What is PPSA

- Personal Property Securities Act (PPSA) is federal legislation which came into effect on 30 January 2012 which changes the way security interests in personal property assets is governed.
- A security interest is an interest in an asset, that in substance secures payment of a debt or obligation.
- The PPSA introduced the Personal Property Securities Register (PPSR). This is a national register which acts as a noticeboard, showing all registered security interests in personal property. This allows businesses and consumers to deal in a more transparent way. For example, a search of the PPSR can be conducted against a business and the register will display all the registered security interests in that business.

How does PPSA work

- A security interest arises when an exchange of goods has taken place and a security contract exists (this could be as simple as having a retention of title clause listed in the sale terms). At this point in time, the security interest needs to be registered on PPSR.
- In the event of insolvency or bankruptcy the PPSA regulates how Trustees or Liquidators prioritise the distribution of assets to creditors. Creditors with registered security interests in property held by a bankrupt or insolvent company will have a greater priority in the recourse to the title of the secured property over that of unsecured (and unregistered) creditors under the new PPSA provisions.
- The advantage in registering an interest is that registration “perfects” your security interest which allows you a level of recourse to claim your interest in the event of bankruptcy or insolvency. Where a security interest is not registered and the business in possession of the asset becomes bankrupt, you will be classed as an unsecured creditor hence, the importance of evaluating the risks/benefits of registering.
When does PPSA apply?

- PPSA applies where a party has an ownership interest in an asset which is in the possession of a third party. Some common instances where this occurs are:
  - Goods are sold on Consignment
  - Goods are sold on Retention of Title
  - Where an asset is leased or held by a third party with substantially uninterrupted possession

What’s included/excluded from PPSA

- **Includes** assets such as: goods, crops, livestock, debtors, vehicles, paintings, plant and machinery.
- **Excludes** assets such as: Land, fixtures, water rights, liens, liquor licences.

Risk/Benefits to Registering

- Where an asset is not appropriately registered on the PPSR, you are at risk that you will lose the asset if the entity in possession enters into bankruptcy.
- A common example; businesses that supply goods and maintain their ownership of the goods until payment is made, may find their retention of title in the goods is no longer enforceable if their interest has not been registered.
  
  The cost to register a security interest; depends on the longevity of the registration period and range s from $7.40 to $130.00.

How to Register and Search

- Registrations and Searches can be carried out on the PPSR website, www.ppsr.gov.au. The registration process is relatively straightforward however, a registration will only be valid if the information provided is complete and accurate.
- Further information and useful factsheets can be located on the above website. Alternatively, if you would like to further discuss the implications of PPSA and understand how this may impact your businesses operations, please feel free to contact our office.
- Johnsons MME does provide a Registration and Search of PPSR service.