



ADAMSON BERNAYS KYLE & JONES

3 Short St Southport Qld Australia 4215 - PO Box 1046 Southport Qld - DX 41519

Telephone (07) 5532 3199 - International +61 7 5532 3199 -

Facsimile (07) 5591 3402 - Email admin@abki.com.au

Liability limited by a scheme approved under professional standards legislation

TO OUR VALUED CLIENTS

RE: THE PERSONAL PROPERTY SECURITIES ACT

The Government has introduced new legislation called the Personal Properties Securities Act ("PPSA") which is likely to come into effect at the end of this month being the 30th January 2012. It will significantly change the way that personal property is dealt with and the manner in which security over personal property can be protected.

"Personal Property" is any property except land, fixtures to land and some statutory licences. It includes machinery and equipment, inventory, motor vehicles, shares, book debts, receivables, stock, crops, trademarks and patents.

The PPSA will regulate any security interest in personal property. The scope of what can constitute a security interest under the PPSA is wide and would include a number of interests which the current law does not recognise as security interests. If you do not protect your existing or future rights in personal property, you risk losing your security interest in that property. By way of example, you could lose:-

- priority over secured property to another Creditor; or
- title to your property if it left in the possession of someone else (for example, if they sell it or if they go into liquidation, voluntary administration or bankruptcy).

The PPSA will affect most businesses and individuals. This letter sets out some areas affected by the PPSA. If you have transactions in any of these areas or interests in personal property, you should urgently seek advice about what steps, if any, you need to take to protect your interests.

Areas of Interest

If you can answer to any of the questions below, you should contact us to discuss how the PPSA may affect you.

Do you own personal property that could remain in someone else's possession for longer than 90 days?

Do you consign goods to other people to sell?

Do you manufacture and sell goods?

Do your conditions of sale state that you retain ownership until you are paid (that is, a retention of title clause)?

Do you lease goods or chattels whether on their own or as part of the lease of land?

Do you have security over a motor vehicle, boat or aircraft?

Do you have security over property which has serial number identification?

Are you involved in transactions under which debts are assigned to you?

Are your security agreements in writing?

Are your security agreements registered on existing Registers?

Do you lend money or extend credit for the purchase of inventory or particular items of personal property?

Do you take security over intellectual property, e.g. design, patent, plant, breeders right, or trade mark?

Have you granted fixed and floating charges or have they been granted to you?

Do you deal in livestock, crops or equipment that are not in your possession?

Do you buy or sell personal property either with real estate or on its own?

Do you provide hire purchase finance?

Do you include charging clauses in your standard documents to give you security for an obligation?

Do you take control of your customer's bank accounts to secure obligations owed to you?

Does any existing agreement to which you are a party include provisions which create security over property to secure the obligations of a party under the Agreement (that is joint venture agreements, shareholders of unitholders agreements, licensing agreements, franchise agreements, etc)?

If your answer to any of the above questions is yes, it is likely that the PPSA will affect you. The list of examples is not exhaustive and any personal business that deals in personal property should carefully consider the impact the PPSA may have.

Registration

A new register called the Personal Properties Securities Register ("PPSR") will commence in 2012 probably on the 30th January. Existing registered security interests (e.g. ASIC charges, REVS, Bills of Sale) are in the process of being migrated from existing Registers to the PPSR.

Security interests that are not currently registrable (e.g. chattel leases, bailments, retention of title, commercial consignments, and Vendor finance arrangements) have some protection for a period of two years after the commencement date. If you have any such security interests, you should register them on the PPSR within that two year period if your interest in the personal property is to last longer than two years. It is essential in most instances to register your security interests in order to obtain priority.

New security interest created after the commencement of the Act must be registered in accordance with the strict time limits which apply.

We are available to provide any advice you may need in order to protect your security interests. We are not in a position to examine documents we may be holding in safe custody or your current or closed files to identify possible security interest unless you specifically instruct us to do so.

If you think that you may be in any way affected by the introduction of the new legislation, please contact us.

Yours faithfully

Adamson Bernays Kyle & Jones

ADAMSON BERNAYS KYLE & JONES

E-mail: admin@abkj.com.au