

## Second Reading

**The Hon. PENNY SHARPE** (Parliamentary Secretary) [5.21 p.m.]: I move:

That this bill be now read a second time.

The Personal Property Securities (Commonwealth Powers) Amendment Bill 2009 will amend the Personal Property Securities (Commonwealth Powers) Act 2009 to make provision for matters of a savings or transitional nature consequent on the referral of matters by that Act to the Commonwealth, and to make related amendments to other legislation. This bill is part of a raft of reforms that will improve the law of personal property securities. It is the product of several years of work undertaken by the governments of Australia to develop a single, national legislative scheme for the regulation and registration of security interests in personal property. In June this year the Parliament passed the Personal Property Securities (Commonwealth Powers) Act 2009, referring power to the Commonwealth Parliament to establish a single national personal property scheme.

The Personal Property Securities Bill 2009, which establishes the national scheme, is currently before the Commonwealth Parliament. The Personal Property Securities [PPS] reforms are themselves part of a package of reforms approved by the Council of Australian Governments aimed at moving toward a seamless national economy through the reform of business and other regulation. The reforms will make it easier for businesses to operate across State and Territory borders. More particularly, the PPS reforms will make life simpler for businesses and consumers. They will establish national comprehensive rules governing security interests in personal property. Central to the reforms will be a clear set of rules relating to security interests in personal property and for ordering priorities between competing secured interests in personal property, and the creation of a single national personal property securities register.

The streamlining of Australia's personal property securities system follows similar reforms in the United States, Canada and New Zealand. The key objective of the reforms is to remove the uncertainty arising from the range of Commonwealth, State and Territory legislation and its uneasy interaction with legal and equitable principles governing personal property securities. A personal property security is created when a financier takes an interest in personal property as security for a loan or other obligation, or enters into a transaction that involves the provision of secured finance.

Personal property includes all forms of property other than real property. It includes tangible property, such as motor vehicles, machinery, office furniture, currency, art works and stock-in-trade, and intangible property, such as contractual rights, trademarks and patents. The reforms will create a national PPS regime that will benefit individuals, consumers and businesses by delivering more certain, consistent, less complex, and cheaper arrangements for securing loans with personal property. The national PPS register will replace numerous registers currently operated by the Commonwealth, States and Territories.

I now turn to the details of bill. The Personal Property Securities (Commonwealth Powers) Amendment Bill 2009 supports the transition to the national PPS scheme. It amends New South Wales legislation that provides for the registration of security interests in personal property on New South Wales registers. The bill will repeal the Registration of Interests in Goods Act 1986, which establishes the Register of Encumbered Vehicles [REV] administered by the Department of Services, Technology and Administration. The bill will also repeal the Security Interests in Goods Act 2005, which establishes the Security Interest in Goods Register administered by the Land and Property Management Authority.

Both New South Wales Acts will continue until the national PPS scheme commences in 2011, and will then be repealed. The bill also enacts savings and transitional provisions to ensure a smooth transition to the new, single, national scheme. The bill will allow the two New South Wales registers to be incorporated into the new, national PPS register. After the PPS scheme commences, security interests that could have previously been registered on the REV or on the Security Interest in Goods Register will be able to be registered on the national PPS register. Existing security interests on the New South Wales registers will be migrated to the PPS register. These are the most significant consequential amendments that will need to be made to New South Wales legislation for the national PPS scheme. Further consequential amendments will be included in a separate bill that will be brought before the Parliament next year.

As part of those further consequential amendments, the Government will consider whether there is a need to include provisions to facilitate the creation and enforcement of agricultural mortgages currently dealt with by the Security Interests in Goods Act 2005, which could operate concurrently with the Commonwealth's Personal Property Securities Bill. However, the bill is being introduced now to comply with the Council of Australian Government's agreement that legislation be passed in 2009 and to provide some early certainty to business that the necessary arrangements have been made for a smooth transition from the main New South Wales registers to the national PPS register.

The national PPS scheme was due to commence in May 2010, but following submissions from business and recommendations from the Senate Legal and Constitutional Affairs Legislation Committee, the Council of Australian Governments agreed that the PPS scheme would commence in May 2011. The provisions of the New South Wales bill repealing the Registration of Interests in Goods Act 1986 and the Security Interests in Goods Act 2005 will be proclaimed to commence when the national PPS scheme commences. I am pleased that the New South Wales Government is playing an important role in implementing these reforms. New South Wales was the first jurisdiction to pass legislation to facilitate these reforms when it passed referral legislation in June this year. This allowed the Commonwealth to introduce the Personal Property Securities Bill 2009.

New South Wales will also be one of the first jurisdictions to introduce legislation making the necessary consequential and transitional amendments to ensure a smooth transition to the new national scheme. The PPS reforms will make it easier for businesses to operate across State and Territory borders, promote more certain and consistent outcomes, and have the potential to stimulate growth in areas currently squeezed out of lending by the current system. The PPS reforms have obvious benefits both in the current economic climate and for the future of the New South Wales economy. I commend the bill to the House.