

# Is your arrangement COVERED BY THE PPSA?

A security interest is an interest in personal property that secures payment of a debt or other obligation, such as the return of property. The simplest way to think of a security interest is to think of a mortgage over land, except in the case of a security interest, it is a "mortgage" over non-land assets, such as equipment, vehicles, stock and other goods, such as intellectual property.

Security interests in Australia need to be registered on the Personal Property Securities Register (**PPSR**), which is a form of finalising (or perfecting) your interest to ensure its validity under the Personal Property Securities Act (**PPSA**).

There are two main types of security interests, being a:

1. Purchase Money Security Interest (**PMSI**) – this provides a super priority, which will defeat any general security interests registered in respect of the same property, even if they are not registered first in time.
2. Other Security Interests – this may be a general security interest over all property of the grantor (previously a fixed and floating charge), or a specific interest in certain property that is not a PMSI. A general security interest is usually referred to as an **ALLPAP** (under which all present and after acquired property of the grantor is secured).

The nature of the arrangement that you enter into defines the type of security interest you have, and therefore its priority status relative to other security interests in the same collateral. The following table gives examples of some of those arrangements.

ARRANGEMENT	SECURITY INTEREST
Lending - whereby the lender is lending money and takes security over the assets of the Borrower to secure repayment	AllPAAP (unless lending money for specific, item of property in which case a PMSI may apply)
Storage/bailment arrangements <b>NOTE</b> – Registration only required if the hire is for more than 2 years (including if there is an automatic renewal)	PMSI (over the specific goods)
Hire/Lease arrangements, including hire purchase arrangements and vehicle leasing <b>NOTE</b> – Registration only required if the hire is for more than 2 years (including if there is an automatic renewal)	PMSI (over the specific goods)
Consignment arrangements	PMSI (over the specific goods)
Retention of title arrangements, such as the sale of stock on credit terms	PMSI (over the specific goods)
Leaving equipment on site which you retain ownership of <b>NOTE</b> – Registration only required if the hire is for more than 2 years (including if there is an automatic renewal)	PMSI (over the specific goods)
Providing services (and not goods) on credit terms	AllPAAP

More than one registration is often recommended and an underlying agreement should support your interest. This table contains typical examples, but in reality, there are few typical cases.

Depending on which type of security interest you have and the nature of the property you are securing, this will also dictate the timeframe within which registration must occur.

## What does this mean for you?

A significant number of everyday business transactions are covered by the PPSA, and to secure your interest in your property or the property of another person, you need to ensure that your arrangement complies with the requirements under the PPSA and your security is validly registered on the PPSR. A failure to do so can leave you exposed to losing your assets in certain circumstances including the bankruptcy, insolvency or administration of the other person.

If you are entering an arrangement that may be covered by the PPSA, please feel free to contact us to discuss what you need to do to protect your interests today.