

RESPONSIBLE REGISTRATION MANAGEMENT

'Proving' ownership



Australian Government

Australian Financial
Security Authority



PPSR
Personal Property
Securities Register

What not to do

The PPSR is not a register to record or prove ownership of assets. We are aware of circumstances where people have made (or have been advised to make) a registration on the PPSR over personal property like cars, tools, boats, or trailers:

- to frustrate dealings with that asset (for example, to stop the asset being sold).
- in a misguided attempt to show that they own the asset.

Not only can this delay or frustrate commercial transactions such as the sale of that property by its owner, the presence of these types of registrations on the PPSR undermines the reliability and integrity of the register.

If you simply own property (for example machinery, a motor vehicle), unless you have loaned or hired it to others to use and have a written agreement in place, it's unlikely that you have any security interest which needs to be – or is allowed to be – registered on the PPSR

Example

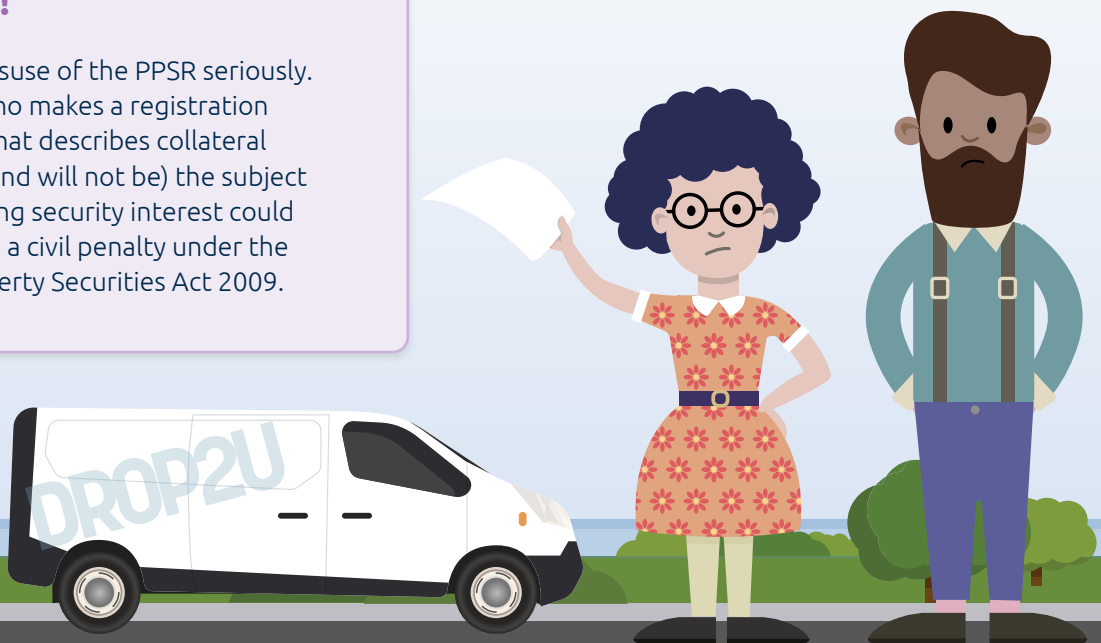
Making a registration in an attempt to stop the asset being sold.

Blake and Shirley jointly own a delivery van which they use to run a business together. They have an argument and so Blake decides to advertise the delivery van for sale so he can use the money to finance his own rival business. Shirley finds out and registers a financing statement on the PPSR against the vehicle to show that she owns the vehicle, and to hinder the sale.

Although Shirley might have a good reason to stop this sale, the PPSR is not the appropriate way to do it. Shirley does not have a security interest in the vehicle and registering a financing statement in this manner would be an improper use of the PPSR.

Take care!

AUSA takes misuse of the PPSR seriously. Any person who makes a registration on the PPSR that describes collateral which is not (and will not be) the subject of an underlying security interest could be exposed to a civil penalty under the Personal Property Securities Act 2009.



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Example

Making a registration to try to show that you own an asset

ABC Construction hire Peter to undertake some short-term plumbing work at a construction site. In the course of his work, Peter takes his own tools and one of his work vehicles to the site.

Peter hears that ABC Construction is facing some financial difficulty so, on the advice of his accountant, Peter registers a security interest on the PPSR against ABC Construction in an attempt to demonstrate, in a bankruptcy scenario, that Peter owns his work vehicle and his tools (which he hasn't agreed to lease or loan to ABC Construction). Peter does not need to (and should not) register a security interest on the PPSR over those assets because there is no security interest. The PPSR is not a register of ownership – just because Peter uses or leaves his property at the site on a short-term basis does not mean that ABC Construction has a security interest in that property that needs to be registered.

* * This might be different if there was a separate agreement for Peter to loan or make those tools available to ABC Construction for the project or they were likely to be out of Peter's possession for more than 2 years in which case Peter might need to consider if this was a "PPS Lease".

Best practice

When should I register a security interest against my property?

The PPSR is a public online register on which you can record any security interest you have been granted over personal property, For example:

- where a person leases its property to a third party and that lease satisfies the criteria of a "PPS Lease" under the Personal Property Securities Act 2009.
- where a person sells goods on "retention of title" terms, so that title to the goods remains with the seller until the goods are paid for (even if physical possession passes to the buyer).

A registration on the PPSR must only describe collateral that is (or will be) the subject of a security interest in favour of the secured party noted in the registration.

Key Points

- The PPSR is a register of security interests not a register of property ownership.
- Any person who uses the PPSR for an improper purpose could face penalties under the *Personal Property Securities Act 2009*.
- Simply making a registration on the PPSR against a particular asset, does not (of itself) give you any rights in that asset. You should only make a registration over assets that you own in circumstances where there is a transaction (e.g., a lease, loan, or sale) and a written agreement in place.

