



Personal Property Securities Act

The Personal Property Securities Act (PPSA) is a new national law concerning the registration of **security interests in personal property including racehorses and greyhounds**: it is likely to affect all businesses in Australia and a large number of individuals. The PPSA will commenced 30th January 2012.

Tasracing recommends that you read this fact sheet carefully and act immediately.

- Under the Act, personal property includes all tangible and intangible property including horses and dogs (but excluding land and fixtures).
- A lease of personal property for a term exceeding 12 months, such as the lease of a racehorse, is a security interest known as a "PPS Lease" under the Act.
- Under the new law, security interests will need to be registered on the Personal Property Securities Register (PPSR). If they are not, a third party could register an interest over your racehorse or greyhound if it is in someone else's care and gain possession of it should the lessee have financial difficulties.

How will this affect the racing industry?

Under the new Act, most, if not all, horse/ greyhound owners, lessees and trainers will have leases or arrangements that are **PPS Leases**. Trainer agreements, leases and agistments are examples of the types of agreements that are likely to give rise to a security interest.

ALL industry participants must consider their individual situation to determine if and where a security interest exists and take the necessary steps to **register** it on the PPSR (www.ppsr.gov.au).

What do I have to do?

It is important that everyone is aware of their requirements in regards to protecting their interests.

You **MUST** register your security interest(s) on the PPSR to protect your racehorse or greyhound from the creditors of third parties who may have also registered an interest in your animal.

To register your security interest in personal property you must log on to the PPSR website and complete the required information.

What could happen if I don't register a security interest in the PPSR?

Case study from New Zealand - Waller v New Zealand Bloodstock Limited

Key facts of the case:

- New Zealand Bloodstock leased a stallion named Generous to Glenmorgan Farm for an initial period of three years. The terms of this lease specified that at all times the title remained with New Zealand Bloodstock. This agreement created a PPS Lease (a deemed security interest).
- The security interest created from this agreement should have been registered by New Zealand Bloodstock, however it was not.
- A few years prior, Glenmorgan Farm had granted security over "all its present and future assets" to a creditor, S.H. Lock (NZ) Limited. S.H. Lock registered its security interest in Glenmorgan Farm's assets.
- Glenmorgan Farm went on to become insolvent.
- Despite New Zealand Bloodstock owning Generous, as they had not registered their security interest, it lost priority over Generous and SH Lock was able to keep the horse and its sale proceeds of approximately \$2 million.
- New Zealand Bloodstock lost their entire investment of \$2 million by not registering their security interests.

Key dates

This legislation is effective from **30 January 2012**.

From this date, all **new** security interests will need to be registered on the PPSR in order to be protected.

Owners of security interests **already** in existence as at 30 January 2012 will have 24 months to register their interests. It is in your interests to complete all registrations as soon as possible.

For more information

RISA's website contains some important information for Owners and Trainers in the Announcements section of their website:

<http://risa.com.au/AboutUs/IndustryAnnouncements.aspx>

The Federal Government's website contains all relevant information about the Personal Property Securities Act (PPSA) and access to the Personal Property Securities Register (PPSR).

<http://www.ppsr.gov.au/Pages/ppsr.aspx>

<http://www.ppsr.gov.au/AsktheRegistrar/FactSheets/Pages/default.aspx>

The above information is provided as information only and should not be taken as legal advice.

All persons affected by PPSA legislation should take steps to obtain professional advice.