



Hello from the other side... of the PPS Bill

The PPS Bill proposing an amendment to the definition of ‘PPS Lease’ in the Personal Property Securities Act has finally been passed – What does this mean for you?

WHAT HAS HAPPENED?

On 11 May 2017, the *Personal Property Securities Amendment (PPS Leases) Bill 2017* was passed by Federal Government. The reforms extend the minimum duration of PPS leases from more than one (1) year to more than two (2) years.

This means that for a lease to be registered on the PPSR as a PPS Lease, the lease term must be for a minimum period of at least 2 years or up to 2 years in limited cases.

A lease will only fall within the scope of a PPS lease once the lessee/bailee has been in possession of the goods for a period of two (2) years. Registration of a PPS lease will need to occur towards the end of the two (2) year period as opposed to commencement however, lessors will still have the opportunity to lodge their PPS registration prior to the commencement of the indefinite lease term agreement.

An existing lease or bailment of goods deemed to be a PPS Lease before the amendments come into force will not be affected by the changes.

WHAT DO THE CHANGES MEAN?

This change will see a significant reduction in both the number of registrations made on the PPSR in the risks that often associated with a failure to prepare registrations. The amendment will assist small and medium sized businesses who are often engaged in short term leases of equipment, as well as the hire and rental industries providing the equipment.

These changes will not be retrospective and will only apply to future leases and bailments entered into after the introduction date. Any existing leases or bailments entered

into on or before 20 May 2017 will not be affected by the amendment. Any agreements entered into after 20 May 2017, including agreements or arrangements of longer than two years including options, will need to be registered on the PPSR as a PPS Lease.

The changes to the Bill reduces the significant impact that the PPSA previously had, particularly in the building and construction industry and specifically, on short term hire and rental businesses.

We often see these businesses using indefinite term leases when contracting, which often do not exceed two years and are very short in length. The amendments mentioned above will restrict the PPS requirement only for registration of longer term hires and rental industry leases. As a risk mitigation measure, however, the hirer should still consider whether to register in any event.

Moving forward, the commercial leasing and hiring industry will need to review existing policies, procedures and risk mitigation measures for the registering of PPS leases.

Georgia Uzabeaga is a Lawyer on the Kreisson Construction team.

This communication is sent by Kreisson Legal Pty Limited (ACN 113 986 824). This communication has been prepared for the general information of clients and professional associates of Kreisson Legal. You should not rely on the contents. It is not legal advice and should not be regarded as a substitute for legal advice. The contents may contain copyright.