

> PPSR UPDATE: SERIAL NUMBERED GOODS

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WELCOME CHANGES TO THE PPSA COMMENCE TOMORROW

Up until now, leases or bailments of certain serial numbered goods (such as motor vehicles) for a term of 90 days or more were deemed to give rise to security interests under the *Personal Property Securities Act 2009* (Cth) (“Act”), and therefore had to be registered on the Personal Property Securities Register (“PPSR”) to protect the lessor’s interest in the event of the lessee’s bankruptcy or insolvency and as against bona fide transferees for value.

From 1 October 2015, this 90 day requirement will be removed, with the effect that a lease or bailment of serial numbered goods for a term or 1 year or less will no longer give rise to a security interest under the Act.

Short term motor vehicle and plant and equipment hire businesses in particular will benefit from these changes, as less hires are likely to require registration on the PPSR. This will reduce the cost of compliance for these businesses.

It is important to note that these changes do not apply retrospectively, so any lease or bailment of a motor vehicle for 90 days or more entered into prior to 1 October 2015 should still be registered on the PPSR. Further, if the lease or bailment is for an indefinite term, or there is any prospect that the lease or bailment may be extended so as to exceed 1 year (for example, if the lease or bailment is renewable at the end of the term, whether automatically or at the option of either party), then this arrangement will still be caught by the Act.

WHAT DO YOU NEED TO DO?

If these changes affect you, you should review your pro forma documentation to ensure that it is clear that any lease or bailment is not for an indefinite term and can under no circumstances exceed 1 year. If you do not have a provision in your documentation to this effect, then we recommend that you include one. If your documentation does not include a specific end date or if there is any possibility that a particular lease or bailment may exceed 1 year, then you should continue to register that arrangement on the PPSR from the outset.

FOR MORE INFORMATION, PLEASE CONTACT:



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