



Australian Finance Conference Level 7, 34 Hunter Street, Sydney, 2000. GPO Box 1595, Sydney 2001  
 ABN 13 000 493 907 Telephone: (02) 9231-5877 Facsimile: (02) 9232-5647 e-mail: [afc@afc.asn.au](mailto:afc@afc.asn.au)

## AFC Overview of Registers & Legislation Affecting Equipment Financiers in Australia

This overview is divided into 3 parts –

1. Application of registers to equipment finance products
2. Key features & functional aspects of equipment finance registers
3. Relevant secured equipment finance legislation

### ***Application of registers to equipment finance products***

Product	Company Charges Register	REVS, VSR, etc, Registers	Bills of Sale Registers
Mortgage	Yes, but only if customer is a company. A fixed charge over a motor vehicle (and extending to, in some States and Territories, a boat and farm machinery) is registrable under both this Register and REVS Registers.	Yes. but only if secured asset is a – <ul style="list-style-type: none"> <li>• motor vehicle; or</li> <li>• boat in NSW, QLD &amp; WA; or</li> <li>• farm machinery in WA, Victoria.</li> </ul> Note: In most States and Territories, “motor vehicle” will include a range of farm machinery. <i>[For further details, refer AFC Summary of National REVS Registers]</i>	Yes, but only if customer is a non-corporate and secured asset in NSW, QLD, SA, ACT, NT & TAS. Registration not required if asset is registered on REVS; except in TAS alone, registration is necessary on both REVS & Bills of Sale Registers
Hire-purchase	No	Yes. but only if secured asset is a – <ul style="list-style-type: none"> <li>• motor vehicle; or</li> <li>• boat in NSW, QLD &amp; WA.</li> </ul> <i>[See also AFC Summary of National REVS Registers]</i>	No
Lease	No	Yes. but only if secured asset is a – <ul style="list-style-type: none"> <li>• motor vehicle; or</li> <li>• boat in NSW, QLD &amp; WA.</li> </ul> <i>[See also AFC Summary of National REVS Registers]</i>	No

**Key features & functional aspects of equipment finance registers**

<b>Features &amp; Aspects</b>	<b>Company Charges Register</b>	<b>REVS, VSR, etc, Registers</b>	<b>Bills of Sale Registers</b>
Key purpose	To determine priority between charge holders in event of company liquidation	To protect purchasers of “motor vehicles”, in NSW, QLD & WA, boats, and in WA motorised machinery and in VIC agricultural equipment and implements.	To protect creditors against debtors presenting untrue position concerning asset wealth
Nature of customer	Company	Individuals, companies & partnerships	Individuals & partnerships
Type of asset	Any asset of a company, both tangible & intangible	Motor vehicles (broadly defined) & boats (but not ships)	Goods, trading stock & assignment of debt (depending on State or Territory)
Registration method	Paper application	Various methods, but mainly electronic by giving notice	Paper
Time limits for registration	Yes	No	Yes
Stamp duty condition precedent	Yes	No	Yes
Variation procedure	Yes, by paper application	Yes, by creditor (mainly electronic means available) & by Register based on change in vehicle/boat data supplied by vehicle or boat registration authority	Yes, by paper application
Assignment procedure	Yes, by paper application	No, except QLD	Yes, by paper application
Discharge – full (i.e. need to cancel registration when debt paid)	Yes	Yes	Yes
Discharge – partial (i.e. allowing another creditor to take a partial security over the secured asset)	Yes, particularly where existing floating charge	No	Yes
Extinguishment of security under relevant legislation	No	Yes, if creditor has no registered interest or vehicle/boat sold through dealer	No
Priority rules	Yes	Yes, except for WA & TAS	Yes

## ***Relevant secured equipment finance legislation***

### **REVS, VSR, etc, Registers**

- NSW – Registration of Interests in Goods Act 1986
- ACT – Sale of Motor Vehicles Act 1977
- NT – Registration of Interests in Motor Vehicles & Other Goods Act 1989
- VIC – Chattel Securities Act 1987
- QLD – Motor Vehicle & Boats Securities Act 1986
- SA – Good Securities Act 1986
- WA – Chattel Securities Act 1987
- TAS – Motor Vehicle Securities Act 1984

### **Company Charges Register**

- Corporations Act 2001, Chapter 2K

### **Bills of Sale Registers**

- NSW – Security Interests in Goods Act 2005 (replaced Bills of Sale Act 1898)
- ACT – Instruments Act 1933
- NT – Instruments Act
- QLD – Bills of Sale & Other Instruments Act 1955
- SA – Bills of Sale Act 1886
- TAS – Bills of Sale Act 1900
- Note – There is no application legislation in VIC and, in WA, the legislation does not apply to secured equipment.

### **Excluded from consideration**

- Excluded from consideration are legislation and registers dealing with securities over aircraft and ships, and crops, stock and wool.