

Update on Personal Property Security Register

The Personal Property Securities Register (PPSR) is a national, electronic register of security interests in personal property that was established on 30 January 2012.

What does the PPSR cover?

The easiest way to understand what is covered is to dissect the name - Personal Property Securities Register - think of the 'personal property' part as covering goods and assets and the 'securities' part covering debts.

When the PPSR was first introduced a transitional period applied up until 30 January 2014. Anyone who was granted a security interest before 30 January 2012 needed to ensure that interest had been registered by that date.

What happens if I fail to register an interest on the PPSR?

If you have a registrable interest but fail to have it listed on the PPSR then your interest will become unenforceable if someone else (a subsequent security interest holder) registers their interest on the PPSR ahead of you.

For example, if you sell goods on consignment but fail to register your interest and your customer fails to pay you, and at the same time also uses those goods as security for a loan, you may well find that your right to recover the goods has been lost to the party that provided the loan if they have registered their security interest and you have not done so.

Are you sure it affects me?

If you are in business and are engaged in the sale or supply of goods, then it is likely that you are already affected by the operation of the PPSR even if you don't know it.

If you are thinking of becoming involved in these types of businesses, it is also essential that you understand how the PPSR operates to ensure that you do not inadvertently leave yourself unprotected by failing to register your interest.

A wide range of business activities are caught by the operation of the PPSR. For example, if you are involved in any of the following activities it is likely that the PPSR affects the operation of your business:

- Wholesaling or selling goods on retention of title terms;
- Hiring, renting or leasing out of goods;
- Building or construction;
- Agriculture or farming;
- Buying or selling valuable second-hand goods;

- Automotive services or supply industry;
- Selling art or other goods on consignment;
- Raising finance using your stock or other assets as security/collateral for any loan; and
- Working as an adviser to clients who engage in any of the above activities.

How can the PPSR help me?

As well as providing a national central register where you can record any interests you have in goods or any debts owed to you, the PPSR also provides a useful resource for checking whether goods or other assets you may be thinking about purchasing are already encumbered with a debt or charge.

Before buying goods, it is recommended that you search the register so that you can check whether the valuable items you are thinking of handing over hard-earned money for are free from any existing financed debt. This is important as it helps to ensure that any goods you purchase are safe from possible repossession in the future because of any already existing charge over the goods which the seller may not inform you about.

The PPSR is an excellent risk protection tool. If you find yourself on the other side of the table and are trying to raise funds for your business using your stock as collateral for any loan you may find that you are able to raise finance more easily because potential purchasers are able to check on the PPSR to confirm that your stock or other assets are not subject to a pre-existing loan arrangement.

Registering any ownership interest on the PPSR is also useful in ensuring that if you are selling goods on the basis of retention of title or consignment, or you are hiring or leasing out goods, your interests are protected if your customers fail to pay you or go out of business.

A properly registered interest on the PPSR can mean that you are the first party in line to get your goods or money back if this situation arises. This is a far preferable position to being at the end of what may be a very long queue of an insolvency process if your customer goes belly up owing you and many others money.

Conclusion

It is important that you proactively take steps to protect yourself and your business by both registering relevant interests on the PPSR and also by using it as a valuable tool for checking whether goods you are interested in are already the subject of finance. You will also be able to demonstrate to would be lenders that your goods and assets are free of any debt.

Ensuring that registrations on the PPSR are correct and complete is also important. Our experienced lawyers can advise and assist you on all aspects of the operation of the PPSR.

If you or someone you know wants more information or needs help or advice, please contact us on (03) 9600 0162 or email info@lordlaw.com.au.