

## **Personal Property Securities (Commonwealth Powers) Amendment Bill 2009**

### **Explanatory note**

This explanatory note relates to this Bill as introduced into Parliament.

#### Overview of Bill

In the *Personal Property Securities (Commonwealth Powers) Act 2009*, the Parliament of New South Wales referred certain matters relating to security interests in personal property to the Commonwealth Parliament so as to enable the Commonwealth Parliament to make laws about those matters. The proposed *Personal Property Securities Act 2009* of the Commonwealth (the **proposed PPS Act**) currently before the Commonwealth Parliament will enact provisions based on the referral of matters made by the Parliament of New South Wales and other State Parliaments.

The objects of this Bill are:

- (a) to amend the *Personal Property Securities (Commonwealth Powers) Act 2009* to enact savings and transitional provisions that are consequent on the enactment of the proposed PPS Act, and
- (b) to provide for the repeal of the *Registration of Interests in Goods Act 1986* and the *Security Interests in Goods Act 2005*, and (c) to make certain consequential amendments to other Acts.

#### Outline of provisions

**Clause 1** sets out the name (also called the short title) of the proposed Act.

**Clause 2** provides for the commencement of the proposed Act on the date of assent to the proposed Act, except for proposed sections 3 and 4 and Schedule 2.1–2.3 and 2.5. Proposed sections 3 and 4 and Schedule 2.1–2.3 and 2.5 will commence on a day or days to be appointed by proclamation.

**Clause 3** repeals the *Registration of Interests in Goods Act 1986* and any regulation made under that Act.

**Clause 4** repeals the *Security Interests in Goods Act 2005*.

### **Schedule 1 Amendment of Personal Property Securities (Commonwealth Powers) Act 2009 No 35**

**Schedule 1** inserts a Schedule in the *Personal Property Securities (Commonwealth Powers) Act 2009* that contains savings and transitional provisions consequent on the enactment of the proposed PPS Act.

In particular, the proposed Schedule includes provisions that deal with the following matters:

- (a) the provision of data and other information held for the purposes of the *Registration of Interests in Goods Act 1986* and the *Security Interests in Goods Act 2005* to the Commonwealth and its officers for use in establishing the Personal Property Securities Register under the proposed PPS Act,
- (b) savings and transitional arrangements in connection with the transfer of registration functions to the Commonwealth concerning security interests in personal property to which the *Registration of Interests in Goods Act 1986* and the *Security Interests in Goods Act 2005* currently apply,

(c) the conferral of regulation-making powers on the Governor to make regulations consequent on the enactment of the proposed PPS Act and the transfer of registration functions to the Commonwealth,

(d) the protection of the State, State officers and State agencies from compensation claims in connection with the transfer of registration functions to the Commonwealth.

## **Schedule 2 Amendment of other Acts**

### **Prohibition on transfers of certain licences and certificates**

A right, entitlement or authority that is granted by or under a law of the State (such as a licence or certificate) can in some circumstances be personal property for the purposes of the proposed PPS Act, but only if it is transferable under the law of the State.

**Schedule 2.1** amends the *Conveyancers Licensing Act 2003* to confirm that a licence granted under that Act is not transferable.

**Schedule 2.2** inserts proposed section 27A in the *Motor Vehicle Repairs Act 1980* to make it an offence for the holder of a tradesperson's certificate under that Act to transfer, attempt to transfer, lend or allow another person to use his or her certificate.

The proposed section also makes it an offence for a person to attempt to obtain such a transfer or to attempt to borrow, or borrow or use, such a certificate. The maximum penalty for any such offence will be 20 penalty units (currently, \$2,200).

**Schedule 2.3** amends the *Property, Stock and Business Agents Act 2002* to make it an offence for a person to transfer a licence or certificate of registration granted under that Act. The maximum penalty for any such offence will be 100 penalty units (currently, \$11,000).

**Schedule 2.5** amends the *Valuers Act 2003* to confirm that registration under that Act is not transferable.

### **Account customers under Registration of Interests in Goods Act 1986**

**Schedule 2.4** amends section 16A of the *Registration of Interests in Goods Act 1986* to enable the Director-General (within the meaning of that Act) to withdraw the approval of a person as an account customer if the person has not paid an amount owing under arrangements made under that section within the period of 60 days after it was required to be paid or such other period as may be prescribed by the regulations under that Act. Currently, the Act provides for a fixed period of 60 days.