

PPSR – Some Tips & Traps

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Hire Rental Industry Association (QLD DIV)
15 April 2015

Introduction

Corney & Lind Lawyers Pty Ltd

➤ Mid size law firm

➤ Our focus areas

Schools & Education

Not for Profit & Charity

Commercial

Employment & Discrimination

Personal Injury

Family Law

Estate & Elder Law

➤ Our lawyers travel to you if needed

➤ Specialist lawyers providing cost effective, responsive solutions

➤ Based right next to the CBD opposite the RBWH transport hub

Define *security interest* for me

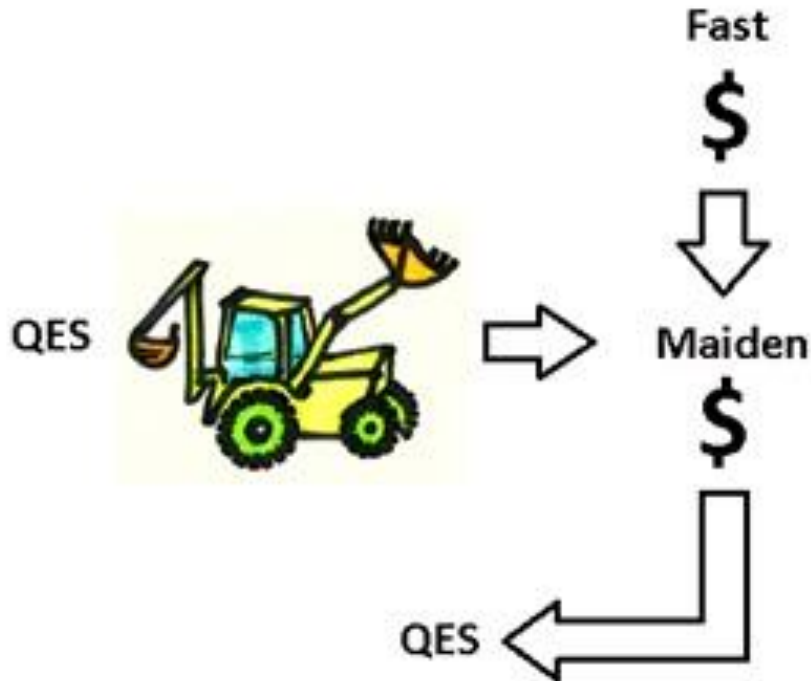
A *security interest* means an interest in **personal property** provided for by a transaction that, in substance, secures *payment* or *performance* of an obligation.

– s 12 *Personal Property Securities Act 2009*



So what if I don't register my security interests?

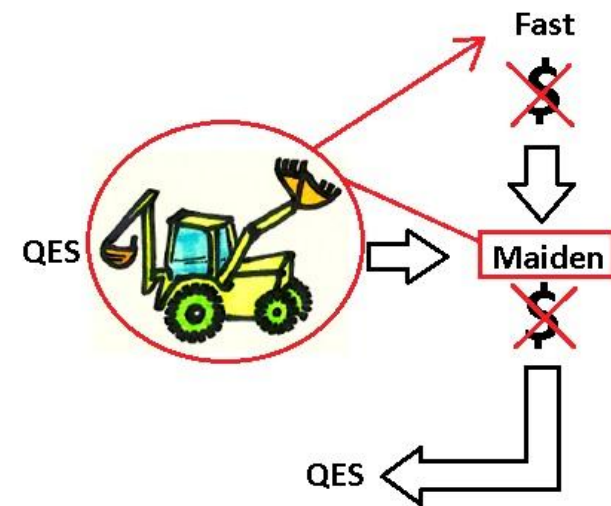
Maiden Case



Who has *priority*?

- Section 55 PPSA
- Between two unperfected security interests
- Between a perfected security interest and an unperfected security interest
- Between two perfected security interests

- Parties with a registered PMSI



Do I need to register everything?

- Hiring equipment to customers on definite, short term agreements
 - One week
 - One month
 - Not caught by the Personal Property Securities Act 2009
- Hiring equipment for an indefinite period or greater than 1 year
 - Includes a term of less than 1 year with renewable terms over 1 year
 - Includes a term of less than 1 year where the customer has (substantially) uninterrupted possession of the property (after 1 year)
- Hiring motor vehicles for a term of 90 days or more
 - Includes renewable terms or (substantially) uninterrupted possession
 - Must be registered on the Personal Property Securities Register as a “PPS Lease”

What if I have a security interest?

- Urban Myth:
 - “I can register my interest against my goods”

- To be enforceable against third parties there must be an agreement in writing that adequately describes the goods

- Security interests must be registered against another party as Grantor

- You will need specific details about the Grantor (i.e. Your customer)

What type of security interest do I have?

What am I *securing*?

- Payments
 - Lease or hire payment for goods → PPS LEASES

- Obligations – eg:
 - Maintaining leased property in good repair

- Purchase money – other forms of PMSIs
 - Hire purchase agreements
 - Ongoing supply of goods on ROT basis

What if my business structure has more than 1 entity?

Do we have a *security agreement*?

- Can be oral or in writing, but may need to be in writing to be enforceable against 3rd parties.
- No specific formal requirements, but...
- Best practice to include rights if there is a default – e.g. to retake possession of collateral and sell up.
- Must cover the security interest and should describe the collateral.
- 3rd parties are entitled to call for a copy of it – consider extracting unrelated commercially-sensitive terms.

What is the *collateral*?

- Classes of registration
 - **Tangible property**
 - **Motor vehicles**
 - Aircrafts
 - Watercrafts
 - Crops & Livestock
 - **Other goods**
 - General property
 - Intangible property
 - Financial property

Time for Registration

- Can register before signing a security agreement
- Purchase Money Security Interest (“PMSI”)
 - A PMSI has priority over other perfected security interests if:
 - PMSI is perfected by registration
 - Registration states that the interest is a PMSI
 - PMSI is registered by the required time
- Super priority?
 - If the collateral is Inventory
 - register prior to the customer taking possession
 - If the collateral is not Inventory – register within 15 business days of the customer taking possession

Additional Registration Tips

- Secured party group
- Duration
- Description of property
 - ▣ Specific but inclusive
 - ▣ Serial numbers are required for some types of property
- Proceeds
- Using the register

Offers to participants today

PPSR High Point Advice Conference

- Usually \$695 (inc GST)
- For the first 6 emails – \$595 (inc GST)

Note: Offer applies for the first 6 responses within 7 days

Contact



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