

CLAUSE NOTES

PERSONAL PROPERTY SECURITIES (NATIONAL UNIFORM LEGISLATION) IMPLEMENTATION BILL 2010

- Clause 1:** sets out the name (also called the short title) of the proposed Act
- Clause 2:** provides that section 1, 2, 3, 4 and 7 which deal with definitions and the migration of data from Tasmanian registers to the Commonwealth PPS register commence on Royal Assent. The remaining provisions will commence on a day or days to be proclaimed (it had been expected that the PPS scheme would commence in April/May 2011 but it is possible it may be later in 2011).
- Clause 3:** defines certain words and expressions used in the proposed Act. It confirms that, unless otherwise provided, words used in the proposed Act are to have the same meaning as they do in the *Personal Property Securities Act 2009* of the Commonwealth.
- Clause 4:** defines what is included in the term “Tasmanian Register” – there are four registers from which information will be transferred to the PPS register before they are closed down.
- Clause 5:** defines the term “repeal day” in relation to the Tasmanian Registers.

- Clause 6:** provides that when the Tasmanian Registers cease to operate, the responsible registrar may not amend the register, may refuse to deal with applications in relation to the register, and refund any fees paid by a person whose application the registrar has refused to deal with. The matters would be dealt with under the Commonwealth Act to which the existing securities would have been transferred.
- Clause 7:** allows the registrars of the Tasmanian Registers, on the cessation day for the Tasmanian Registers, to provide all information to the Commonwealth that needs to be entered onto the PPS Register.
- Clause 8:** allows the responsible registrar to provide the Commonwealth with any information that is generated after the cessation day.
- Clause 9:** To facilitate the proper implementation of the PPS Register if the PPS Registrar asks a Tasmanian registrar to provide information, this section authorises the Tasmanian registrar to provide any information requested.
- Clause 10:** A person may need to apply to a Tasmanian registrar for a certificate in relation to information that was held on a Tasmanian register prior to its transfer to the PPS Register. This section allows the registrars to provide such a certificate even though the registers have been closed.
- Clause 11:** provides that, except in very limited circumstances, compensation is not payable in

relation to an act or omission done in good faith in relation to the transfer of information necessary to facilitate the PPS Register or anything done under this Act.

- Clause 12:** provides that this Act does not have any effect on a transitional security interest – which is an interest under a security agreement that is in force immediately before the PPS register commences, and continues in force at and after that time. Transitional interests are bills of sale etc on Tasmanian registers transferred onto the PPS register.
- Clause 13:** provides the interpretation necessary in Division 2 of the Act.
- Clause 14:** provides special rules applicable to the certain actions that could be taken by the registrar for motor vehicles in relation to interests noted on the Motor Vehicle Securities register.
- Clause 15:** once the legislation for the Tasmanian registers have been repealed, the Secretary of the Department responsible for the register can perform certain functions and exercise certain powers in relation to data held on the repealed registers as if that legislation had not been repealed.
- Clause 16:** allows the Secretary to delegate any of their powers or functions under this Act.
- Clause 17:** allows the Commissioner for Corporate Affairs to provide information in relation to interests in licences registered on the Bills of Sale Register to a person responsible for

maintaining a register in relation to that licence. On receipt of such information, the person responsible for maintaining the register is to enter that information on the register they maintain.

Clause 18: provides the Governor with regulation making powers.

Clause 19: the legislation specified in Schedule 1 is amended as specified in that Schedule.

Clause 20: the legislation specified in Schedule 2 is repealed.

Schedule 1

- makes minor amendments relating to terminology used in the following Acts so that it is consistent with the PPS Act:
 - Building Act 2000
 - Cooperative Regulations 2010
 - Homes Act 1935
 - Justices Order 2004
 - Police Offences Act 1935
 - Tasmanian Development Act 1983
 - Vehicle and Traffic (Driver Licensing and Vehicle Registration) Regulations 2010

- Provides that any licences under the Mineral Resources Development Act 1995 are not personal property for the purpose of the PPS Act;

- Provides that any licence under the Petroleum (Submerged Lands) Act 1983 is not personal property for the purpose of the PPS Act.

- Provides for the removal of parts of the Cooperatives Act 1999 which are inconsistent with the PPS Act.

Schedule 2: repeals the Bills of Sale Act 1900, the Stock, Wool and Crop Mortgages Act 1930 and the Motor Vehicles Securities Act 1984 as these pieces of legislation will become obsolete with the operation of PPS.