

THREE KEY POINTS - PPS ACT

- A lot of information is available about the Personal Property Securities Act 2009 (PPS Act) on the LPLC website: www.lplc.com.au
- Tick off on the PPS Act on every file.
- Call your risk managers at LPLC: 9672 3800.



THREE HOT TOPICS

- Review of the PPSA
 On 4 March 2014, the Attorney-General, Senator the Hon. George Brandis QC announced a review of the PPS Act.
- Personal Property Securities Amendment (Deregulatory Measures) Bill 2014
 The purpose of the Bill is to simplify registration relating to PPS leases. The 12 month rule will apply to all PPS leases.
- LIV sale of business agreement new edition released. The latest version includes a PPSA clause.



PPS ACT AND CAUSES OF CLAIMS

- Failure to verify company registration.
 When do you check?
- Failure to execute. Has the security agreement been properly signed?
- Failure to register on the PPSR.



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PPS ACT AND CAUSES OF CLAIMS

- Failure to register within time. See section 588FL of the PPS Act. 20 days to register. Previously 45 days see section 264 -Corporations Act 2001.
- Failure to stamp ie security agreement may be dutiable in another state/territory.
- · Security agreement left on file.



CASE STUDY – RENTAL AGREEMENT

You act for your local newsagency. The owner has decided to upgrade their photocopier. The photocopier is used by staff and can be used by customers for a specified fee.

The client asks you to advise them on the 'standard form' rental agreement relating to the photocopier.

The agreement includes a PPS Act clause. A copy of the clause is attached.

What amendments would you make to the PPS Act clause?



- Are sales of goods a purchase money security interest (PMSI)?
- Will the registration of a PMSI take priority over a charge which has been migrated from the ASIC register?
- Request for practical information for completing a financing statement.



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- When should the collateral class be 'all present and after acquired property'?
- What does it mean where the proceeds are 'all present and after acquired property'?
- What can be done where a security interest has not been registered within the required 15 days for a PMSI or 20 days for all other security interests?



- Request for wording to be included in a security agreement dealing with the PPS Act.
- Are practitioners obliged to inform former clients of the need to register on the PPSR?
- Are options security interests?
- When are goods serial numbered for the purpose of section 46?



When is a registration defective?

A registration error invalidates a financing statement:

- if it is a seriously misleading defect or
- where there is a failure to include the serial number making it impossible to do a serial number search or
- where there is a failure to include the grantors details making it impossible to search.

See section 164.



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OTHER MATTERS • Tutorial aavailable at:

http://www.ppsr.gov.au/Help/Tutorials/Pages/default.aspx

- PPS Act cases
- PPS Act resources
- PPS Act Key Risk Checklist
 - Office procedures
 - Processing
 - Searching
 - Reporting
 - Other matters


