

## Personal Property Securities Act 2009 (Cwlth) practice management issues

### Office management

- Develop an office policy on *Personal Property Securities Act 2009 (Cwlth)* (**PPS Act**) issues and distribute the policy to all staff. Some examples of matters to include in the policy are:
  - allocating the searching of the personal property securities register (PPSR) and registrations to one person in the office and making sure they are fully trained
  - specifying a partner who must sign off on any PPS Act issues on files
  - ensuring that any registration tokens, original signed security agreements and releases of security interests relating to PPS Act registrations are stored securely.
- Review precedents to ensure an appropriate PPS Act clause is available to be included in transaction documents as necessary.
- Charge appropriately for dealing with PPS Act issues.
- Nominate at least one person in the office to keep up to date on any PPS Act developments.

### Processing

Have the following processes in place.

- Reminder to consider the PPS Act in every transaction, especially at the commencement of the transaction and confirm in your retainer letter when PPS Act issues will and will not be addressed.
- Obtain and confirm instructions from clients about any PPS Act issues.
- Confirm that a PPS Act clause has been included where necessary in documents prepared by your firm.
- Check that a PPS Act clause is included where necessary in documents reviewed by your firm and which have been received from a client or other party.
- Review existing client documents to check whether they include a PPS Act clause and/or need to be amended to include a PPS Act clause.
- Identify registration deadlines.
- Confirm registration deadlines have been met.
- Check that original signed security agreements are not left on files when closing.
- Identify whether a security interest is a purchase money security interest.
- Collect all necessary information to effect a valid registration on the PPSR.
- Ensure the correct information has been included on the PPSR.
- Keep track of security interests you have registered for a client.

## Searching

- Make sure you consider the need to search the PPSR on every file.
- Collect the data necessary to enable you to conduct a search on the PPSR, for example date of birth, VIN etc.
- Carefully consider the need to search by company name, ABN and/or ACN to ensure you obtain details of all relevant PPS registrations.

## Reporting

Explain to the client:

- the effect of any PPS Act clause in any transaction documents
- the effect of waiving any rights under the PPS Act
- the need to obtain a release of any PPS Act registrations.

## Other matters

- Consider using the LIV approved form of PPS Act clauses for sale of land contracts, leases and sale of business contracts.
- Consider using the [PPS Act model clause for general security agreements developed by five international law firms](#).
- Check for a PPS Act clause in any contracts being entered into by your law firm, for example, relating to a rental agreement for a photocopier.