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what business owners need to know about new personal property laws

Does your business:

- grow crops or raise livestock?
- own or lease farm machinery or vehicles?
- buy or sell goods on agreement, consignment or credit?
- borrow or lend money?

If it does, then the new personal property laws that come into effect in October 2011 could affect you.

Personal property is any form of property other than land or buildings. It includes things such as crops, machinery, cars, art, intellectual property and personal company share charges.

A security interest is where, generally a financier, takes personal property as security for a loan much like a mortgage over land.

Like a mortgage over land, the financier can repossess the personal property in the event of default of the loan.

Up to now there has been many different registers for security interests in each state of Australia, for example, REVS and the ASIC Register of Company charges.

From October 2011, there will be one national register called the PPS Register.

All interests secured by the existing registers will be transferred automatically to the PPS Register.

The PPS Register:

1. Gives priority to the financier over the personal property - if someone else has an interest over the same good but either doesn't register or registers later, the financier has priority to have the loan repaid.
2. Secures the financier's interest in the personal property in the event that the person/entity repaying the loan becomes insolvent.
3. Provides a 'one stop shop' to determine whether there are any loans already existing on a good that you may wish to purchase.
4. Provides an opportunity for businesses to grow by allowing a wider scope of assets to be used to raise finance.

The system is voluntary but it is vital for businesses to consider how the changes directly affect their business and to consider the risk of not registered security interests.

Author: Linda Alexander, JMA Legal July 2011.

For further information on this issue, please see the contacts below.

## Contacts

Jim Main  
Brendan Cockerill  
Margot Gill  
Linda Alexander  
Amanda Tully  
John English  
Cynthia Guernier  
Karen Lewin

www.jmalegal.com.au  
Call 1800 618 869

**Cootamundra**  
46 Cooper St  
Cootamundra  
NSW 2590  
T 02 6942 1655  
F 02 6942 3692

**Canberra**  
11/60 Marcus Clarke St  
Canberra  
ACT 2601  
T 02 6243 3610  
T 02 6243 4848

**Gundagai**  
195 Sheridan St  
Gundagai  
NSW 2590  
T 02 6944 1755  
F 02 6944 1850

**Sydney**  
3 Spring St  
Sydney  
NSW 2000  
T 02 8249 4028  
T 02 8249 4872