



Personal Property Securities Amendment Regulations 2018

Patsy Reddy, Governor-General

Order in Council

At Wellington this 13th day of August 2018

Present:

Her Excellency the Governor-General in Council

These regulations are made under section 190 of the Personal Property Securities Act 1999 on the advice and with the consent of the Executive Council.

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Regulations

1 Title

These regulations are the Personal Property Securities Amendment Regulations 2018.

2 Commencement

These regulations come into force on 1 October 2018.

3 Principal regulations

These regulations amend the Personal Property Securities Regulations 2001 (the **principal regulations**).

4 Regulation 3 amended (Interpretation)

(1) In regulation 3, revoke the definitions of **G2B agreement**, **G2B user**, and **user ID**.

(2) In regulation 3, insert in their appropriate alphabetical order:

API agreement means an agreement between the department responsible for administering the Act and another party under which the other party agrees to accept and use (via an application programming interface service) the register

API user means a person who is a party to an API agreement with the administering department

New Zealand Business Number means the number allocated to an entity under section 14 of the New Zealand Business Number Act 2016

username, in relation to an authorised user, means the unique identifier assigned to the authorised user

(3) In regulation 3, definition of **access information**, replace “user IDs” with “usernames”.

5 New regulation 3A inserted (Transitional, savings, and related provisions)

After regulation 3, insert:

3A Transitional, savings, and related provisions

The transitional, savings, and related provisions set out in Schedule 1AA have effect according to their terms.

6 New Part 1A inserted

Before Part 2, insert:

Part 1A
Personal property securities register

3B Contents of register

For the purposes of section 140(f) of the Act, if the debtor is an organisation to which clause 7A of Schedule 1 applies, the register is to contain the debtor's New Zealand Business Number.

7 New regulation 14A inserted (Search by reference to New Zealand Business Number)

After regulation 14, insert:

14A Search by reference to New Zealand Business Number

The register may be searched by reference to the New Zealand Business Number of a debtor organisation to which clause 7A of Schedule 1 applies (*see* section 172(g) of the Act).

8 Regulation 17 amended (Search results)

Replace regulation 17(1) with:

- (1) A search result must include all current registrations that contain data that matches all of the search criteria provided by an authorised user (the **selected criteria**).
- (1A) However, if the selected criteria include an incorporation number (referred to in section 172(d) of the Act) and a New Zealand Business Number, the search result must include all current registrations that contain data that matches any of the following:
- (a) all of the selected criteria (including both numbers):
 - (b) all of the selected criteria except the New Zealand Business Number:
 - (c) all of the selected criteria except the incorporation number.
- (1B) For each current registration included in a search result, the search result must set out all data recorded in the register in relation to that registration.

9 Regulation 21 amended (Fees)

In regulation 21(1)(a)(i), (b)(i), and (c)(i), replace “a G2B user” with “an API user”.

10 Regulation 22 replaced (Arrangements for payment of prescribed fees)

Replace regulation 22 with:

22 Payment of prescribed fees

An authorised user must pay the prescribed fees—

- (a) by a payment method specified by the Registrar; and
- (b) as soon as practicable after,—
 - (i) in the case of a financing statement, the successful validation by the register of the data submitted; or
 - (ii) in the case of a search, the search has been submitted in accordance with the Act and these regulations.

11 New Schedule 1AA inserted

Insert the Schedule 1AA set out in the Schedule of these regulations as the first schedule to appear after the last regulation of the principal regulations.

12 Schedule 1 amended

- (1) In Schedule 1, clause 7, after “an organisation,” insert “data identifying the organisation as”.
- (2) In Schedule 1, after clause 7(f), insert:
 - (fa) a limited partnership:
- (3) In Schedule 1, after clause 7, insert:

7A New Zealand Business Number

- (1) This clause applies to a debtor that—
 - (a) is an organisation; and
 - (b) is not a partnership (other than a limited partnership) or trust; and
 - (c) has a New Zealand Business Number.
- (2) The debtor’s New Zealand Business Number.
- (4) In Schedule 1, revoke clause 13.
- (5) In Schedule 1, in the heading to clause 14, delete “**and fax number**”.
- (6) In Schedule 1, clause 14, delete “and the fax number”.

Schedule
New Schedule 1AA inserted

r 11

Schedule 1AA
Transitional, savings, and related provisions

r 3A

Part 1
Provisions relating to Personal Property Securities Amendment
Regulations 2018

1 Two-month transition period for current registrations

- (1) During the transition period, clause 7A of Schedule 1 does not apply in relation to a current registration.
- (2) However, during the transition period,—
 - (a) a current registration for a debtor of a kind described in clause 7A of Schedule 1 may include the debtor's New Zealand Business Number (even though, under subclause (1), it is not required to do so); and
 - (b) if a current registration does include a New Zealand Business Number,—
 - (i) for the purposes of section 140(f) of the Act, that number forms part of the register; and
 - (ii) regulation 14A applies in relation to that registration.
- (3) In this clause,—

commencement date means the date on which the Personal Property Securities Amendment Regulations 2018 come into force

current registration means a financing statement or financing change statement that was submitted for registration before the commencement date

transition period means the period of 2 months commencing on the commencement date.

Michael Webster,
Clerk of the Executive Council.

Explanatory note

This note is not part of the regulations, but is intended to indicate their general effect.

These regulations amend the Personal Property Securities Regulations 2001 (the **principal regulations**) and come into force on 1 October 2018.

These regulations amend the principal regulations to accommodate the introduction of the New Zealand Business Number and to make a number of minor and technical amendments.

Part 1 of Schedule 1 of the principal regulations sets out data that must be specified in a financing statement or financing change statement. If the debtor is an organisation other than a partnership or trust, the information must now include the debtor's New Zealand Business Number (**NZBN**), if it has one. *New regulation 3B* provides for NZBNs to be included on the register, and *new regulation 14A* allows the register to be searched by reference to a debtor's NZBN. Regulation 17 of the principal regulations is amended so that if a search is conducted using both the debtor's incorporation number and its NZBN, the search results will include registrations that contain either or both of those numbers.

Current registrations obviously do not include NZBNs. The Registrar expects to be able to add NZBNs for the majority of current registrations in time for the commencement of these regulations. The Registrar will work with the secured parties of the remaining current registrations to ensure that, where required, NZBNs are added to the register within 2 months. *New regulation 3A and new Schedule 1AA* make transitional arrangements to accommodate the fact that not all registrations will include NZBNs during that transitional period.

Regulation 22 of the principal regulations relates to the manner in which prescribed fees are to be paid and is amended to allow greater flexibility in the methods of payment that may be used.

Regulations 3 and 21 of the principal regulations are amended to update terminology. Schedule 1 is also further amended—

- to require a limited partnership to be identified as such (so as to distinguish it from a normal partnership); and
- to no longer require a fax number to be provided; and
- to revoke clause 13, which is a transitional provision and is now spent.

Issued under the authority of the Legislation Act 2012.

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These regulations are administered by the Ministry of Business, Innovation, and Employment.