

Securing your Grain with the Personal Property Security Act



The newly introduced Personal Property Security (PPS) Act has the potential to both positively and negatively affect your business.

In order to use the PPS Act to your benefit, and as a Grain Marketing Service and GrainBid client, we will register your grains security interest on the Personal Property Security Register (PPSR). This means you can maintain your claim over the asset title.

So, what does this mean?

The PPS Act was implemented in 2012. This has led to a requirement for the owner of consigned goods, that are held by third parties, to register their interest on the PPSR. In the instance where the business in possession of the consigned goods goes into liquidation, you will rely on this registration to make your claim. If you don't have a registration, you will have no priority over other unsecured creditors.

And for your grain?

Most buyers are using Grain Trade Australia (GTA) terms and conditions. Whereby, the transfer of the title only occurs when the payment has been made in full. However, as you know, when you transfer your grain, you are not paid for it straight away. Therefore, once you have transferred possession of your grain you are at risk of not being paid.

In this instance, you have neither the payment nor the grain and this is where the PPSR comes in. By registering your interest with the buyer of your grain, on the PPSR, you are elevating yourself to the status of a priority secured creditor. This does not guarantee full payment for your grain.

While, in principal, this gives you the right to take back your grain, for practical reasons, it is more likely that you will receive a payment of proceeds. To achieve this result, the registration should be made as a Purchase Money Security Interest (PMSI). We will complete this registration, on your behalf, if you are a Grain Marketing Service or GrainBid client.

Consider this scenario

Farmer Brown harvests his wheat and decides to sell it to Nogood Grain Co. This company operates within the standard terms and conditions of GTA. GTA states that the title of the grain is not transferred until the payment has been made, in full, to the grower. Farmer Brown transfers the grain to Nogood Grain Co and waits for his payment. Meanwhile, the Nogood Grain Co has had financial issues and goes under the administration of a receiver. Farmer Brown is now facing the possibility that he will not be paid because he is an unsecured creditor and has to wait until the secured creditors receive their payments first. After the liquidation of the business there are insufficient funds to pay the unsecured creditors. Farmer Brown has lost possession of his valuable grain and will not be paid for it either.

What Farmer Brown should have done, upon selling his grain to Nogood Grain Co, was register his interest in the grain on the PPSR. This action would place him on the secured creditor list. This means Farmer Brown will be given priority above unsecured creditors and, therefore, a higher chance of receiving some or all of his payment from the liquidation process.

How we will help you?

In the interest of doing all we can to protect your income, we are including the registration for PPSR as a feature of your Grain Marketing Service and GrainBid package. We will complete this with each of the individual buyers who you transact grain with, no matter how large or small.

Once registered with a buyer, the arrangement will cover future sales to a particular customer for a nominated period (from 7 and up to 25 years or indefinitely). Our database will highlight when these are up for renewal.

For more information please contact us on (08) 8841 4500 or refer to the PPSR website <http://www.ppsr.gov.au>.