



WELCOME RELIEF FOR EQUIPMENT HIRE BUSINESSES: THE DEFINITION OF A “PPS LEASE” IS CHANGING!

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On 11 May 2017 the Senate passed the Personal Property Securities Amendment (PPS Leases) Bill 2017, which will see changes being made to the definition of a “PPS Lease” under the *Personal Property Securities Act 2009* (“the Act”). The changes will come into effect once the Bill receives Royal Assent, which is due to occur in the coming days.

Currently, hire agreements that are for an indefinite period, or for a period of more than 1 year, are deemed to be leases that are captured by the operation of the Act, and have to be registered on the PPSA in order to avoid the possibility of a bank or liquidator stepping in and taking the hired equipment.

Under the new definition, a hire agreement will not need to be registered unless it is for a period of more than 2 years. Hire agreements for an indefinite term will no longer be deemed PPS leases and will not need to be registered unless, subsequently, they run for a period of more than 2 years.

You do still, however, need to be careful because:

- (a) if the hire agreement is for a term for less than two years, but includes an option to renew and the aggregate period of the agreed term and the option period exceeds 2 years then it will be caught by the Act; and
- (b) the timing of the requirement to register a hire agreement for an indefinite term has not changed. That is, you still have to register when the equipment is delivered to the Hirer. Therefore

it is still important to register in advance if there is any chance the hire period might extend beyond 2 years as you cannot register retrospectively.

WHAT DO THE CHANGES MEAN FOR BUSINESS?

The reason for amending the minimum duration of PPS leases from more than 1 year to more than 2 years is to reduce the impact the Act is having on short term hire and rental businesses that operate on short term or indefinite term leases which rarely exceed a period of 2 years.

While the changes mean that suppliers operating on indefinite term leases will no longer be required to register their interest on the PPSR, as mentioned above, it is still prudent to do so if there is any prospect of the hire term exceeding 2 years.

The changes only apply to hire agreements entered into after the changes take effect. This means that all existing hire agreements that have a term of more than 1 year or that are for an indefinite period, must still be registered on the PPSR.

FOR MORE INFORMATION, PLEASE CONTACT:



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