

ALERT

9 FEBRUARY 2012

The *Personal Property Securities Act 2009* (Cth) (PPSA) – How will it impact you?

The PPSA completely overhauls security interests in personal property, being nearly all property other than land. Existing federal and state security registers will be migrated to a single national PPS Register (**PPSR**).

The commencement date of the PPSR was 30 January 2012. Every business supplying or receiving goods (and some services) will be affected by the PPSA as legal title to assets changes from one party to another.

Your assets could be at risk if you fail to recognise the impact of the PPSA. Do you:

- Sell or supply goods on retention of title terms?
- Supply goods on consignment that are stored elsewhere?
- Use a bailment arrangement to sell goods?
- Sell or receive goods on credit?
- Have goods or assets stored or held elsewhere (eg stored on a building site)?
- Provide credit facilities to third parties?
- Rent, lease or hire goods or assets?
- Intend to take security (ie a mortgage, charge or debenture) over assets?
- Grant licenses to other parties to use your goods, trade marks or IP?
- Make loans or provide funds to other parties?

Yes	No
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If yes to any of the above then:

1. The PPSA applies to you.
2. You will need to consider:
 - (a) how to describe your goods;
 - (b) the risks of not registering your interest on the PPSR;
 - (c) whether securing your interest under the PPSA is necessary or beneficial to your business;
 - (d) whether there is a need to enter into a written agreement with other party(ies);
 - (e) whether the commercial terms of your dealings are confidential;
 - (f) if your security interest will have priority over other security interests?
3. **You should contact us to review your arrangements; and**
4. You should implement procedures to:
 - (a) open an account on the PPSR Website www.ppsr.gov.au
 - (b) search the PPSR;
 - (c) obtain express consent from the other party to register your security interest;
 - (d) register a financing statement on the PPSR;
 - (e) review, maintain and amend registrations of security interests on the PPSR.

AND BE CAREFUL and seek legal advice should you:

- be asked to enter into new security arrangements;
- be looking to purchase goods or a business;
- be seeking to borrow money to invest or enter into investment instruments.



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