

## Update on Personal Property Securities Act

From 30 January 2012, the Personal Property Securities Act 2009 (the "Act") will come into effect giving lenders further protection and allowing them to register their security interests.

The Act also creates a new online register where security interests can be recorded and searched. The Personal Property Securities Register (PPSR) and associated legislation was initially proposed to commence in October 2011 but had to be postponed until 30 January 2012. The PPSR is located at [www.ppsr.gov.au](http://www.ppsr.gov.au).

The Act is to replace numerous multi-jurisdictional items of legislation and registers, and create a uniform Commonwealth Act and Register. This reform also removes the various inconsistencies between jurisdictions, providing a practical and streamlined method of registering and searching for security interests.

Secured parties, buyers and other interested parties can search the PPSR to find out if a security interest is registered over the personal property.

Security interests should be registered in order to obtain priority.

Pursuant to section 12(2) of the Act, the following are security interests:

- charges;
- chattel mortgages;
- conditional sale agreements;
- pledges;
- trust receipts;
- lease of goods;
- an assignment;
- transfer of title;
- hire purchase agreements;
- consignment agreements; and
- flawed asset arrangements (e.g. a controlled or restricted bank deposit, where the asset is not repayable until certain events have occurred - usually the repayment of indebtedness to the bank from the customer.)

The Act also refers to the umbrella term "Chattel Paper," this is defined as writing that evidences a monetary obligation and a security interest in and/or a lease of specific tangible property or specific intellectual property.

Chattel paper will include equipment leases, hire purchase agreements, chattel mortgages and possibly certain retention of title supply arrangements.

Current Commonwealth, State and Territory personal property security registers (such as the Qld Bills of Sale Register) will be closed. Security interests registered on those registers will be moved to the PPSR. Moving these existing security interests commenced on 28 November 2011.

The PPSR will also permit the registration of interests which were not previously capable of registration on any Commonwealth, State or Territory register, such as chattels, leases, bailments, retention of title, commercial consignments and vendor finance arrangements. These security interests should be registered on the new PPSR and there is a grace period of 2 years after the commencement date to do this.

The Act will not mandate the use of particular forms of security documentation and accordingly the forms and documents currently available, such as chattel mortgages, bills of sale and hire purchase agreements can still be used.

The Act is applicable to individuals, companies and other legal entities. For clarity, there is no requirement to have different forms for different types of grantors and one form of security can be used for different types of personal property.

From 30 January 2012, firms and businesses working in this area are advised to create an account with the Personal Property Securities Register at the following website:

[www.transact.ppsr.gov.au](http://www.transact.ppsr.gov.au).

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**Gold Coast Office**

9 Ouyan St  
Bundall QLD 4217  
PO Box 9073 GCMC QLD 9726  
T +61 7 5597 8888  
F +61 7 5597 8899

**Brisbane Office**

Level 10, 410 Queen Street  
Brisbane QLD 4000  
PO Box 3246 Brisbane QLD 4001  
T +61 7 3226 9034  
F +61 7 3226 9001

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