

## The Personal Property Securities Act – it can affect you

Does your business:

- > Borrow or lend money?
- > Purchase or sell goods on agreement, assignment or credit?
- > Grow crops or raise livestock?
- > Own/lease machinery or vehicles?

**If so, the PPSA will affect you.**

The *Personal Property Securities Act 2009* (PPSA) is new legislation which will extensively change the way in which security interests in personal property are dealt with across Australia. The Act will come into effect on 30 January 2012 and will have a wide-ranging impact on Australian businesses. The legislation will also lead to the creation of an online Personal Property Securities Register (PPSR).

The PPSA will change the way businesses and individuals deal with personal property (ie essentially all property except land). The PPSA will introduce a new national system for registering security interests, and also changes what is considered a "registrable" security interest. If you own, lease, buy or sell personal property, then you need to be aware that the game is changing soon.

Because the PPSA will apply to most security interests in personal property, even businesses that have never had to register security interests before will now need to take care to protect their rights. In addition, anyone who has been granted a security interest or has entered into any form of arrangement that may be regulated by the PPSA will need to review their documents and consider what steps they need to take before the PPSA commences.

Existing security interests (eg ASIC debentures) will be migrated to the PPSR. However, any security interests which are not currently required to be registrable and are therefore unregistered cannot be migrated. So if you are the owners, or have retention of title (ROT), on leased or bailed goods and want to protect your interests, you must register this interest during the proposed 2 year transition period.

If you have any concerns we recommend you obtain independent legal advice on how the Personal Property Security Register (PPSR) will affect your business

Here are some items that you might consider when preparing for the PPSR:

**1. Review and amend your documents** - this includes your contracts, terms and conditions and any marketing materials for privacy and other consents.

**2. Evaluate your current credit policies and processes** - this could be an opportunity to streamline processes to improve efficiencies.

**3. Train your staff** so they are ready to work with the PPSR.

**4. Get your IT systems ready:**

- Ensure your systems enable collection and storage of information required for PPSR such as party details, collateral descriptions and other data you might require for registering and maintaining security interests on the PPSR.
- How will you connect/interact with the PPSR? Consider whether you will manage registrations or use the services of a third party.
- Establish a process around the transition to the PPSR:
  - Create a picture of your current security interests, registered and unregistered, and a way of identifying which of these require action on PPSR commencement.
  - Monitor the migration of your existing security interests such as ASIC charges and REVs registrations.
- Arrange registration of security interests previously not registered. Understand the priority consequences of transitional security interest provisions.
- Where security interests have not been previously registered, ensure you capture all required information when entering into new arrangements to help you better manage those interests on the PPSR.
- Review and verify the accuracy of your existing registered interests being transferred from existing registers.
- Collect information on customers who are individuals or sole traders, e.g. name and date of birth as recorded on their driver's licence.

**5. Check the information you currently have about customers is correct.** Inaccurate data can mean your registrations have no value in the event of insolvency.

*If this affects you, you need to decide your strategy now. We recommend that you review your position and contact us should you require advice.*

*For more information regarding the PPSR visit [www.ppsr.gov.au](http://www.ppsr.gov.au).*