



CHANGES TO THE DEFINITION OF MOTOR VEHICLE UNDER THE PPS ACT

May 2014

Starting on 1 July 2014, the range of property within the definition of motor vehicle, for the purposes of the Personal Property Securities Act 2009 (PPSA) will be reduced.

This change is intended to reduce the costs of working with the PPS Act and the Personal Property Securities Register (PPSR) for small and medium hire businesses by reducing the number of leases of equipment that will involve the making of registrations on the PPSR by serial number.

This fact sheet should be read in conjunction with the Personal Property Securities - Key concepts fact sheet. Please visit www.ppsr.gov.au to obtain this and other information.

What has changed? What is the new definition?

For the most common types of 'motor vehicles', such as trucks, cars and motor bikes, the changes have no significant implications.

Cars, vans, utes, trucks and motor bikes will generally be well within the scope of the definition of motor vehicle both before and after the definition changes.

However, starting on 1 July 2014, an amendment to sub-regulation 1.7(2) of the Personal Property Securities Regulations 2010 will narrow the definition of motor vehicle for the purposes of the PPS Act.

The definition will apply to security interests (including PPS Leases) entered into on or after 1 July 2014.

This will normally include, for example, leases entered into on or after 1 July 2014 even if they involve terms established under an earlier general agreement with a lessor.

Property is a motor vehicle under the PPS Act if it is built to be propelled wholly on land by a motor that forms part of it (but not if it runs on rails, tram lines or other fixed path), has a unique serial number and:

- up to the end of 30 June 2014 (the old definition) is also capable of travelling at more than 10km/hr OR has a total motor power greater than 200W.
- starting on 1 July 2014 (the new definition) the property is also capable of travelling at more than 10km/hr AND has a total motor power greater than 200W.

Regulation 1.7(3) will not change, so some types of property with a serial number and wheels that are built to be towed at more than 10km/h will still be a motor vehicle. Examples include caravans and trailers.



Does the '90 Day Rule' for PPS Leases still apply?

Yes. Until the PPS Act is amended*, paragraph 13(1)(e) of the PPS Act still applies.

This means that leases or bailments of serial numbered goods (which includes motor vehicles) of 90 days or more in length (or which are automatically renewable and might extend for 90 days or more or that are extended by consent to more than 90 days) are deemed to be security interests under the PPS Act (a PPS Lease).

After the new definition applies, it should lead to fewer leases of 90 days or more being PPS Leases under paragraph 13(1)(e).

Registering security interests in property - do I need to do anything differently after the change?

A person may have a security interest in a motor vehicle under the old definition as a result of the 90 day rule for PPS Leases (for example a 100 day lease).

A similar lease or bailment of the same property entered into on or after 1 July 2014 might not create a security interest if the relevant property is outside the new definition of motor vehicle.

Existing registrations can be maintained to cover security interests created before the changes.

If security interests (including PPS Leases) are created on or after 1 July 2014 over property that is no longer a motor vehicle because of the new definition, a registration over the 'Other Goods' collateral class to cover these security interests may be prudent.

This means that if a person regularly leases property (on terms that create a security interest) that is within the old definition but not within the new definition, an existing registration over 'motor vehicles' may need to be supplemented with a further registration against their customer over 'Other Goods'.

This 'Other Goods' registration could then cover leases of property that is no longer a 'motor vehicle' starting on 1 July 2014.

People who have security interests in the types of property that may be affected by the changes should consider a review of the power and speed capability of the equipment to see if it will still be regarded as a 'motor vehicle' after 1 July 2014.

For example, elevating work platforms, some asphalt pavers, dozers, pipelayers and motorised shovels that are currently regarded as motor vehicles might not be motor vehicles from 1 July, depending on their maximum speed and power.

As mentioned, an 'Other Goods' registration may be needed, in addition to a registration covering motor vehicles, for leases entered into on or after 1 July.

* A Bill (the Personal Property Securities Amendment (Deregulatory Measures) Bill 2014) proposing the repeal of the 90 day rule was introduced into the Parliament on 19 March 2014.

Searching for a security interest in property - do I need to do anything differently after the change?

For property that was covered by the old definition but is not covered by the new definition, searchers should be mindful that registrations might exist both by serial number or by 'motor vehicle' under the old definition, and by 'Other Goods' or 'AllPAP' under the new definition.

As a result, unless the speed and power of the relevant item clearly shows that it is and was within the definition of motor vehicle, both a serial number and Grantor search may be prudent for this reason from 1 July 2014.

Professional advice recommended

Personal Property Securities could affect you or your business in a number of different ways.

You should seek professional advice in relation to your specific circumstances.

Where can I get further information?

For more information visit the 'Ask the Registrar' page at www.ppsr.gov.au.

Contact us

- Visit online www.ppsr.gov.au
- Email enquiries@ppsr.gov.au
- Telephone 130000PPSR (1300 007 777)

Help in other languages

If you have difficulty speaking or understanding English, contact the Translating and Interpreting Service (TIS) National on 131 450 for the cost of a local call.

The TIS is available 24 hours a day, seven days a week for over 170 languages.

