraph (3) (a)	Source mentioned in paragraph (3) (a)

## 1.6 Body politic secured party or grantor

- (1) For items 1 and 2 of the table in subsection 153 (1) of the Act, this clause applies if the secured party or grantor is a body politic.
- (2) The details mentioned in each item of the table, from the source mentioned for the item, are prescribed for the body politic mentioned in the item.
- (3) For subclause (2), the prescribed details are the details mentioned in the item of the table that:
  - (a) applies to the body politic; and
  - (b) has the lowest item number.

Item	Body politic	Details	Source
1	Body politic for which details have been included on the transitional register, for a migrated security interest	Body politic details, as recorded on the transitional register	Transitional register
2	Body politic that holds or has an interest in collateral in course of, or for, an enterprise that has been allocated an ABN	ABN	Australian Business Register



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<b>Item</b>	<b>Body politic</b>	<b>Details</b>	<b>Source</b>
3	Body politic or has an interest in collateral, other than in the course of, or for, an enterprise that has been allocated an ABN	Name of body politic, in accordance with constitution of body politic	Constitution of body politic

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## **Part 2 Matters for item 4**

### **2.1 Application of Part 2 — personal property that is intermediated security**

For this Part, personal property that is intermediated security is to be treated as financial property.

### **2.2 Description by serial number**

- (1) For paragraph (b) of item 4 of the table in subsection 153 (1) of the Act:
  - (a) the following classes of collateral, when described as consumer property, must be described by serial number:
    - (i) aircraft;
    - (ii) intangible property that is:
      - (A) a design; or
      - (B) a patent; or
      - (C) a plant breeder's right; or
      - (D) a trade mark; or
      - (E) a licence over any intangible property mentioned in sub-subparagraphs (A) to (D).
    - (iii) motor vehicles;
    - (iv) watercraft; and
  - (b) aircraft that is an aircraft engine, airframe, helicopter or small aircraft, when described as commercial property, must be described by serial number; and
  - (c) the following classes of collateral, when described as commercial property, may be described by serial number:
    - (i) motor vehicles;

- (ii) watercraft;
- (iii) intangible property that is:
  - (A) a design; or
  - (B) a patent; or
  - (C) a plant breeder's right; or
  - (D) a trade mark; or
  - (E) a licence over any intangible property mentioned in sub-subparagraphs (A) to (D).
- (2) If sub-subparagraph (1) (a) (ii) (E) or (1) (c) (iv) (E) applies, the licence must be described by the serial number of the right for which the licence is given.
- (3) For paragraph (b) of item 4 of the table in subsection 153 (1) of the Act, a description of collateral by serial number must include the following information:
  - (a) for an aircraft that is an aircraft engine, airframe or helicopter:
    - (i) the manufacturer's number; and
    - (ii) the manufacturer's name; and
    - (iii) the manufacturer's generic model designator;
  - (b) for a small aircraft — the nationality and registration marks assigned to it under the Chicago Convention;
  - (c) for a motor vehicle:
    - (i) the vehicle identification number; or
    - (ii) if it has no vehicle identification number but has a chassis number — the chassis number; or
    - (iii) if it has no vehicle identification number or chassis number — the manufacturer's number;
  - (d) for watercraft:
    - (i) the official number; or
    - (ii) if it does not have an official number — the hull identification number; or
    - (iii) if it is an outboard motor for regulation 1.6 — the manufacturer's number;
  - (e) for a design:
    - (i) the design number issued by IP Australia; or

- (ii) if it does not have a design number — the design application number issued by IP Australia;
  - (f) for a patent:
    - (i) the patent number issued by IP Australia; or
    - (ii) if it does not have a patent number — the patent application number issued by IP Australia; or
    - (iii) if it does not have a patent number or a patent application number — a PCT number;
  - (g) for a plant breeder's right:
    - (i) the plant breeder's right number issued by IP Australia; or
    - (ii) if it does not have a plant breeder's right number — the plant breeder's right application number issued by IP Australia;
  - (h) for a trade mark:
    - (i) the trade mark number issued by IP Australia; or
    - (ii) if it does not have a trade mark number — the trade mark application number issued by IP Australia.
- (4) In this clause:
- PCT number** means:
- (a) an international application number, issued under paragraph 30 (2) (b) of the Patent Cooperation Treaty done at Washington 19 June 1970, amended on 2 October 1979 and modified on 3 February 1984 and 3 October 2001; or
  - (b) if there is no international application number — an international publication number issued by the World Intellectual Property Organization.

### 2.3 Classes of collateral

- (1) For paragraph (c) of item 4 of the table in subsection 153 (1) of the Act, the following classes of collateral are prescribed:
  - (a) agriculture;
  - (b) aircraft;
  - (c) all present and after-acquired property;

- (d) all present and after-acquired property, except;
- (e) financial property;
- (f) intangible property;
- (g) motor vehicles;
- (h) other goods;
- (i) watercraft.

- (2) In paragraph (1) (h):

*other goods* means personal property that is goods, other than agriculture, aircraft, motor vehicles and watercraft.

## **2.4 Description of proceeds**

For paragraph (d) of item 4 of the table in subsection 153 (1) of the Act, a description of proceeds must describe proceeds:

- (a) as all present and after-acquired property; or
- (b) for a particular item of personal property — in a way that identifies the item, including identifying a class to which the item belongs; or
- (c) for a class of personal property — in a way that identifies the class, including identifying the class by identifying a larger class of personal property that wholly includes the class.

## **Part 3 Matters for item 7**

### **3.1 Purchase money security interest**

For item 7 of the table in subsection 153 (1) of the Act, property is in a prescribed class of collateral if the collateral can be subject to a purchase money security interest under section 14 of the Act.

## Part 4 Matters for item 8

### 4.1 Prescribed matters — financing statement

For item 8 of the table in subsection 153 (1) of the Act, for collateral, the details mentioned in each item of the table, about the subject mentioned for the item, for the purpose mentioned in the item.

Item	Subject	Purpose	Details
1	Inventory	Determining whether collateral may include inventory, for Part 9.5 of the Act	For collateral that is commercial property — whether or not the collateral may include inventory
2	Control	Determining whether collateral may be subject to control, for Part 9.5 of the Act	For collateral that is commercial property — whether or not the collateral may be subject to control
3	Transitional security interest	Indicating whether a security interest is a transitional security interest	If a security interest is a transitional security interest for section 308 of the Act — a statement that the security interest is a transitional security interest
4	Migrated security interest	Indicating whether a registration is a migrated registration	If collateral is subject to a migrated security interest: <ul style="list-style-type: none"> <li>(a) a statement that the security interest is a migrated security interest; and</li> <li>(b) the name of the transitional register in which the data about the transitional security interest was held; and</li> <li>(c) when the migrated data was registered in the transitional register</li> </ul>

Schedule 1	Financing statement matters for items of table in subsection 153 (1) of Act
Part 4	Matters for item 8

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<b>Item</b>	<b>Subject</b>	<b>Purpose</b>	<b>Details</b>
5	Data from Australian Business Register or National Names Index	Recording details from Australian Business Register or National Names Index	If an ABN, ACN, ARSN or ARBN is entered in a financing statement and a verification of these numbers is undertaken with the Australian Business Register or the National Names Index — the entity name or other data attached to those identifier numbers obtained from the Australian Business Register or the National Names Index

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*Note* For the application of item 4, section 333 of the Act.

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## **Schedule 2      Financing statement matters for table in section 154 of Act**

(subregulation 5.5 (2))

### **Part 1      Preliminary**

#### **1.1      Definitions for Schedule 2**

In this Schedule:

*individual:*

- (a) includes a sole trader who has an ABN for the enterprise that holds or has an interest in the prescribed property; and
- (b) does not include an individual who is a partner in a partnership or a trustee of a trust if the partnership or trust has an ABN for the enterprise that holds or has an interest in the prescribed property.

### **Part 2      Matters for item 1**

#### **2.1      Individuals**

- (1) For item 1 of the table in section 154 of the Act, this clause applies if an individual holds or has an interest in prescribed property.
- (2) The details mentioned in each item of the table, from the source mentioned for the item, are prescribed for the individual mentioned in the item.
- (3) For subclause (2), the prescribed details are the details mentioned in the item of the table that:
  - (a) applies to the individual; and
  - (b) has the lowest item number.
- (4) For an individual who is the owner of prescribed property, in addition to the details mentioned in each item of the table, the individual's date of birth is prescribed.

- (5) The source for the individual's date of birth is the source in an item of the table that:
- (a) includes details of dates of birth; and
  - (b) applies to the individual; and
  - (c) has the lowest item number.

<b>Item</b>	<b>Individual</b>	<b>Details</b>	<b>Source</b>
1	Individual whose details are recorded in a transitional register, for migrated data	Individual's surname and given names, as recorded on the transitional register	Transitional register
2	Individual whose property is subject to a court order	Individual's surname and given names, as recorded on the court order	Court order
3	Individual who holds a current driver's licence	Individual's surname and given names, as recorded on the individual's current driver's licence	Current driver's licence issued by a State or Territory licensing authority to the individual
4	Individual who holds a current proof of identity or current proof of age card	Individual's surname and given names, as recorded on a proof of identity or proof of age card issued by a State or Territory body	Current proof of identity or current proof of age card issued by a State or Territory body to the individual
5	Individual who holds a current Australian passport	Individual's surname and given names, as recorded on the individual's current Australian passport	Current Australian passport issued to the individual
6	Individual who holds a current visa issued by the Australian Government	Individual's surname and given names, as recorded on the individual's current Australian visa	Current Australian visa issued for the individual
7	Individual who holds a current passport other than an Australian passport	Individual's surname and given names, as recorded on the individual's current passport issued by the jurisdiction in which the individual ordinarily resides	Current passport issued by the jurisdiction in which the individual ordinarily resides



Item	Individual	Details	Source
8	Any other individual	Individual's surname and given names, as recorded on the individual's birth certificate	Birth certificate issued for the individual

## 2.2 Bodies corporate

- (1) For item 1 of the table in section 154 of the Act, this clause applies if the secured party or grantor is a body corporate that:
  - (a) is a trustee and has an ARSN; or
  - (b) is not a trustee.
- (2) The details mentioned in each item of the table, from the source mentioned for the item, are prescribed for the body corporate mentioned in the item.
- (3) For subclause (2), the prescribed details are the details mentioned in the item of the table that:
  - (a) applies to the body corporate; and
  - (b) has the lowest item number.

Item	Body corporate	Details	Source
1	Body corporate for which details have been included on the transitional register, for migrated data	Body corporate number or name of body corporate, as recorded on the transitional register	Transitional register
2	Body corporate that is the responsible entity of a registered scheme, if the scheme has an ARSN	Registered scheme's ARSN	National Names Index
3	Body corporate that has an ACN	ACN	National Names Index
4	Body corporate that has an ARBN	ARBN	National Names Index
5	Any other body corporate	Name of the body, as provided for in body's constitution or equivalent document	Body's constitution or equivalent document

### 2.3 Partners

- (1) For item 1 of the table in section 154 of the Act, this clause applies if a partner in a partnership holds or has an interest in prescribed property for the partnership.
- (2) The details mentioned in each item of the table, from the source mentioned for the item, are prescribed for the partner mentioned in the item.
- (3) For subclause (2), the prescribed details are the details mentioned in the item of the table that:
  - (a) applies to the partner; and
  - (b) has the lowest item number.

Item	Partner	Details	Source
1	Partner of a partnership for which details of the partnership have been included on the transitional register, for migrated data	ABN, name of partner or name that identifies partnership, as recorded on the transitional register	Transitional register
2	Partner of a partnership that holds or has an interest in the prescribed property in the course of, or for, an enterprise that has been allocated an ABN	ABN	Australian Business Register
3	Partner in any other partnership	Details mentioned in the item in the table in clause 2.1 that applies to the partner	Source of the details mentioned in the item in the table in clause 2.1 that applies to the partner

### 2.4 Trustees

- (1) For item 1 of the table in section 154 of the Act, this clause applies if the secured party or grantor is:
  - (a) a body corporate that is a trustee of a trust that:
    - (i) has an ABN; and
    - (ii) does not have an ARSN; or

- (b) any other trustee of a trust.
- (2) The details mentioned in each item of the table, from the source mentioned for the item, are prescribed for the trustee mentioned in the item.
- (3) For subclause (2), the prescribed details are:
- (a) for a trustee that is an individual — the details mentioned in the item of the table in clause 2.2 that:
- (i) applies to the trustee; and
- (ii) has the lowest item number; and
- (b) in any other case — the details mentioned in the item of the table that:
- (i) applies to the trustee; and
- (ii) has the lowest item number.
- (4) In this clause:
- trustee details*** means:
- (a) the ABN allocated to the enterprise carried on by the trust; or
- (b) the ACN or ARBN allocated to the trustee; or
- (c) the name of the trust or trustee.

Item	Trustee	Details	Source
1	Trustee of a trust for which details of the trust have been included on the transitional register, for migrated data	Trustee details, as recorded on the transitional register	Transitional register
2	Trustee of a trust that holds or has an interest in the prescribed property in the course of, or for, an enterprise that has been allocated an ABN	ABN	Australian Business Register
3	Trustee of any other trust	Trustee details mentioned in paragraph (3) (a)	Source mentioned in paragraph (3) (a)

## 2.5 Bodies politic

- (1) For item 1 of the table in section 154 of the Act, this clause applies if a body politic holds or has an interest in prescribed property.
- (2) The details mentioned in each item of the table, from the source mentioned for the item, are prescribed for the body politic mentioned in the item.
- (3) For subclause (2), the prescribed details are the details mentioned in the item of the table that:
  - (a) applies to the body politic; and
  - (b) has the lowest item number.

Item	Body politic	Details	Source
1	Body politic for which details have been included on the transitional register, for migrated data	Body politic details, as recorded on the transitional register	Transitional register
2	Body politic that holds prescribed property in course of, or for, an enterprise for which an ABN has been given	ABN	Australian Business Register
3	Body politic that holds prescribed property other than in course of, or for, an enterprise for which an ABN has been given	Name of body politic, as provided for in constitution of body politic	Constitution of body politic

### Note

1. All legislative instruments and compilations are registered on the Federal Register of Legislative Instruments kept under the *Legislative Instruments Act 2003*. See <http://www.frli.gov.au>.