An introduction to PPS Leases under the 
Personal Property Securities Act 2009 (Cth) 

March 2014
PPS Leases defined

PPS Leases as PMSIs

Registering PPS Leases

The danger of unregistered PPS Leases

PPS Leases v conventional security

Questions
PPS leases defined

Lease or bailment of goods for ...

More than one year, including any holding over or renewal
  • 90 days, for serial-numbered goods

OR

An indefinite term

BUT ONLY IF

Lessor/bailor is "regularly engaged in the business of leasing/bailing goods

AND

Lessee/bailee provides value for the bailment

[s 13]
PPS Lease examples

- Lease of goods for two years
- Bailment of cars by manufacturer to dealer for sale
- Aircraft / Vessel leases or charters
- Lease of fittings in conjunction with lease of premises
- Hire of car for 100 days
PPS Leases as purchase money security interests ("PMSIs")

- PPS Lessor
- Company
- Bank

Lease of product for two year term (PMSI)
Unpaid rentals

General Security Interest (GSI)
GSI attaches to Products

Red = priority contest
ROT = retention of title sale
PMSI = purchase money security interest
Four types of PMSIs

- ROT sales
- Purchase finance (security interest taken by a person who gives value to enable the grantor to acquire collateral)
- PPS leases
- Commercial consignments
Registering PPS Leases

Registration Number Search Certificate
This is a registration number search certificate for a grantor search.

This Search certificate is provided under section 174 of the Personal Property Securities Act 2009.

Search certificate number: 3910552207330004
Search number: 391055220733

This search certificate reflects the data contained in the PPS Register at 23/03/2012 15:38:27 (Canberra Time)

Search Criteria Details
Grantor type: Organisation
ACN: PRODUCTS PTY. LTD. (Verified by ASIC Register)
Registration state: Current
PMSI: Registrations that are either a PMSI or not a PMSI
Transitional: Not Transitional
Transitional - non migrated
Transitional - migrated
Registration Kind: All registration kinds

Registration Details
Registration number: 201112212327757 Change number: 6623033
Registration kind: Security Interest
Registration start time: 30/01/2012 00:00:00 (Canberra Time)
Registration end time: 29/01/2019 23:59:59 (Canberra Time)
Registration last changed: 30/01/2012 00:00:00 (Canberra Time)
Subordinate registration: Not stated
Registration State: Current

Grantor Details
Organisation identifier: Organisation identifier type: ACN

Collateral Details
Collateral type: Commercial property
Collateral class: Other goods
Description: Office Machines and Equipment
Procedures: Yes - All present and after acquired property.
Inventory: No
Purchase Money Security: No
Interest:
Key classes of collateral for registration

**Tangible property**
- Motor vehicles
- Watercraft
- Aircraft
- Agriculture
- Other goods

**General property**
- All present and after-acquired property ("Allpap")

**Intangible property**
- Accounts
- General intangibles

**Financial property**
- Investment instruments (eg shares)
- Intermediated securities (eg ASX-listed shares)
The danger of unregistered leases
In re Maiden Civil (P&E) Pty Ltd [2013] NSWSC 852

Esanda/ Westpac

Loan

Security for loan to QES

QES Affiliate

Lessor / Bailor (QES)

Lease of Caterpillar vehicles

GSD

Lessee / Bailee (Maiden)

Fast Financial

Loan

GSD = general security deed
Unresolved conceptual issues

Leasing structures

Does the Lender retain security over the asset, or does it instead only get security over the Lessor's rights under the PPS lease (as proceeds)?

If the Lender does retain security over the asset, does it need to re-register against the Lessee?

The answer may turn in part on whether the PPS lease constitutes a "transfer" of the asset to the Lessee, at least for PPSA purposes.
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