

ALERT

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The PPSA – Wages and superannuation

A common question asked of us is whether or not the new *Personal Property Securities Act 1999* (PPSA) applies to wages and superannuation.

The PPSA commenced in Australia on 30 January 2012. As a rule of thumb, if you enter a dealing regarding any personal property (ie property other than land), the PPSA may apply. This includes hire purchase agreements, leases and bailment, sale of goods on retention of title, and secured lending.

Importantly, the PPSA applies to individuals, trusts and companies. It is therefore possible for a creditor to have a claim over the assets of an individual.

We are receiving a number of enquires regarding the application of the PPSA to individual circumstances. Some situations are more complicated than others.

One of the more common enquiries is whether or not the PPSA applies to wages or superannuation.

It is clear that the PPSA does not apply to wages or superannuation. Section 8(1) expressly states that the following are excluded from the operation of the PPSA:

- right to a transfer of present or future remuneration, including wages, salary, commission, allowances or bonuses; and
- interests held by a person as a member of a superannuation fund, deposit fund or retirement savings account (as defined in the relevant legislation).

This means that creditors' claims under the PPSA do not extend to wages or superannuation earned by a debtor. Of course, any rights given by the debtor to a creditor, or ordered by the court against the debtor (such as garnishee orders), outside of the PPSA regime may still apply in the usual course.

If you have any questions regarding the application of the PPSA to wages, superannuation or any other asset or situation, please let us know.

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**For further information
please contact:**

Katherine Payne, Senior Associate
Phone (direct) **+61 3 9608 2149**
Mobile **+61 417 054 064**
Email **k.payne@cornwalls.com.au**