What is the PPSA?

The Personal Property Securities Act 1999 (“PPSA”) replaces the law governing the taking of security over personal property.

The PPSA also establishes the rules which determine the enforceability and priority of any security taken over personal property.

The PPSA makes no distinction between individuals or companies — it simply focuses on “security interests” which are created over “personal property”. Accordingly, an individual can now grant a general security agreement over all his/her personal property.

A “security interest” must be “perfected” under the Act. This means that in virtually all cases you must register a “financing statement” on the on-line PPSA Register. For this statement certain information is mandatory, including:

- the debtor’s full name and address;
- an adequate description of the secured personal property;
- the debtor’s incorporation number if a company; or
- the debtor’s date of birth (if the debtor is an individual).

What is “personal property”?

Personal property is generally defined as all property other than land, and ships over 24 metres in length which are governed by the Ship Registration Act 1992.

The following are some examples of personal property:

- chattels generally (goods, motor vehicles, aircraft, livestock, crops);
- arrangements which themselves create an interest in property (ie hire purchase agreements and finance leases);
- shares;
- negotiable instruments (promissory note, letter of credit);
- intangibles (trademarks, patents, copyrights, accounts receivable);
- money.

What is the Personal Property Security Act Register (PPSR)?

The register is a central electronic notice board that records details of the security interest held in personal property. All registrations will be made via the Internet on a single electronic registry called the Personal Property Security Register (PPSR) http://www.ppsr.govt.nz, which operates in real time and will be available 24 hours a day, 7 days a week.

Registrations expire after 5 years, but may be renewed. The PPSR also records variations to and releases of security interests by a financing change statement.

What happens to existing securities?

The PPSA replaces the following Acts and associated Registries:

- the Motor Vehicle Securities Act 1989;
- the Chattels Transfer Act 1924;
- the Companies (Registration of Charges) Act 1993; and
- Part II of the Industrial and Provident Societies Amendment Act 1952.

This means, for example, that security interests created by all debentures, instruments by way of security and motor vehicle securities will now be registered in the PPSR.

All existing securities registered under those pieces of legislation must now be re-registered under the PPSA by 31 October 2002.

What information is needed to register or re-register a financing statement?

Registration of the PPSR requires the creditor to provide fair and complete information about:

- the customer debtor (including name, address and date of birth);
- the personal property over which security is to be taken or has been taken (including, where appropriate, serial and registration numbers and marks); and
- contact details (eg phone, fax, and email) can be added, but are not mandatory.

Lenders should be careful to have accurate information to describe the debtor and the collateral. A mistake could mean you lose priority.

This newsletter is intended to provide a point of reference only and should not be relied on as a substitute for professional advice. Specialist legal advice should always be sought in relation to your own particular situation.