



## Priority rules

Under the Personal Property Securities Act 1999 the general rule for priority of financing statements is outlined in Section 66 where:

- A perfected security interest has priority over an unperfected security interest in the same collateral
- Priority between perfected security interests in the same collateral (where perfection has been continuous) is determined by the party who perfected first (either by registration or possession).

[Read our glossary definition of perfection.](#)

**Note** | This information is intended as a guideline - you should obtain your own independent legal advice.

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## Exceptions to the priority rules

The most common exception to the priority rules set out in Section 66 is where a **Purchase Money Security Interest** (or PMSI) exists. Where a PMSI exists it will have a 'super priority' over a general security interest in the same collateral. A PMSI may exist in the following situations:

- A security interest taken in collateral by the seller. For example,
  - A hire purchase agreement relating to the purchase of a television or
  - a supplier providing the goods on the basis that they retain the title until the goods are paid for. Sometimes referred to as a 'Romalpha clause'.
- A loan by a bank for the purchase of a car where the loan is secured by the car, and the proceeds are applied towards the car's purchase.

## When does a PMSI arise?

For a PMSI to exist you must perfect your security interest as you would for a non-PMSI, with the exception that you must register your financing statement within certain time periods depending on the type of collateral. These include:

1. **Inventory** - If the collateral is inventory, you must register a financing statement before the debtor takes possession of the goods.
2. **Intangible** - If the collateral is an intangible, the financing statement must be registered within ten working days after the security interest attached.
3. **Other types of collateral (not inventory or an intangible)** - you must register a financing statement within ten working days after the debtor takes possession of the collateral.

When searching on the PPSR, it is not possible to identify if a PMSI exists in a financing statement. It is also not possible when registering a financing statement to indicate on it that the secured party has a PMSI. Any disputes in relation to who has priority over particular collateral may be resolved by legal proceedings.