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Legal Bulletin

PERSONAL PROPERTY SECURITIES ACT

On 30 January 2012, the new unified Federal law for the registration and enforcement of security over personal property came into effect.

The changes implemented by the Personal Property Securities Act 2009 (PPSA) represent the most significant reforms ever to security in relation to most property, other than land. These changes will impact on the law relating to traditional securities such as mortgages and charges and will also extend to retention of title, lease and bailment arrangements.

The PPSA creates a national system that consolidates and expands the Commonwealth, State and Territory laws and systems of registration for personal property security interests.

What interests are affected?

Any interest in relation to personal property that effectively secures payment or performance of an obligation. For example:

- The usual interests such as charges, mortgages, pledges; and now
- Arrangements not previously thought of as security interests such as retention of title clauses, leases of goods, hire purchase agreements and even conditional sale agreements.

What is the consequence of not registering an interest?

A security interest which has not been registered:

- In most cases will be void where a party is wound up, made bankrupt, or an administrator is appointed;
- May be extinguished as a consequence of a parties dealings with third parties; or
- May lose priority against properly registered interests.

What do you need to do?

You should immediately review documents used in your business in connection with customers to ascertain whether a security interest exists.

If security interests are created then you will need to:

- Amend those documents; and
- Establish procedures for registration of the security interest.

We are happy to assist you and can:

- Review your documents to ascertain whether security interests are created; and
- Assist in establishing procedures for registration of security interests.

Please contact Andrew Lord andrew.lord@lordlaw.com.au for more information.

ABOUT LORD COMMERCIAL LAWYERS

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