

Charges over assets on the Personal Property Securities Register

Make sure you don't get caught out by the charges expiring

A young businessman loaned a large sum of money to a friend in order for his friend to start up a business. He registered a charge (known as a 'financing statement') on the Personal Property Securities Register (PPSR) over all of the assets of the business to make sure he had some security for his loan, as well as entering into a formal loan agreement in relation to the loan.

Registering this financing statement meant if his friend defaulted in repayments of the loan, the businessman could 'repossess' and sell the assets of the business.

After seven years of steady repayments, the business went under and the friend failed to make further repayments of the loan and disappeared overseas.

The lender thought he could sell the remaining assets of the business to try to recover his losses. However, when his lawyer searched the PPSR, she discovered that the financing statement had expired two years earlier, so he no longer had any security over the assets of the business.

Financing statements on the PPSR will only stay registered for five years, after which time they will expire. Any financing statements registered after the expiry date (in relation to the same assets) will jump ahead of that previous financing statement in priority, so it pays to ensure you are well aware ahead of time when your financing statements expire.

Once you are aware of the expiry date, you can then file a renewal of financing statement on the PPSR ahead of the expiry date, which will renew the financing statement for another five year period. There is a \$20 fee for filing a renewal.

If you are considering taking a charge over any property, or giving a loan, you should always take legal advice prior to doing so.

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