

# TASMANIA

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## **PERSONAL PROPERTY SECURITIES (NATIONAL UNIFORM LEGISLATION) IMPLEMENTATION BILL 2010**

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**PERSONAL PROPERTY SECURITIES (NATIONAL  
UNIFORM LEGISLATION) IMPLEMENTATION  
BILL 2010**

*(Brought in by the Minister for Justice, the Honourable  
Larissa Tahireh Giddings)*

**A BILL FOR**

**An Act to provide for the implementation of a national system of registration of personal property securities, to consequentially amend and repeal other legislation and for related purposes**

Be it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:

**PART 1 – PRELIMINARY**

**1. Short title**

This Act may be cited as the *Personal Property Securities (National Uniform Legislation) Implementation Act 2010*.

**2. Commencement**

- (1) Sections 1, 3, 4 and 7 and this section commence on the day on which this Act receives the Royal Assent.

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- (2) The remaining provisions of this Act commence on a day or days to be proclaimed.

### 3. Interpretation

- (1) In this Act, unless the contrary intention appears –

“**business day**” means a day other than a Saturday, Sunday or public holiday;

“**cessation time**” means the end of the last business day before the registration commencement time;

“**personal property**” – see section 10 of the PPS Act;

“**PPS Act**” means the *Personal Property Securities Act 2009* of the Commonwealth;

“**PPS Register**” means the Personal Property Securities Register established under section 147 of the PPS Act;

“**PPS Registrar**” means the Registrar of Personal Property Securities mentioned in section 194 of the PPS Act;

“**registration commencement time**” – see section 306(2) of the PPS Act;

“**relevant Secretary**”, in relation to –

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- (a) the Register of Cooperative Charges mentioned in clause 18 of Schedule 4 to the *Cooperatives Act 1999*, means the Secretary of the responsible Department in relation to the *Cooperatives Act 1999*; and
- (b) the register kept in accordance with section 24 of the *Bills of Sale Act 1900*, means the Secretary of the responsible Department in relation to the *Bills of Sale Act 1900*; and
- (c) the register kept under section 5 of the *Motor Vehicles Securities Act 1984*, means the Secretary of the responsible Department in relation to the *Motor Vehicles Securities Act 1984*; and
- (d) the register kept under section 5 of the *Stock, Wool, and Crop Mortgages Act 1930*, means the Secretary of the responsible Department in relation to the *Stock, Wool, and Crop Mortgages Act 1930*;

**“repeal day”**, for a Tasmanian register, see section 5;

**“responsible registrar”**, of a Tasmanian register, means the Tasmanian registrar

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responsible for maintaining the information in the particular Tasmanian register;

**“Tasmanian register”** – see section 4;

**“Tasmanian registrar”** means the person or body responsible for maintaining the information in a Tasmanian register under the law establishing the Tasmanian register;

**“transitional security interest”** – see section 308 of the PPS Act;

- (2) Except as otherwise provided in this Act, terms used in this Act and in the PPS Act have the same meanings in this Act as they have in the PPS Act.

#### 4. Tasmanian register

A Tasmanian register includes the following:

- (a) the Register of Cooperative Charges mentioned in clause 18 of Schedule 4 to the *Cooperatives Act 1999* as in force immediately before the repeal day;
- (b) the register kept in accordance with section 24 of the *Bills of Sale Act 1900* as in force immediately before the repeal day;

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- (c) the register kept under section 5 of the *Motor Vehicles Securities Act 1984* as in force immediately before the repeal day;
- (d) the register kept under section 5 of the *Stock, Wool, and Crop Mortgages Act 1930* as in force immediately before the repeal day.

**5. Repeal day**

The “repeal day” is –

- (a) for the Tasmanian register mentioned in section 4(a), the day on which Schedule 1 commences; and
- (b) for the Tasmanian register mentioned in section 4(b), the day on which Schedule 2 commences; and
- (c) for the Tasmanian register mentioned in section 4(c), the day on which Schedule 2 commences; and
- (d) for the Tasmanian register mentioned in section 4(d), the day on which Schedule 2 commences.

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**PART 2 – IMPLEMENTATION OF PPS ACT**

*Division 1 – General rules*

**6. Cessation of Tasmanian registers**

- (1) From the cessation time, the responsible registrar of a Tasmanian register –
  - (a) must not alter any information in, or add any information to, the Tasmanian register; and
  - (b) may refuse to deal with an application relating to the Tasmanian register made before the cessation time under a law of the State if the application does not comply with a requirement of that law as in force at the time of the application.
- (2) The responsible registrar must refund any application fee paid by the applicant if the responsible registrar refuses to deal with the application under subsection (1)(b).
- (3) Subsections (1) and (2) have effect despite any other provision of a law of the State in force at or after the cessation time.

**7. Migration of data to PPS Register**

- (1) This section applies to information –



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- (a) held in a Tasmanian register or held in relation to an entry in the Tasmanian register immediately before the cessation time; and
  - (b) comprising data relating to security interests in personal property other than those declared by the PPS Act not to be personal property for the purposes of the PPS Act.
- (2) The responsible registrar is authorised to give the information to the Commonwealth, the PPS Registrar or another person, as the responsible registrar considers appropriate, in order to establish the PPS Register.
  - (3) The responsible registrar may give the information in any form (including electronic form or another form approved for the PPS Act) the responsible registrar considers appropriate.
  - (4) This section does not prevent the responsible registrar from retaining any of the information on the register at or after the registration commencement time.

**8. Tasmanian register information received by State after registration commencement time**

- (1) This section applies if –
  - (a) there is a matter concerning a Tasmanian register that –

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- (i) arises after the registration commencement time; and
  - (ii) results in the generation of information that would, but for section 6, have been included in the Tasmanian register; and
- (b) the information is given to the State.
- (2) The responsible registrar of the Tasmanian register is authorised to give the information to the Commonwealth, PPS Registrar, or another person, as the responsible registrar considers appropriate in order for the information to be included in the PPS Register.
- (3) The responsible registrar may give the information in any form (including electronic form or another form approved for the PPS Act) the responsible registrar considers appropriate.
- (4) This section does not prevent the responsible registrar from retaining any of the information received.

**9. Giving information or document after registration commencement time on PPS Registrar's request**

- (1) This section applies if, after the registration commencement time, the PPS Registrar requests the responsible registrar of a Tasmanian register to give to the PPS Registrar specified information or documents under the control of

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the State in relation to a matter concerning the Tasmanian register.

- (2) The responsible registrar is authorised to give the information or document to the PPS Registrar.
- (3) The responsible registrar may give information under subsection (2) in any form (including electronic form or another form approved for the PPS Act) the responsible registrar considers appropriate.
- (4) This section does not prevent the responsible registrar from retaining any of the information or the document.

**10. Issuing certificates after registration commencement time**

This Part does not prevent –

- (a) a person from applying, on or after the cessation time, to the responsible registrar of a Tasmanian register for the issue of a certificate that the responsible registrar may have issued under a law of the State in force immediately before that time; and
- (b) the responsible registrar from issuing the certificate.

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**11. Compensation relating to PPS transitional matters**

- (1) Compensation is not payable by or for the State, an authority of the State, or a person employed or engaged to perform work for the State, for an act or omission that –
- (a) is done or omitted to be done in good faith; and
  - (b) is a PPS transitional matter or arises (whether directly or indirectly) from a PPS transitional matter; and
  - (c) is not an act or omission causing a personal injury to, or the death of, someone.
- (2) In this section –
- “compensation”** includes damages and any other form of monetary compensation;
- “PPS transitional matter”** means any of the following:
- (a) the giving of information to the Commonwealth, the PPS Registrar or another person, for assisting the Commonwealth in establishing the PPS Register;
  - (b) the administration of this Act;
  - (c) the performance of a function or the exercise of a power under this Act.

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**12. Transitional security interests**

This Act does not affect the operation of the PPS Act in relation to an interest that –

- (a) was an interest in personal property registered in a Tasmanian register before the registration commencement time; and
- (b) is a transitional security interest.

*Division 2 – Special rules for registration of interests in motor vehicles*

**13. Interpretation: Division 2**

In this Division –

“**register**” means the register as defined in the *Motor Vehicles Securities Act 1984* as in force immediately before the cessation time;

“**registrar**” means the Registrar as defined in the *Motor Vehicles Securities Act 1984* as in force immediately before the cessation time.

**14. Savings – existing, cancellation or variation process**

(1) This section applies if –

- (a) the registrar has given a notice to a person under section 9(1) of the *Motor*

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*Vehicles Securities Act 1984* in relation  
to an interest registered under that Act;  
and

- (b) the period specified in the notice ends  
after the cessation time.
- (2) If the registrar decides that, apart from the  
operation of section 6, the registrar would vary  
the information recorded in the register or cancel  
the registration, the registrar –
- (a) must notify the person of the decision;  
and
  - (b) is authorised to give any information  
about the decision to the PPS Registrar  
as the PPS Registrar requires.
- (3) The registrar may give information under  
subsection (2) in any form (including electronic  
form or another form approved for the PPS Act)  
the registrar considers appropriate.

### **PART 3 – OTHER MATTERS**

#### **15. Functions and powers of Secretary of Department on and after repeal day**

On and after the repeal day for a Tasmanian register, the relevant Secretary may exercise the powers and perform the functions of the responsible registrar for a Tasmanian register under sections 7, 8, 9, 10 and 14 of this Act as if –

- (a) the provisions in a law of the State relating to the Tasmanian register in force immediately before the repeal day continued to be in force; and
- (b) the relevant Secretary were the responsible registrar.

#### **16. Delegation by relevant Secretary**

The relevant Secretary may, in writing, delegate all or any of the powers and functions of the relevant Secretary under this Act.

#### **17. Licences used as collateral under bill of sale**

- (1) If a licence has been used as collateral under a bill of sale registered under the *Bills of Sale Act 1900*, the Commissioner of Corporate Affairs may provide, to a person responsible for

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maintaining the relevant register of licences, information and supporting evidence that the licence has been used as collateral under a bill of sale.

- (2) On receipt of the information under subsection (1), the person responsible for maintaining the relevant register of licences is to enter that information on the register relating to the licence kept by that person.

**18. Administration of Act**

Until provision is made in relation to this Act by order under section 4 of the *Administrative Arrangements Act 1990* –

- (a) the administration of this Act is assigned to the Minister for Justice; and
- (b) the department responsible to that Minister in relation to the administration of this Act is the Department of Justice.

**19. Regulations**

- (1) The Governor may make regulations for the purposes of this Act.
- (2) A regulation may declare a matter to be an excluded matter for section 259 of the PPS Act in relation to any of the following:



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- (a) the whole of the PPS Act (or an instrument made under that Act);
  - (b) a specified provision of the PPS Act (or an instrument made under that Act);
  - (c) the PPS Act (or an instrument made under that Act), other than a specified provision;
  - (d) the PPS Act (or an instrument made under that Act), otherwise than to a specified extent.
- (3) The regulations may be made so as to apply differently according to matters, limitations or restrictions, whether as to time, circumstance or otherwise, specified in the regulations.
- (4) The regulations may authorise any matter to be from time to time determined, applied, approved or regulated by any person or body specified in the regulations.
- (5) The regulations may –
- (a) provide for transitional matters necessary or expedient to facilitate the transition from the operation of the repealed Acts to this Act; and
  - (b) provide for any of those transitional matters to take effect when this section commences or on a later day specified in the regulations, whether the day so

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specified is before, on or after the day on  
which the regulations are made.

- (6) For the purposes of subsection (5)(a), “**repealed Acts**” means Schedule 4 to the *Cooperatives Act 1999* and the Acts specified in Schedule 2.

**20. Consequential amendments**

The legislation specified in Schedule 1 is  
amended as specified in that Schedule.

**21. Legislation repealed**

The legislation specified in Schedule 2 is  
repealed.

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**SCHEDULE 1 – CONSEQUENTIAL AMENDMENTS**

Section 20

***Building Act 2000***

1. Section 194(4) is amended by omitting “bill of sale registrable under the *Bills of Sale Act 1900*” and substituting “security interest registrable under the *Personal Property Securities Act 2009* of the Commonwealth”.

***Cooperatives Act 1999***

1. Section 244(1) is amended by omitting paragraph (d).
2. Schedule 4 is repealed.

***Cooperatives Regulations 2010***

1. Regulation 40 is amended by omitting paragraphs (h) and (i) and substituting the following paragraph:
  - (h) the *Personal Property Securities Act 2009* of the Commonwealth;

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***Homes Act 1935***

1. Section 22(2) is amended by omitting “*Bills of Sale Act 1900*” and substituting “*Personal Property Securities Act 2009* of the Commonwealth”.

***Justices Order 2004***

1. Clause 4 is amended as follows:
  - (a) by omitting paragraph (d) and substituting the following paragraph:

(d) *Personal Property Securities Act 2009* of the Commonwealth;
  - (b) by omitting paragraph (y).

***Mineral Resources Development Act 1995***

1. After section 162, the following section is inserted in Division 1:
  - 162A. Licences not personal property for purposes of *Personal Property Securities Act 2009* of the Commonwealth**

A licence in force under this Act is not personal property for the purposes of section 8(1)(k) of the *Personal Property Securities Act 2009* of the Commonwealth.

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***Petroleum (Submerged Lands) Act 1982***

1. After section 55, the following section is inserted in Division 3:

**55A. Licences not personal property for purposes of *Personal Property Securities Act 2009* of the Commonwealth**

A licence in force under this Division is not personal property for the purposes of section 8(1)(k) of the *Personal Property Securities Act 2009* of the Commonwealth.

2. After section 71, the following section is inserted in Division 4:

**71A. Licences not personal property for purposes of *Personal Property Securities Act 2009* of the Commonwealth**

A licence in force under this Division is not personal property for the purposes of section 8(1)(k) of the *Personal Property Securities Act 2009* of the Commonwealth.

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***Police Offences Act 1935***

1. Section 37Y(4)(b) is amended by omitting “*Motor Vehicles Securities Act 1984*” and substituting “*Personal Property Securities Act 2009* of the Commonwealth”.
2. Section 37ZL(1)(c) is amended by omitting “*Motor Vehicles Securities Act 1984*” and substituting “*Personal Property Securities Act 2009* of the Commonwealth”.

***Tasmanian Development Act 1983***

1. Section 48(5)(c) is amended by omitting “*Bills of Sale Act 1900, the Stock, Wool, and Crop Mortgages Act 1930*” and substituting “*Personal Property Securities Act 2009* of the Commonwealth”.

***Vehicle and Traffic (Driver Licensing and Vehicle Registration) Regulations 2010***

1. Regulation 69(13) is amended by omitting “*Motor Vehicles Securities Act 1984*” from the definition of “security interest” and substituting “*Personal Property Securities Act 2009* of the Commonwealth”.

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**SCHEDULE 2 – LEGISLATION REPEALED**

Section 21

*Bills of Sale Act 1900* (No. 70 of 1900)

*Stock, Wool, and Crop Mortgages Act 1930* (No. 26 of 1930)

*Motor Vehicles Securities Act 1984* (No. 43 of 1984)