

Keeping you in the Loop – changes to PPSA

17/12/2015

Key Points

- A new threshold of one year applies to leases and bailments that require registration on the Personal Property Securities Register (**PPSR**)
- Changes came into effect from 1 October 2015

Introduction

Prior to 1 October 2015, leases or bailments of certain serial numbered goods (think motor vehicles and excavators) for a term of ninety (90) days or more were deemed to give rise to a security interest under the Personal Property Securities Act 2009 (Cth) (PPSA). As a result, registration of the lessor or bailor's interest on the PPSR was required to protect their security interest.

What has changed?

On and from 1 October 2015, only a lease or bailment that falls within the new definition of a PPS lease will be deemed a security interest registrable on the PPSR.

In accordance with section 13 of the PPSA, a 'PPS lease' means a lease or bailment of goods:

1. for a term of more than one year; or
2. for an indefinite term (even if the lease or bailment is determinable by any party within a year of entering into the lease or bailment); or
3. for a term of up to one year that is automatically renewable, or that is renewable at the option of one of the parties, for one or more terms if the total of all the terms might exceed one year; or
4. for a term of up to one year, in a case in which the lessee or bailee, with the consent of the lessor or bailor, retains uninterrupted (or substantially uninterrupted) possession of the leased or bailed property for a period of more than one year after the day the lessee or bailee first acquired possession of the property (but not until the lessee's or bailee's possession extends for more than one year).

The amendments only affect transactions entered into after 1 October 2015.

Businesses which lease motor vehicles, plant and equipment will benefit most from the amendments as costs associated with registration on the PPSR may be reduced given that there should be fewer registrations on the PPSR.