

JAS PARTNERS

CHARTERED ACCOUNTANTS

BUSINESS ADVISERS – TAXATION PROFESSIONALS – SUPERANNUATION CONSULTANTS

PERSONAL PROPERTY SECURITIES ACT 2009 (“PPSA”)

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The Personal Property Securities Act 2009 was passed on 14 December 2009 and will make changes to the registration of security interest in personal property. It will also radically change the notions of legal title over such property.

The Act will commence on 30 January 2012 and many businesses and individuals will be affected. The PPSR is a national system of registering security interests over property, which will replace more than 40 registers with one single register, aiming at reducing the complexity within existing laws.

Personal property is any property other than land. It includes:

- Tangibles such as goods, crops and livestock, motor vehicles, paintings, machinery and debtors; and
- Intangibles such as licenses, intellectual property, trademarks, and investment instruments.

If you answer yes to any of the following, the PPSA legislation will apply to you and you will be required to register your interest in the relevant property. Do you:

- Sell goods on credit
- Provide credit facilities in any form, including to related parties
- Make loans or advances of funds to anyone, including related parties
- Have goods or assets located at other people’s premises
- Rent, lease or hire goods or assets to others, including related parties
- Supply goods on retention of title terms
- Supply goods on consignment and where these goods are stored elsewhere
- Grant licenses to other parties to use any of your products, trademarks or intellectual property
- Plan to enter into and pay a deposit for a conditional sale or purchase contract
- Intend to take security over certain assets
- Have guarantors with charging clauses in your favour
- Have assets or funds held on trust by other parties

If the legislation does apply to you and you fail to register your interest in your property, it may lead to a situation where you cannot enforce your interest in the property, or recover property that is rightfully yours. In addition, your failure to lodge notice of your interest in your own property on the PPSR may result in situations where the property can effectively become part of the liquidated estate of a debtor, leaving you without any right to repossess the property.

However the news is not all bad for businesses. Registering your security interest on the goods you supply or lease will mean that in the case that your Debtor becomes bankrupt or is liquidated, your business will remain a secured creditor.

If you believe the PPSR legislation does or may apply to you, we recommend that you contact our office to discuss as soon as possible.

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