



Australian Capital Territory

# **Personal Property Securities Act 2010**

**A2010-15**

**Republication No 2**

**Effective: 30 January 2012 – 2 April 2012**

Republication date: 30 January 2012

Last amendment made by A2010-50  
(republication for commenced provisions and  
amendments by A2010-50)

Authorised by the ACT Parliamentary Counsel

## About this republication

### The republished law

This is a republication of the *Personal Property Securities Act 2010* (including any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes)) as in force on 30 January 2012. It also includes any commencement, amendment, repeal or expiry affecting this republished law to 30 January 2012.

The legislation history and amendment history of the republished law are set out in endnotes 3 and 4.

### Kinds of republications

The Parliamentary Counsel's Office prepares 2 kinds of republications of ACT laws (see the ACT legislation register at [www.legislation.act.gov.au](http://www.legislation.act.gov.au)):

- authorised republications to which the *Legislation Act 2001* applies
- unauthorised republications.

The status of this republication appears on the bottom of each page.

### Editorial changes

The *Legislation Act 2001*, part 11.3 authorises the Parliamentary Counsel to make editorial amendments and other changes of a formal nature when preparing a law for republication. Editorial changes do not change the effect of the law, but have effect as if they had been made by an Act commencing on the republication date (see *Legislation Act 2001*, s 115 and s 117). The changes are made if the Parliamentary Counsel considers they are desirable to bring the law into line, or more closely into line, with current legislative drafting practice.

This republication does not include amendments made under part 11.3 (see endnote 1).

### Uncommenced provisions and amendments

If a provision of the republished law has not commenced, the symbol **U** appears immediately before the provision heading. Any uncommenced amendments that affect this republished law are accessible on the ACT legislation register ([www.legislation.act.gov.au](http://www.legislation.act.gov.au)). For more information, see the home page for this law on the register.

### Modifications

If a provision of the republished law is affected by a current modification, the symbol **M** appears immediately before the provision heading. The text of the modifying provision appears in the endnotes. For the legal status of modifications, see the *Legislation Act 2001*, section 95.

### Penalties

At the republication date, the value of a penalty unit for an offence against this law is \$110 for an individual and \$550 for a corporation (see *Legislation Act 2001*, s 133).



Australian Capital Territory

# Personal Property Securities Act 2010

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R2  
30/01/12

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Australian Capital Territory

# Personal Property Securities Act 2010

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An Act relating to personal property securities to make provision consequent on the enactment by the Parliament of the Commonwealth of the Personal Property Securities Act 2009 (Cwlth)

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## Part 1 Preliminary

### 1 Name of Act

This Act is the *Personal Property Securities Act 2010*.

### 3 Notes

A note included in this Act is explanatory and is not part of this Act.

*Note* See the Legislation Act, s 127 (1), (4) and (5) for the legal status of notes.

### 4 Expiry—Act

This Act expires 2 years after division 2.1 commences.

## **Part 2**                      **Savings and transitional provisions**

### **Division 2.1**              **General**

#### **5**                      **Definitions**

In this Act:

*existing Act* means the *Instruments Act 1933*.

*existing motor vehicle provisions* means the *Sale of Motor Vehicles Act 1977*, part 4A (other than section 32F).

*director-general* means the director-general under the NSW Act.

*migration time*—see the PPS Act, section 306.

*NSW Act* means the *Registration of Interests in Goods Act 1986* (NSW).

*PPS Act* means the *Personal Property Securities Act 2009* (Cwlth).

*PPS register*—see the PPS Act, section 10, definition of *register*.

*PPS registrar*—see the PPS Act, section 10, definition of *Registrar*.

*pre-PPS transitional period* means the period—

- (a) commencing at the migration time or an earlier time prescribed by regulation; and
- (b) ending at the registration commencement time.

*registration commencement time*—see the PPS Act, section 306.

*REVS* means the register kept under the NSW Act, section 4.

*transitional security interest*—see the PPS Act, section 308.

## 6 Giving information to the Commonwealth

- (1) The registrar-general is authorised to give the Commonwealth, the PPS registrar or any other officer of the Commonwealth the information recorded in, or concerning the use of, any register, book or index kept under the existing Act that the registrar-general considers appropriate in order to assist the Commonwealth in establishing the PPS register.
- (2) The registrar-general may give the information in whatever form (including by means of electronic data or in a form approved for the PPS Act) that the registrar-general considers appropriate.
- (3) This section has effect despite anything in another territory law.

## 7 Territory not liable—PPS transitional matters

- (1) The Territory, or an officer, employee or agent of the Territory, does not incur liability for an act or omission done honestly and without recklessness if the act or omission is a PPS transitional matter or arises (directly or indirectly) from a PPS transitional matter.
- (2) In this section:

*PPS transitional matter* means—

- (a) the giving of information to the Commonwealth, the PPS registrar, any other officer of the Commonwealth or any other person for the purpose of assisting the Commonwealth in establishing the PPS register; or
- (b) a request to the director-general to give information to the Commonwealth, the PPS registrar, any other officer of the Commonwealth or any other person for the purpose of assisting the Commonwealth in establishing the PPS register; or
- (c) the exercise of a function under, or the administration of, this part.



**8 Transitional regulations**

- (1) A regulation may prescribe transitional matters necessary or convenient to be prescribed because of the enactment of this Act.
- (2) A regulation may modify this part (including in relation to another territory law) to make provision in relation to anything that, in the Executive's opinion, is not, or is not adequately or appropriately, dealt with in this part.
- (3) A regulation under subsection (2) has effect despite anything elsewhere in this Act or another territory law.

**9 Application of Legislation Act, s 88**

This part is a law to which the Legislation Act, section 88 (Repeal does not end effect of transitional laws etc) applies.

**Division 2.2 Interests in motor vehicles**

**10 Existing motor vehicle provisions cease to have effect at registration commencement time**

- (1) The existing motor vehicle provisions cease to have effect in relation to motor vehicles at the registration commencement time, except as otherwise provided by this division.
- (2) If an existing provision (the *primary provision*) is continued in effect by this division, any other provision of the existing motor vehicle provisions that is mentioned in the primary provision is also continued in effect to the extent necessary for the purposes of the continued application of the primary provision.

- (3) This division has effect—
- (a) despite anything in the existing motor vehicle provisions; and
  - (b) in relation to the existing motor vehicle provisions that this division continues in effect after the registration commencement time even after the existing motor vehicle provisions are repealed by this Act.

## 11 Search certificates and notices

Section 32D of the existing motor vehicle provisions continues to apply after the registration commencement time in relation to any certificate issued under that section before that time.

*Note 1* The director-general may continue to issue certificates under the NSW Act, s 8 (5) during a post-PPS transitional period as to the state of REVS in relation to motor vehicles at any time in the 7 years before the registration commencement time. The provisions of that Act, s 8 will continue to apply to these certificates. A NSW regulation may make provision in relation to the issue of certificates during a pre-PPS transitional period.

*Note 2* For the NSW provisions—

- *post-PPS transitional period* means the period of 7 years commencing at the registration commencement time; and
- *pre-PPS transitional period*—see s 5.

## 12 Enforcement of interests in motor vehicles

Subject to the PPS Act, chapter 9 (Transitional provisions), section 32E, section 32G and section 32H of the existing motor vehicle provisions continue to apply to an interest in a motor vehicle if the interest is created before the registration commencement time.

## **Division 2.3                    Interests to which Instruments Act 1933 applies**

### **13                    Existing Act ceases to have effect at registration commencement time**

- (1) The existing Act ceases to have effect at the registration commencement time, except as otherwise provided by this division.
- (2) If a provision of the existing Act (the *primary provision*) is continued in effect by this division, any other provision of the existing Act that is mentioned in the primary provision is also continued in effect to the extent necessary for the purposes of the continued application of the primary provision.
- (3) This division has effect—
  - (a) despite anything in the existing Act; and
  - (b) in relation to a provision of the existing Act that this division continues in effect after the registration commencement time even after the existing Act is repealed by this Act.

### **14                    Registrar-general may refuse to exercise registration functions**

- (1) The registrar-general may refuse to exercise a registration function during the pre-PPS transitional period.
- (2) Without limiting subsection (1), the registrar-general may refuse to exercise a registration function during the pre-PPS transitional period in relation to a matter that was not finally determined or concluded immediately before the commencement of that period.
- (3) In this section:

*registration function* means any of the registrar-general's functions under the existing Act relating to the registration of instruments for the existing Act.

## 15 Registrable instruments executed before commencement time

- (1) Nothing in this division is intended to affect the continued validity and enforceability of any registrable instrument that is in effect immediately before the time when the existing Act ceases to apply because of section 13.
- (2) Any instrument executed before the registration commencement time that has not been (but could have been) registered under the existing Act immediately before the registration commencement time is taken to have had effect in accordance with its terms immediately before that time.
- (3) Any instrument executed before the registration commencement time that has not been (but could have been) registered under the existing Act as a variation, renewal, assignment or discharge of an instrument immediately before the registration commencement time is taken to have effect in accordance with its terms immediately before that time.
- (4) This section has effect subject to the PPS Act, chapter 9 (Transitional provisions).

## 16 Enforcement of interests

- (1) Subject to the PPS Act, chapter 9 (Transitional provisions), any provision of the existing Act with respect to enforcement of an interest continues to apply in relation to—
  - (a) a transitional security interest; and
  - (b) any registrable instrument (within the meaning of the existing Act) executed before the registration commencement time.
- (2) In this section:  
*enforcement*, of an interest, includes priority of an interest.

**17 Fees payable**

Any fee that is payable under the existing Act immediately before the registration commencement time continues to be payable and may be recovered by the registrar-general in a court of competent jurisdiction after the registration commencement time.

## Endnotes

1 About the endnotes

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## Endnotes

### 1 About the endnotes

Amending and modifying laws are annotated in the legislation history and the amendment history. Current modifications are not included in the republished law but are set out in the endnotes.

Not all editorial amendments made under the *Legislation Act 2001*, part 11.3 are annotated in the amendment history. Full details of any amendments can be obtained from the Parliamentary Counsel's Office.

Uncommenced amending laws are not included in the republished law. The details of these laws are underlined in the legislation history. Uncommenced expiries are underlined in the legislation history and amendment history.

If all the provisions of the law have been renumbered, a table of renumbered provisions gives details of previous and current numbering.

The endnotes also include a table of earlier republications.

### 2 Abbreviation key

A = Act	NI = Notifiable instrument
AF = Approved form	o = order
am = amended	om = omitted/repealed
amdt = amendment	ord = ordinance
AR = Assembly resolution	orig = original
ch = chapter	par = paragraph/subparagraph
CN = Commencement notice	pres = present
def = definition	prev = previous
DI = Disallowable instrument	(prev...) = previously
dict = dictionary	pt = part
disallowed = disallowed by the Legislative Assembly	r = rule/subrule
div = division	reloc = relocated
exp = expires/expired	renum = renumbered
Gaz = gazette	R[X] = Republication No
hdg = heading	RI = reissue
IA = Interpretation Act 1967	s = section/subsection
ins = inserted/added	sch = schedule
LA = Legislation Act 2001	sdiv = subdivision
LR = legislation register	SL = Subordinate law
LRA = Legislation (Republication) Act 1996	sub = substituted
mod = modified/modification	<u>underlining</u> = whole or part not commenced or to be expired

### 3 Legislation history

#### **Personal Property Securities Act 2010 A2010-15**

notified LR 1 April 2010

s 1, s 2 commenced 1 April 2010 (LA s 75 (1))

div 2.1 commenced 2 April 2010 (s 2 (1))

remainder commenced 30 January 2012 (s 2 (2) (b))

*Note* [Act exp 2 April 2012 \(s 4\)](#)

as amended by

#### **Justice and Community Safety Legislation Amendment Act 2010 (No 4) A2010-50 sch 1 pt 1.7**

notified LR 14 December 2010

s 1, s 2 commenced 14 December 2010 (LA s 75 (1))

sch 1 pt 1.7 commenced 30 January 2012 (see LA s 79A and A2010-15)

## Endnotes

4 Amendment history

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### 4 Amendment history

#### Commencement

s 2 om LA s 89 (4)

#### Legislation amended and repealed

pt 3 hdg om LA s 89 (3)

#### Legislation amended—schs 1-3

s 18 om LA s 89 (3)

#### Legislation repealed

s 19 om LA s 89 (3)

#### Amendments—interests not personal property for PPS Act

sch 1 hdg om LA s 89 (3)

#### Liquor Act 1975

sch 1 pt 1.1 om LA s 89 (3)

#### Planning and Development Act 2007

sch 1 pt 1.2 om LA s 89 (3)

#### Amendments—statutory interests for PPS Act

sch 2 hdg om LA s 89 (3)

#### Confiscation of Criminal Assets Act 2003

sch 2 pt 2.1 om LA s 89 (3)

#### Criminal Code 2002

sch 2 pt 2.2 om LA s 89 (3)

#### Hemp Fibre Industry Facilitation Act 2004

sch 2 pt 2.3 om LA s 89 (3)

#### Public Trustee Act 1985

sch 2 pt 2.4 om LA s 89 (3)

#### Road Transport (Safety and Traffic Management) Regulation 2000

sch 2 pt 2.5 om LA s 89 (3)

#### Other amendments

sch 3 hdg om LA s 89 (3)

#### Cooperatives Act 2002

sch 3 pt 3.1A ins A2010-50 amdt 1.15  
om LA s 89 (3)

#### Cooperatives Regulation 2003

sch 3 pt 3.1 om LA s 89 (3)

#### Mercantile Law Act 1962

sch 3 pt 3.2 om LA s 89 (3)



**Registration of Deeds Act 1957**  
sch 3 pt 3.3 om LA s 89 (3)

**Sale of Motor Vehicles Act 1977**  
sch 3 pt 3.4 om LA s 89 (3)

## Endnotes

5 Earlier republications

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### 5 Earlier republications

Some earlier republications were not numbered. The number in column 1 refers to the publication order.

Since 12 September 2001 every authorised republication has been published in electronic pdf format on the ACT legislation register. A selection of authorised republications have also been published in printed format. These republications are marked with an asterisk (\*) in column 1. Electronic and printed versions of an authorised republication are identical.

<b>Republication No and date</b>	<b>Effective</b>	<b>Last amendment made by</b>	<b>Republication for</b>
R1 2 Apr 2010	2 Apr 2010– 29 Jan 2012	not amended	commenced provisions

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