



Tonga

**PERSONAL PROPERTY SECURITIES
REGULATIONS 2011**



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Arrangement of Regulations

Regulation

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PERSONAL PROPERTY SECURITIES REGULATIONS 2011

PERSONAL PROPERTY SECURITIES ACT 2010

IN EXERCISE of the powers conferred by section 64 of the Personal Property Securities Act 2010 the Minister of Labour, Commerce and Industries with the consent of Cabinet hereby makes the following Regulations

1 Short Title and Commencement Date

- (1) These Regulations may be cited as the Personal Property Securities Regulations 2011.
- (2) These Regulations shall come into force on the date it is gazetted.

2 Interpretation

In these Regulations, unless the context otherwise requires –

“**access information**” means information assigned for the purpose of maintaining the integrity of the registry (for example, passwords, access number, user IDs, secured party IDs, and notice filing PINs);

“**Act**” means the Personal Property Securities Act 2010;

“**authorised user**” means a person who has log-on access to the registry;

“**filing number**”, in relation to a notice of security interest, means the unique identifier assigned to the notice of security interest on its filing;

“**parcel number**”, in relation to filings made under the Act that relate to land, means the book, folio and lease numbers, as the case may be, of the land maintained in the Ministry of Lands;

“**serial number**”, in relation to a motor vehicle, means any numbers or letters, or any combination of numbers or letters, shown on the body of the motor vehicle; and

“**user ID**”, in relation to an authorised user, means the unique identifier assigned to the authorised user.

3 Forms

The forms provided by the electronic registry shall be used for notices of security interests and any change notices that relate to a notice of security interest.

4 Fees

- (1) For the purposes of the Act and these Regulations the fees shall be those prescribed in the Schedule.
- (2) There shall be no fee for filing a transition notice for a prior transaction filed within 180 days from the commencement of the Act.

5 The Crown

- (1) The Crown shall not be charged fees for filing a notice of lien or requesting a certified report of a search of the records of the registry.
- (2) Any government ministry that is entitled to take a lien in personal property to secure an obligation of a person to the government may request that the Registrar establish an account to be used by the ministry for access to the registry to file notices of lien and related notices.

6 Client accounts

- (1) Any person, including any legal entity, foreign legal entity or government department, may establish accounts for payment of fees to the registry, to be known as client accounts.
- (2) Client accounts may be opened by completing an application on the registry website.
- (3) The registry will generate a statement each month for each client account. The statement will be available in the client account record on the registry website and shall be accessible only to the client for which it is generated.
- (4) Payments on client accounts may be made by cash or a cheque drawn on a business account, delivered to a payment intake point. The payment intake points shall be the branches of Westpac Bank of Tonga. The payment intake point shall enter payments into client accounts upon receipt.

- (5) If a client fails to pay an amount owing on a statement 30 days after the statement date, the client account shall be suspended. Fees may not be charged to a suspended account. When the past-due amount is paid, the client account shall be restored to active status, and fees may be charged to it. A client whose client account is suspended shall not open another client account.
- (6) If a client fails to pay an amount owing on a statement 60 days after the statement date, the client account shall be closed. The record of the closed account shall be retained in the registry, showing the amount owing. A client whose client account has been closed for non-payment may not open another client account until it has paid the amount owing on the closed account, plus a penalty payment of \$65.00.
- (7) The registry shall deactivate a client account for inactivity if it has not been used for a period of 180 days. A client whose account has been deactivated for inactivity may be reinstated by the Registrar upon written request. All fees and penalty payments owed by a client whose client account has been deactivated shall be paid before the account will be reinstated.

7 Payments by users without a client account

- (1) Any person may pay fees in advance of filing by cash or a cheque drawn on a business account, delivered to a payment intake point.
- (2) The payment intake point shall be the branches of the Westpac Bank of Tonga or the Ministry.
- (3) The payment intake point shall give the user a numbered receipt that the user may use when logging in to the registry website to file a notice or request a certified report of search.
- (4) The user may make a single payment for multiple services, and the payment may be used in more than one logged-in session on the registry website.
- (5) If the user overpays or does not use the full amount it has paid, the user may request a refund from the Registrar.
- (6) If a payment made by a non-client account user is not used or refunded within 90 days after it is made, it shall be deemed to be abandoned and considered to be earned revenue.

8 Accessing the Registry

- (1) In order for an authorised user to have access to the registry, the authorised user shall enter the relevant access information.
- (2) The Ministry is not required to verify that –
 - (a) an authorised user is entitled to use the access information entered by the authorised user; or

- (b) a filing party is entitled to file a notice of security interest or change notice, as the case may be.

9 Disclosure of Access Information

The Registrar may disclose access information only if –

- (a) the Registrar is reasonably satisfied that the person to whom the access information is to be disclosed is entitled to the information; and
- (b) the disclosure of the access information is necessary to facilitate the operation of the registry.

10 Certified Copies

The Registrar may certify a copy of a filed notice of security interest as a true copy.

Made at Nuku'alofa this 27 day of April 2011.

Hon. Lisiate 'Aloveita 'Akolo
Minister for Labour, Commerce and Industries

SCHEDULE**Fees**

	Activity	Fee
1	Filing a notice of security interest and the filing of a notice of lien	\$80.00
2	Filing an amended notice of security interest (including assignment of security interest), or continuation statement	\$50.00
3	Requesting a certified report of a search of the records of the registry	\$100.00
4	Filing a termination statement.	Nil