



What is the PPSR?

The Personal Property Securities Register (PPSR) is the single, national online database of security interests in personal property in Australia.

Personal property generally includes all forms of property other than land, buildings and fixtures.

Buyers can check the PPSR to see if the valuable second-hand goods they want to buy are debt-free and safe from repossession. A search fee is \$2.00.

For a business selling on terms – such as retention of title or commercial consignment, or hiring or leasing out goods for longer terms – properly registering helps protect its interest, for instance should a customer not pay or go broke. A registration fee starts from \$6.00 for 7 years.

PPSR CASE STUDY 9/V2

Agriculture – Henri’s barley crop

Scenario – farmer recovers crop supplied on retention of title terms from customer ...

Concepts covered:

- retention of title
- commingled goods/produce
- priority rights.

Henri grows and sells barley to wholesale customers. He provides his standard terms to customers:

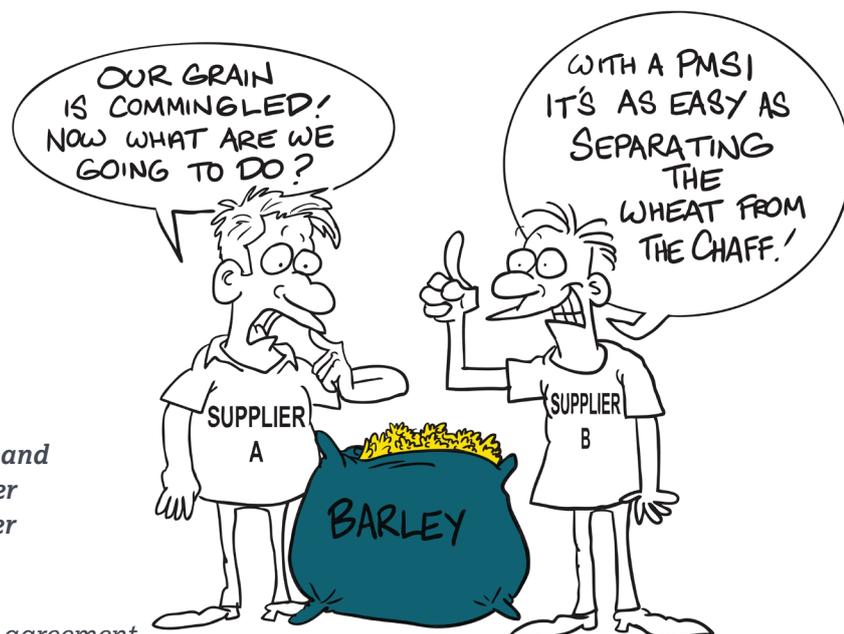
“ ... invoiced on delivery, 14 days to pay, and title to the goods remaining with the seller until all amounts payable by the customer to the seller have been paid ... ”

Customers email back a scanned and signed agreement.

Before any delivery, Henri always registers on the Personal Property Securities Register (PPSR) against the relevant customer’s grantor details, specifies collateral class ‘other goods,’ and ticks the box claiming a Purchase Money Security Interest (PMSI)

Henri enters into a supply arrangement on his standard terms with wholesaler Grainswift Pty Ltd, and duly registers on the PPSR against the ACN of Grainswift.

After a year, Grainswift starts defaulting on the 14-day payment terms and then goes into liquidation.



continued next page ...

If this sounds like a scenario that could apply to your business, you might want to consider these things ...

Separate grain

At the time of liquidation, some barley, held separately and identifiable as the barley supplied by Henri, is unpaid for.

Because Henri has registered before delivering the barley to Grainswift, Henri may recover that barley from the liquidator.

Tip

Even if Grainswift has given a security interest over all its property to its bank for its general lending to Grainswift, and the bank has registered on the PPSR, Henri's PMSI, registered before delivery of any inventory, has priority irrespective of when the bank registered its security interest.

Commingled grain

At the time of liquidation, the other portion of the barley Henri supplied has been mixed with identical barley supplied by Jo, who also registered a retention of title arrangement against Grainswift's ACN as a PMSI.

Neither Henri nor Jo has been paid for their barley and no other barley from any source is in the mixture. At the time of mixing, the value of Henri's barley was \$1000 and the value of Jo's barley, \$3000. The value of their barley was also the amount they were each owed and the debts are still unpaid.

Henri and Jo are entitled to recover barley in the proportions that their respective debt bears to the total debt secured by perfected security interests in the mixed barley – Henri one-quarter and Jo three-quarters of the sale proceeds. If the liquidator sells the mixed barley for \$4000, Henri is entitled to receive \$1000 and Jo \$3000.

Tip

If the liquidator sells the barley for more than \$4000, Henri and Jo would still only be entitled to recover \$1000 and \$3000 respectively, since they cannot recover more than the value of the goods on the day they were mixed, and in any case that is the amount that they are each owed here.

If the liquidator had obtained only \$3000 for the barley (because the price had fallen since mixing), Henri and Jo would again be entitled to share it in the same proportions – Henri \$750 and Jo \$2250. In this case, they would both recover less from the secured property than the amounts owed, and can claim for the shortfall as unsecured creditors in the liquidation.

This is a general scenario intended to provide typical examples.

This scenario is not legal advice about how the law applies to your particular business and dealings.

You may wish to seek professional advice from your accountant, financial adviser or lawyer.

For more information about the Australian Government's Personal Property Securities Register (PPSR) go to:

Website: www.ppsr.gov.au

Email: enquiries@ppsr.gov.au

Telephone: 1300 007 777