

Personal Property Securities

Registrar's Practice Statement No. 2

Application to Register a Financing Statement - Court Orders

Version 3.1

Table of Contents

Background and Purpose	2
The PPSR System.....	2
The Legislative Scheme	2
Process	3
Further information	3

Background and Purpose

The primary purpose of the Personal Property Securities Register (**PPSR**) is to allow for the registration of collateral that is subject to a security interest. In addition to security interests, the Personal Property Securities Act 2009 (Cth) (**PPS Act**) and the Personal Property Securities Regulations 2010 (**PPS Regulations**) permit the registration of other kinds of interests such as 'court orders' and 'proceeds of crime' over personal property. These are known as prescribed personal property or other 'registration kinds'.

The PPS Regulations contain rules about which parties are permitted to make and amend financing statements in respect of prescribed personal property. Such parties will usually be limited to government agencies. However, given the kinds of people that are authorised to register court orders, individuals and non-governmental organisations may seek to register court orders on an ad hoc basis.

This Registrar's Practice Statement explains how a person seeking to register a financing statement in respect of a court order should apply to the Registrar of Personal Property Securities (the **Registrar**). For information about how a government agency may obtain the access to an account with the registration kind set to a kind other than security interest see *Registrar's Practice Statement No. 1 Access to PPSR by government agencies*.

The PPSR System

In order to create a registration in respect of a court order, it is necessary to have access to an account, which has the Registration Kind of "Court Order". It is not possible for an external user to create such an account. Only the Registrar's office can create an account of this kind.

The Legislative Scheme

Section 148(c) of the PPS Act provides scope for the PPSR to contain data in relation to personal property that is prescribed by the regulations other than personal property subject to a security interest. Regulation 5.3 of the PPS Regulations provides that personal property may be registered on the PPSR if it is subject to an order of a court or tribunal (however described) that:

1. prevents or restricts a person dealing with the property; or
2. enforces another court order (however described); or
3. orders the sale or other disposal of all or part of the property.

Regulation 5.4 further provides that only the following authorised persons may apply to make such a registration:

1. the person who applied for the order; and

2. if the order was made on the court's own initiative — the person in whose favour the order is made.

Process

The process to register a court order on the PPSR involves three main steps:

1. The applicant sends a request to the Registrar, via the contact details below, which attaches a sealed copy of the court order and addresses the following:
 - a. the reasons the court order satisfies the requirements of regulation 5.3(1)(c) to the PPS Regulations;
 - b. the reasons the applicant satisfies the requirements of regulation 5.4(1)(c) to the PPS Regulations; and
 - c. identifying the person who will be identified in the registration as the 'grantor' (generally the person against whom the order was made) and the person who will be identified in the registration as the 'secured party' (generally the person in whose favour the order was made).
2. The Registrar's delegate reviews the request and if appropriate grants the applicant temporary access to a court order account to allow the applicant to create the registration.
3. The applicant creates the registration. Upon registration the address for service of the person listed as the secured party will receive verification statement and a token. This information will allow that person to discharge the registration when it is no longer required.

Further information

For further information about this practice statement please contact us:

Email: enquiries@ppsr.gov.au

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