



Personal Property Securities (Ancillary Provisions) Act 2010

Current as at 30 January 2012

© State of Queensland 2022



This work is licensed under a Creative Commons Attribution 4.0 International License.



Queensland

Personal Property Securities (Ancillary Provisions) Act 2010

Contents

		Page
Chapter 1	Preliminary	
1	Short title	5
2	Commencement	5
3	Purpose	5
4	Definitions	5
5	References to charges and fixed and floating charges	7
Chapter 2	Migration of personal property data	
Part 1	General	
6	Giving of information to PPS registrar	8
7	Protection from liability	9
8	Delegation	9
9	Regulation-making power	9
Part 2	Transitional provisions	
10	Proceedings	10
11	Offences	10
Chapter 3	Acts with Queensland registers	
Part 1	Bills of Sale and Other Instruments Act 1955	
Division 1	Repeal	
12	Repeal	11
Division 2	Transitional provisions	
13	Definitions for div 2	11
14	Words have meanings given by existing Act	11
15	Continuing of provisions of existing Act	11
16	Applications for registration or renewal of registration of security interests	12
17	Inspection of register	12

Contents

18	Requests for registration of confiscation orders	13
19	Applications for registration of assignments of registered security interests	13
20	Applications for discharge of registered security interests	13
21	Requests to register discharge or change in particulars	14
22	Applications to change particulars in register	14
23	Removal of particulars of improperly registered interests	15
24	Applications for compensation for loss	15
25	Protection from liability	15
26	Delegations	16
Part 3 Liens on Crops of Sugar Cane Act 1931		
Division 1 Repeal		
35	Repeal	16
Division 2 Transitional provisions		
36	Definitions for div 2	17
37	Words have meanings given by existing Act	17
38	Continuing of provisions of existing Act	17
39	Applications for registration or renewal of registration of liens	17
40	Inspection of register	18
41	Requests for registration of confiscation orders	18
42	Applications for registration of assignments of registered liens	19
43	Applications for discharge of registered liens	19
44	Requests to register discharge or change in particulars	19
45	Applications to change particulars in register	20
46	Applications for compensation for loss	20
47	Protection from liability	21
48	Delegations	21
Part 4 Motor Vehicles and Boats Securities Act 1986		
Division 1 Repeal		
49	Repeal	21
Division 2 Transitional provisions		
50	Definitions for div 2	22
51	Words have meanings given by existing Act	22
52	Continuing of provisions of existing Act	22
53	Applications for registration or renewal of registration of security interests	22

54	Requests for registration of confiscation orders	23
55	Applications for registration of assignments of registered security interests	23
56	Applications for discharge of registered security interests	23
57	Applications to change particulars in register	24
58	Show cause notices about improperly registered security interests	24
59	Show cause notices about cancellation of registered security interests that have been discharged or extinguished	25
60	Inspection of register	25
61	Applications for compensation for loss	26
62	Compensation for repairing or replacing damaged property	26
63	Protection from liability	27
64	Delegations	27

Personal Property Securities (Ancillary Provisions) Act 2010

An Act to provide for matters ancillary to the referral of matters by the *Personal Property Securities (Commonwealth Powers) Act 2009* to the Parliament of the Commonwealth, to repeal the *Bills of Sale and Other Instruments Act 1955*, the *Liens on Crops of Sugar Cane Act 1931* and the *Motor Vehicles and Boats Securities Act 1986*, to amend the *Cooperatives Act 1997* and to make consequential amendments to the legislation mentioned in chapter 4

Chapter 1 Preliminary

1 Short title

This Act may be cited as the *Personal Property Securities (Ancillary Provisions) Act 2010*.

2 Commencement

This Act, other than sections 3 and 4 and chapter 2, part 1, commences on a date to be fixed by proclamation.

3 Purpose

The purpose of this Act is to enact ancillary provisions, including transitional provisions, relating to the enactment of the *Personal Property Securities Act 2009* (Cwlth).

4 Definitions

In this Act—

account has the meaning given by the PPS Act, section 10.

application closing time, for an application under a Queensland register Act, means—

- (a) if the application is made online—
 - (i) 5.00pm on the last business day immediately before the registration commencement time; or
 - (ii) an earlier day prescribed by regulation; or
- (b) if the application is made on paper—
 - (i) 5.00pm on the day before the last business day immediately before the registration commencement time; or
 - (ii) an earlier day prescribed by regulation.

attaches, in relation to a security interest, has the meaning given by the PPS Act, section 19.

chattel paper has the meaning given by the PPS Act, section 10.

circulating asset has the meaning given by the PPS Act, section 340.

grantor has the meaning given by the PPS Act, section 10.

perfected, in relation to a security interest, has the meaning given by the PPS Act, section 21.

personal property has the meaning given by the PPS Act, section 10.

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

PPS register means the Personal Property Securities Register under the PPS Act.

PPS registrar means the Registrar of Personal Property Securities under the PPS Act.

Queensland register means any of the following—

-
- (a) the register of security interests kept under the *Bills of Sale and Other Instruments Act 1955*;
 - (b) the register of cooperative charges kept under the *Cooperatives Act 1997*;
 - (c) the register of liens kept under the *Liens on Crops of Sugar Cane Act 1931*;
 - (d) the register of security interests kept under the *Motor Vehicles and Boats Securities Act 1986*.

Queensland register Act means any of the following—

- (a) the *Bills of Sale and Other Instruments Act 1955*;
- (b) the *Cooperatives Act 1997*;
- (c) the *Liens on Crops of Sugar Cane Act 1931*;
- (d) the *Motor Vehicles and Boats Securities Act 1986*.

registration commencement time has the meaning given by the PPS Act, section 306.

security interest has the meaning given by the PPS Act, section 12.

5 References to charges and fixed and floating charges

- (1) This section applies to a reference in an Act or other document to a charge, fixed charge or floating charge over property, but only to the extent that—
 - (a) the charge referred to is attached to personal property; and
 - (b) title in the personal property to which the charge is attached is in the grantor; and
 - (c) the charge is a security interest to which the PPS Act applies.
- (2) However, this section does not apply to—
 - (a) a reference to a charge, a fixed charge or a floating charge if the charge referred to is a perfected security

- (2) The chief executive may give the information in whatever form the chief executive considers appropriate including by means of electronic data or in an approved form under the PPS Act.
- (3) This section applies despite any other Act or law.

7 Protection from liability

- (1) An official does not incur civil liability for an act done, or omission made, honestly and without negligence in relation to the giving of information under section 6.
- (2) If subsection (1) prevents a civil liability attaching to an official, liability attaches instead to the State.
- (3) In this section—
official means—
 - (a) the chief executive; or
 - (b) an officer or employee of the department; or
 - (c) a public service employee to whom the chief executive delegated powers under a Queensland register Act.

8 Delegation

- (1) The chief executive may delegate the chief executive's powers under this Act to an appropriately qualified officer or employee of the department.
- (2) In this section—
appropriately qualified includes having the qualifications, experience or standing appropriate to exercise the power.

9 Regulation-making power

- (1) The Governor in Council may make regulations under this Act.

- (2) Without limiting subsection (1), a regulation may be made about the fees payable under this Act and the matters for which the fees are payable.

Part 2 Transitional provisions

10 Proceedings

A proceeding relating to a matter arising under the provisions of a Queensland register Act that was commenced before the commencement of this part, but was not finally decided as at the commencement, may continue to be dealt with or otherwise decided as if those provisions had not been repealed.

11 Offences

- (1) This section applies if a person is alleged to have committed an offence against a Queensland register Act before the commencement of this part.
- (2) Despite the Criminal Code, section 11, a proceeding for the offence may be started or continued, and the court may hear and decide the proceeding, as if this Act, other than this section, had not commenced.

Chapter 3 Acts with Queensland registers

Part 1 Bills of Sale and Other Instruments Act 1955

Division 1 Repeal

12 Repeal

The Bills of Sale and Other Instruments Act 1955, No. 16 is repealed.

Division 2 Transitional provisions

13 Definitions for div 2

In this division—

existing Act means the *Bills of Sale and Other Instruments Act 1955* as in force immediately before its repeal.

repeal means repeal of the existing Act.

14 Words have meanings given by existing Act

A word used in this division and defined under the existing Act has the same meaning as it had under the existing Act.

15 Continuing of provisions of existing Act

If, despite the repeal, a provision of the existing Act (the *primary provision*) is continued in effect for a purpose under this division, any other provision of the existing Act (a *related provision*) 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.

16 Applications for registration or renewal of registration of security interests

- (1) This section applies if, after the application closing time, the chief executive receives an application for the registration, or renewal of registration, of a security interest.
- (2) Despite sections 9, 10 and 11 of the existing Act, the chief executive—
 - (a) can not deal with the application after the application closing time; and
 - (b) must refund any fee that accompanied the application.

17 Inspection of register

- (1) Despite the repeal, section 13 of the existing Act continues to apply for a period of 2 years after the repeal in relation to particulars included in the former register in the period starting 7 years before the repeal and ending at the repeal.
- (2) A regulation may prescribe a fee for inspecting the former register.
- (3) The chief executive must keep a copy of the information contained in the former register, as it existed immediately before the repeal, for 7 years after the repeal.
- (4) For section 13(1)(a) of the existing Act, the offices of the department at the following places are offices where the register may be inspected—
 - (a) Brisbane;
 - (b) Cairns;
 - (c) Mackay;
 - (d) Maroochydore;
 - (e) Rockhampton;

- (f) Southport;
- (g) Townsville.

(5) In this section—

former register means the register of security interests required to be kept under section 8 of the existing Act.

18 Requests for registration of confiscation orders

- (1) This section applies if, after the application closing time, the chief executive receives a request for the registration of a confiscation order in relation to chattels of a person or creating a charge over the chattels of a person.
- (2) Despite section 15 of the existing Act, the chief executive can not deal with the request after the application closing time.

19 Applications for registration of assignments of registered security interests

- (1) This section applies if, after the application closing time, the chief executive receives an application for the registration of an assignment of a registered security interest.
- (2) Despite sections 16 and 17 of the existing Act, the chief executive—
 - (a) can not deal with the application after the application closing time; and
 - (b) must refund any fee that accompanied the application.

20 Applications for discharge of registered security interests

- (1) This section applies if, after the application closing time, the chief executive receives an application for the full or partial discharge of a registered security interest.
- (2) Despite sections 18C and 18D of the existing Act, the chief executive—

- (a) can not deal with the application after the application closing time; and
- (b) must refund any fee that accompanied the application.

21 Requests to register discharge or change in particulars

- (1) This section applies if—
 - (a) before the repeal, the borrower in relation to a registered security interest made a request to the lender under section 18F(1) of the existing Act in relation to the security interest; and
 - (b) at the time of the repeal, the lender had not complied with section 18F(2) of the existing Act in relation to the request.
- (2) Despite the repeal, section 18F continues to apply to the request.
- (3) However, subsection (4) applies if the lender—
 - (a) has been given a notice under section 18F(4); and
 - (b) has not complied with section 18F(5)(a) or (b) before the end of the notice period.
- (4) The chief executive must ask the PPS registrar to, in accordance with the request under section 18F(1)—
 - (a) register the discharge in the PPS register; or
 - (b) change the particulars included in the PPS register.

22 Applications to change particulars in register

- (1) This section applies if, after the application closing time, the chief executive receives an application to change stated particulars included in the register in relation to an interest.
- (2) Despite section 18G of the existing Act, the chief executive—
 - (a) can not deal with the application after the application closing time; and

- (b) must refund any fee that accompanied the application.

23 Removal of particulars of improperly registered interests

- (1) This section applies if—
- (a) before the repeal, the chief executive gave a notice under section 18I(2) of the existing Act to a person who appeared to the chief executive to be the lender under an interest; and
 - (b) at the time of the repeal, the person had not complied with the requirement in the notice.
- (2) Despite the repeal, section 18I continues to apply to the registration of the interest.
- (3) However, subsection (4) applies if the person—
- (a) has been given a notice under section 18I(6); and
 - (b) has not complied with section 18I(7)(a) or (b) before the end of the notice period.
- (4) The chief executive must ask the PPS registrar to remove the particulars in relation to the interest from the PPS register.

24 Applications for compensation for loss

- (1) This section applies if a person suffers loss because an act or omission mentioned in section 18J of the existing Act was done or made before the repeal.
- (2) Despite the repeal, the person may apply for payment of compensation under section 18K of the existing Act.

25 Protection from liability

- (1) An official continues to incur no civil liability after the repeal for an act done, or omission made, honestly and without negligence in the performance or purported performance of functions under the existing Act if—

[s 26]

- (a) the act was done or the omission was made before the repeal; or
 - (b) the act was done or the omission was made after the repeal in relation to a matter that was authorised to be done under this division after the repeal.
- (2) If subsection (1) prevents a civil liability attaching to an official, liability attaches instead to the State.

26 Delegations

- (1) The chief executive may delegate, to an appropriately qualified public service employee, the chief executive's powers under a provision of the existing Act that continues, under this division, to have effect after the repeal.
- (2) A delegation that was in force immediately before the repeal in relation to a provision of the existing Act that continues, under this division, to have effect after the repeal continues to have effect as a delegation under this section.

Part 3 Liens on Crops of Sugar Cane Act 1931

Division 1 Repeal

35 Repeal

The Liens on Crops of Sugar Cane Act 1931, No. 37 is repealed.

Division 2 Transitional provisions

36 Definitions for div 2

In this division—

existing Act means the *Liens on Crops of Sugar Cane Act 1931* as in force immediately before its repeal.

repeal means repeal of the existing Act.

37 Words have meanings given by existing Act

A word used in this division and defined under the existing Act has the same meaning as it had under the existing Act.

38 Continuing of provisions of existing Act

If, despite the repeal, a provision of the existing Act (the *primary provision*) is continued in effect for a purpose under this division, any other provision of the existing Act (a *related provision*) 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.

39 Applications for registration or renewal of registration of liens

- (1) This section applies if, after the application closing time, the chief executive receives an application for the registration, or renewal of registration, of a lien.
- (2) Despite sections 6, 7 and 7A of the existing Act, the chief executive—
 - (a) can not deal with the application after the application closing time; and
 - (b) must refund any fee that accompanied the application.

40 Inspection of register

- (1) Despite the repeal, section 7C of the existing Act continues to apply for a period of 2 years after the repeal in relation to particulars included in the former register in the period starting 7 years before the repeal and ending at the repeal.
- (2) A regulation may prescribe a fee for inspecting the former register.
- (3) The chief executive must keep a copy of the information contained in the former register, as it existed immediately before the repeal, for 7 years after the repeal.
- (4) For section 7C(1)(a) of the existing Act, the offices of the department at the following places are offices where the register may be inspected—
 - (a) Brisbane;
 - (b) Cairns;
 - (c) Mackay;
 - (d) Maroochydore;
 - (e) Rockhampton;
 - (f) Southport;
 - (g) Townsville.
- (5) In this section—

former register means the register of liens required to be kept under section 5 of the existing Act.

41 Requests for registration of confiscation orders

- (1) This section applies if, after the application closing time, the chief executive receives a request for the registration of a confiscation order made in relation to a security interest registered under the existing Act or creating a charge over a security interest registered under the existing Act.

- (2) Despite section 7DA of the existing Act, the chief executive can not deal with the request after the application closing time.

42 Applications for registration of assignments of registered liens

- (1) This section applies if, after the application closing time, the chief executive receives an application for registration of the assignment of a registered lien.
- (2) Despite sections 7E and 7F of the existing Act, the chief executive—
 - (a) can not deal with the application after the application closing time; and
 - (b) must refund any fee that accompanied the application.

43 Applications for discharge of registered liens

- (1) This section applies if, after the application closing time, the chief executive receives an application for the full or partial discharge of a registered lien.
- (2) Despite sections 7J and 7K of the existing Act, the chief executive—
 - (a) can not deal with the application after the application closing time; and
 - (b) must refund any fee that accompanied the application.

44 Requests to register discharge or change in particulars

- (1) This section applies if—
 - (a) before the repeal, the lienor of a registered lien makes a request to the lienee under section 7M(1) of the existing Act in relation to the lien; and

[s 45]

- (b) at the time of the repeal, the lienee has not complied with section 7M(2) of the existing Act in relation to the request.
- (2) Despite the repeal, section 7M continues to apply to the request.
- (3) However, subsection (4) applies if—
 - (a) before the repeal, the lienee is given a notice under section 7M(4); and
 - (b) at the time of the repeal, the lienee has not complied with section 7M(5)(a) or (b) before the end of the notice period.
- (4) The chief executive must ask the PPS registrar to, in accordance with the request under section 7M(1)—
 - (a) register the discharge in the PPS register; or
 - (b) change the particulars included in the PPS register.

45 Applications to change particulars in register

- (1) This section applies if, after the application closing time, the chief executive receives an application to change stated particulars included in the register relating to the lien.
- (2) Despite section 7N of the existing Act, the chief executive—
 - (a) can not deal with the application after the application closing time; and
 - (b) must refund any fee that accompanied the application.

46 Applications for compensation for loss

- (1) This section applies if a person suffers loss because an act or omission mentioned in section 7P of the existing Act was done or made before the repeal.
- (2) The person may apply for payment of compensation under section 7Q of the existing Act.

47 Protection from liability

- (1) An official continues to incur no civil liability after the repeal for an act done, or omission made, honestly and without negligence in the performance or purported performance of functions under the existing Act if—
 - (a) the act was done or the omission was made before the repeal; or
 - (b) the act was done or the omission was made after the repeal in relation to a matter that was authorised to be done under this part after the repeal.
- (2) If subsection (1) prevents a civil liability attaching to an official, liability attaches instead to the State.

48 Delegations

- (1) The chief executive may delegate, to an appropriately qualified public service employee, the chief executive's powers under a provision of the existing Act that continues, under this division, to have effect after the repeal.
- (2) A delegation that was in force immediately before the repeal in relation to a provision of the existing Act that continues, under this division, to have effect after the repeal continues to have effect as a delegation under this section.

Part 4 Motor Vehicles and Boats Securities Act 1986

Division 1 Repeal

49 Repeal

The Motor Vehicles and Boats Securities Act 1986, No. 24 is repealed.

Division 2 Transitional provisions

50 Definitions for div 2

In this division—

existing Act means the *Motor Vehicles and Boats Securities Act 1986* as in force immediately before its repeal.

repeal means repeal of the existing Act.

51 Words have meanings given by existing Act

A word used in this division and defined under the existing Act has the same meaning as it had under the existing Act.

52 Continuing of provisions of existing Act

If, despite the repeal, a provision of the existing Act (the *primary provision*) is continued in effect for a purpose under this division, any other provision of the existing Act (a *related provision*) 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.

53 Applications for registration or renewal of registration of security interests

- (1) This section applies if, after the application closing time, the chief executive receives an application for the registration, or renewal of registration, of a security interest.
- (2) Despite sections 7 and 7A of the existing Act, the chief executive—
 - (a) can not deal with the application after the application closing time; and
 - (b) must refund any fee that accompanied the application.

54 Requests for registration of confiscation orders

- (1) This section applies if, after the application closing time, the chief executive receives a request for the registration of a confiscation order applying to, or creating a charge over, a motor vehicle, boat or outboard motor.
- (2) Despite section 7D of the existing Act, the chief executive can not deal with the request after the application closing time.

55 Applications for registration of assignments of registered security interests

- (1) This section applies if, after the application closing time, the chief executive receives an application for the assignment of a registered security interest.
- (2) Despite sections 8 and 9 of the existing Act, the chief executive—
 - (a) can not deal with the application after the application closing time; and
 - (b) must refund any fee that accompanied the application.

56 Applications for discharge of registered security interests

- (1) This section applies if, after the application closing time, the chief executive receives an application for the discharge of a registered security interest.
- (2) Despite sections 14 and 15 of the existing Act, the chief executive—
 - (a) can not deal with the application after the application closing time; and
 - (b) must refund any fee that accompanied the application.

57 Applications to change particulars in register

- (1) This section applies if, after the application closing time, the chief executive receives an application to change particulars entered in the register for a registered security interest.
- (2) Despite section 18 of the existing Act, the chief executive—
 - (a) can not deal with the application after the application closing time; and
 - (b) must refund any fee that accompanied the application.

58 Show cause notices about improperly registered security interests

- (1) This section applies to the following matters—
 - (a) a notice in relation to a security interest given to a person by the chief executive under section 18A(2) of the existing Act, if the period stated in the notice had not expired before the repeal (an *existing show cause notice*);
 - (b) the proposed removal by the chief executive of the particulars of a security interest included in the register following the giving of a notice under section 18A(5) of the existing Act, if the person had a right to apply to a Magistrates Court for an order maintaining the registration immediately before the repeal (an *existing appeal decision*);
 - (c) an application to a Magistrates Court for an order maintaining the registration of the security interest that is pending, but not finally decided, immediately before the repeal (an *existing appeal*).
- (2) Despite the repeal of section 18A of the existing Act, the following provisions apply—
 - (a) the chief executive may deal with the existing show cause notice under section 18A(4);

- (b) the existing appeal decision may be the subject of an application to a Magistrates Court and may be dealt with by the court under the existing Act;
- (c) an existing appeal may be decided by the Magistrates Court under the existing Act;
- (d) as soon as practicable after the chief executive decides whether the interest is a security interest, the chief executive must give the PPS registrar written notice of the decision.

59 Show cause notices about cancellation of registered security interests that have been discharged or extinguished

- (1) This section applies to a notice in relation to a security interest given to a person by the chief executive under section 20 of the existing Act, if the period stated in the notice had not expired before the repeal (also an *existing show cause notice*).
- (2) Despite the repeal of section 20 of the existing Act, the following provisions apply—
 - (a) the chief executive may deal with the existing show cause notice under section 20;
 - (b) as soon as practicable after the chief executive decides whether the registration should have been cancelled, the chief executive must give the PPS registrar written notice of the decision.

60 Inspection of register

- (1) Despite the repeal, section 23 of the existing Act continues to apply for a period of 2 years after the repeal in relation to particulars included in the former register in the period starting 7 years before the repeal and ending at the repeal.
- (2) A regulation may prescribe a fee for inspecting the former register.

[s 61]

- (3) The chief executive must keep a copy of the information contained in the former register, as it existed immediately before the repeal, for 7 years after the repeal.
- (4) For section 23(1)(a) of the existing Act, the office of the department at Brisbane is prescribed as an office of the department where the register may be inspected.
- (5) In this section—
former register means the register of security interests required to be kept under section 6 of the existing Act.

61 Applications for compensation for loss

- (1) Subsection (2) applies if a person who is the holder of a security interest that is mentioned in section 28(1) of the existing Act and extinguished under section 26(1) of the existing Act before the repeal suffers loss because of the extinguishment.
- (2) Despite the repeal, the person may apply for payment of compensation under section 28 of the existing Act.
- (3) Subsection (4) applies if a person who is the holder of a security interest extinguished under section 30(2) of the existing Act before the repeal suffers loss because of the extinguishment.
- (4) Despite the repeal, the person may apply for compensation under section 30(4) of the existing Act.

62 Compensation for repairing or replacing damaged property

- (1) This section applies if, before the repeal, there was an exercise or purported exercise of a power under a declared provision mentioned in section 30ZB(1) of the existing Act.
- (2) Despite the repeal, a person whose property was damaged because of the exercise or purported exercise of the power may apply for compensation under section 30ZB of the existing Act.

63 Protection from liability

- (1) A public service employee continues to incur no civil liability after the repeal for an act done, or omission made, honestly and without negligence in the performance or purported performance of functions under the existing Act if—
 - (a) the act was done or the omission was made before the repeal; or
 - (b) the act was done or the omission was made after the repeal in relation to a matter that was authorised to be done under this division after the repeal.
- (2) If subsection (1) prevents a civil liability attaching to a public service employee, liability attaches instead to the State.

64 Delegations

- (1) The chief executive may delegate, to a person who is a public service employee, the chief executive's powers under a provision of the existing Act that continues, under this division, to have effect after the repeal.
- (2) A delegation that was in force immediately before the repeal in relation to a provision of the existing Act that continues, under this division, to have effect after the repeal continues to have effect as a delegation under this section.