



# An Agribusiness Guide To PPSR: Secure Your Interests

This guide is a high level look at how the Personal Property Securities Act (PPSA) affects agribusiness operations. It covers typical security interests and how to protect them under this law.

- What is the PPSA and PPSR
- What it covers
- Practical examples of how PPSR works in agribusiness
- Registering
- Searching
- Terms and Conditions of Trade (T&Cs)

## What is the PPSA and PPSR

The PPSA provides a regulatory framework for arrangements where one party takes security over supplied goods or an asset in a customer's possession, acting as collateral for the debt. The Personal Property Securities Register (PPSR) is the single national register that anyone can access to register a security interest or to search whether a security is registered. The two work together, with the PPSA providing the rules and the PPSR acting as a public noticeboard.

A registration:

- Costs as little as \$11 to register
- Usually lasts for seven years
- Can cover all supplied goods/equipment within that time

If your customer becomes insolvent:

- You rank as a secured creditor
- Administrators, liquidators and receivers are obligated to contact you upon appointment
- Correctly registered security enables suppliers to be first in line for payment (ranking ahead of the bank, ATO or any other creditor)

## What it covers

Security interests are typically created when:

- selling or buying livestock, wool, timber, harvested produce, feed, fertiliser, crops or nursery trees
- leasing, bailing or other hiring out of stud or breeding cattle, horses or other animals if leased or hired for period of two or more years
- selling, leasing (for two or more years) or purchasing of any farm machinery, irrigation or other equipment
- selling of grain or other goods on credit or retention of title terms.

Common assets covered are:

- Crops and livestock (and their products e.g. milk or wool)
- Farming equipment
- Plant breeder's rights
- Share farming agreements
- If you lease equipment or send goods to a dealer for sale, you may need to register this as a PPS lease or consignment, depending on the terms.

The PPSA does not apply to:

- Land or water rights
- Certain legal liens (like mechanics' liens), unless agreed in a contract
- Employee wages or land-related payments

## Practical examples of how PPSR works in agribusiness

### Financing

- Financier: Fixed Charge Security Interest. Attaches to specific assets such as equipment, cattle stock, motor vehicles.
- Bank: General Security Interest. Covers stock, cash at bank, debtors.

### Suppliers

- Hiring equipment
- Selling equipment
- Agisting cattle on another farmer's land
- Selling goods e.g. feed, health supplies, veterinary services

### Farmers

- Sending cattle to slaughter
- Sending cattle to feedlots
- Agisting on another farmer's land
- Stud Bulls to other farms
- Renting or lending equipment to other farmers
- Storing equipment on others land informally

### Service Providers

Such as lawyers, accountants, finance brokers

- Clients buying businesses, equipment or vehicles that need to be searched
- Clients needing to register on PPSR
- Searching PPSR to ensure registrations against clients are legitimate

## Registering

DIY registering directly on the government PPSR site comes with a high risk of error. The PPSR can be difficult to navigate and the rules complex. An incorrect registration is ineffective and unenforceable, wasting time and money, and creating unnecessary risk.

You'll need to provide the following details for each registration:

- Secured Party Group i.e. you
- Grantor i.e. your customer
- Collateral Type i.e. commercial or consumer
- Collateral Class i.e. a description of the property (many different classes are grouped into four categories; tangible, general, intangible and financial)
- Type of Registration e.g. PMSI, ALLPAAP

Alternatively, Access PPSR software simplifies the complexity of registrations through automation. Our onboarding process ensures we understand how you trade. Pre-set profiles and built-in validation tools ensure one click registrations that are right every time.

## Searching

A PPSR search is crucial when purchasing assets like crops, livestock, and second-hand machinery. It helps you avoid property or goods that are stolen, unpaid, written off or have been used as collateral for a debt. If you don't do a search and buy property that has a security interest registered over it, you're at risk of the goods being repossessed even though you've paid for them.

## Terms and Conditions of Trade (T&Cs)

A 'security agreement' is required between the two parties to ensure enforceability of registrations. It's important to ensure your T&Cs:

- For supply of goods - Include a 'retention of title' (ROT) clause, which enables a supplier to retain ownership of delivered goods until paid
- For hire, rental or lease of goods – Include terms to satisfy a PPS Lease arrangement
- Are signed (or accepted in another way) by the customer

### Key Takeaway

If you're involved in agribusiness, you're probably affected by the PPSA. Registering on PPSR protects your rights. Access Intell Founder and CEO Lynne Walton is one of Australia's leading PPSR experts. Our team would be happy to discuss your unique PPSR situation.