

House of Assembly—No 75A

As reported with amendments, report agreed to and passed remaining stages,
8 March 2011

South Australia

**Statutes Amendment (Personal Property
Securities) Bill 2010**

A BILL FOR

An Act to amend various Acts as a consequence of the enactment of the *Personal Property Securities (Commonwealth Powers) Act 2009* and the *Personal Property Securities Act 2009* of the Commonwealth.

Contents

Part 1—Preliminary

- 1 Short title
- 2 Commencement
- 3 Amendment provisions

Part 2—Amendment of *Aquaculture Act 2001*

- 4 Insertion of section 6A
 - 6A Licence or other right is not personal property for the purposes of Commonwealth Act

Part 3—Amendment of *Bills of Sale Act 1886*

- 5 Amendment of section 2—Interpretation
- 6 Amendment of section 10A—Assignment of future crops
- 7 Amendment of section 11—Covenants and powers implied in bills of sale
- 8 Amendment of section 11A—Standard terms and conditions in bills of sale
- 9 Amendment of section 12—Implication of certain words
- 10 Amendment of section 12A—Joint and several liability under bill of sale
- 11 Amendment of section 12B—Joint and several entitlement of grantees
- 12 Amendment of section 15—Bills of sale to be registered in General Registry Office
- 13 Amendment of section 19A—Renewal of registration of bills of sale
- 14 Amendment of section 21—Bills of sale may be extended, varied or corrected
- 15 Amendment of section 23—Registration of dealings with registered bills of sale
- 16 Amendment of section 38B—Minister may discharge bill of sale in certain circumstances
- 17 Insertion of Parts 7 and 8

Part 7—Provisions relating to PPS Act

- 42 Certain provisions of Act to cease to have effect
- 43 Provision of information to Commonwealth
- 44 Immunity
- 45 Registrar may refuse to exercise functions
- 46 Registrar may dispose of certain documents
- 47 Regulations

Part 8—Repeal of Act

- 48 Repeal of Act

Part 4—Amendment of *Coast Protection Act 1972*

- 18 Amendment of section 24—Temporary occupation

Part 5—Amendment of *Co-operatives Act 1997*

- 19 Amendment of section 9—Exclusion of operation of Corporations Act
- 20 Amendment of section 46—Lodgment of documents not to constitute constructive knowledge
- 21 Amendment of section 239—Registers to be kept by co-operatives
- 22 Amendment of Schedule 3—Registration etc of charges

Part 6—Amendment of *Criminal Assets Confiscation Act 2005*

- 23 Insertion of section 11A
 - 11A Application of Personal Property Securities Act

Part 7—Amendment of *Criminal Law (Clamping, Impounding and Forfeiture of Vehicles) Act 2007*

- 24 Amendment of section 7—Extension of clamping period
- 25 Amendment of section 12—Court order for impounding or forfeiture on conviction of prescribed offence
- 26 Amendment of section 20—Disposal of vehicles
- 27 Amendment of section 21—Credit provider may apply to Magistrates Court for relief

Part 8—Amendment of *Electricity Act 1996*

- 28 Insertion of section 30A
 - 30A Licence is not personal property for the purposes of Commonwealth Act

Part 9—Amendment of *Fisheries Management Act 2007*

- 29 Insertion of section 5A
 - 5A Licence or other right is not personal property for the purposes of Commonwealth Act

Part 10—Amendment of *Gas Act 1997*

- 30 Insertion of section 32A
 - 32A Licence is not personal property for the purposes of Commonwealth Act

Part 11—Amendment of *Goods Securities Act 1986*

- 31 Amendment of section 3—Interpretation
- 32 Amendment of section 4—The register
- 33 Amendment of section 5—Application for registration
- 34 Amendment of section 6—Change of particulars
- 35 Amendment of section 7—Cancellation of registration
- 36 Amendment of section 8A—Interstate arrangements and registration of security interests under corresponding law
- 37 Amendment of section 9—Certificate of registered security interests
- 38 Repeal of section 19
- 39 Insertion of Parts 6 and 7
 - Part 6—Provisions relating to PPS Act
 - 23 Certain provisions of Act to cease to have effect
 - 24 Provision of information to Commonwealth
 - 25 Immunity
 - 26 Registrar may refuse to exercise functions
 - 27 Expiry of registration 7 years after registration commencement time
 - 28 Regulations
 - Part 7—Expiry of Act
 - 29 Expiry of Act

Part 12—Amendment of *Historic Shipwrecks Act 1981*

- 40 Insertion of section 15A
 - 15A Permits not transferable

Part 13—Amendment of *Legal Practitioners Act 1981*

- 41 Amendment of section 21—Entitlement to practise

Part 14—Amendment of *Liens on Fruit Act 1923*

- 42 Amendment of section 2—Interpretation
- 43 Amendment of section 3—Right of lienee to fruit crops

- 44 Repeal of section 9
- 45 Insertion of sections 11 to 16
 - 11 Certain provisions of Act to cease to have effect
 - 12 Provision of information to Commonwealth
 - 13 Immunity
 - 14 Registrar-General may refuse to exercise functions
 - 15 Regulations
 - 16 Repeal of Act

Part 15—Amendment of *Marine Parks Act 2007*

- 46 Amendment of section 19—Permits for activities

Part 16—Amendment of *Mercantile Law Act 1936*

- 47 Amendment of section 4—Powers of mercantile agent with respect to disposition of goods

Part 17—Amendment of *Mining Act 1971*

- 48 Insertion of section 83A
 - 83A Licence or other right is not personal property for the purposes of Commonwealth Act

Part 18—Amendment of *National Parks and Wildlife Act 1972*

- 49 Amendment of section 35—Control of reserves
- 50 Amendment of section 69—Permits

Part 19—Amendment of *Offshore Minerals Act 2000*

- 51 Insertion of section 5A
 - 5A Licence or other right is not personal property for the purposes of Commonwealth Act

Part 20—Amendment of *Petroleum and Geothermal Energy Act 2000*

- 52 Insertion of section 13A
 - 13A Licence is not personal property for the purposes of Commonwealth Act

Part 21—Amendment of *Petroleum (Submerged Lands) Act 1982*

- 53 Insertion of section 5B
 - 5B Licence or other right is not personal property for the purposes of Commonwealth Act

Part 22—Amendment of *Roxby Downs (Indenture Ratification) Act 1982*

- 54 Insertion of section 5A
 - 5A Certain rights etc are not personal property for the purposes of Commonwealth Act

Part 23—Amendment of *Stock Mortgages and Wool Liens Act 1924*

- 55 Amendment of section 4—Interpretation
- 56 Amendment of section 5—Stock mortgages
- 57 Amendment of section 14—Owner of sheep may grant preferable lien on wool
- 58 Amendment of section 19—Other implied covenants in stock mortgages and agreements for wool liens
- 59 Amendment of section 20—Meaning of abbreviated expressions
- 60 Amendment of section 21—Covenants to be several as well as joint
- 61 Amendment of section 22—Covenants to bind executors
- 62 Amendment of section 25—Certain provisions of Bills of Sale Act to apply to mortgages and agreements for liens
- 63 Insertion of Parts 5 and 6

Part 5—Provisions relating to PPS Act

- 26 Certain provisions of Act to cease to have effect
- 27 Provision of information to Commonwealth
- 28 Immunity
- 29 Registrar-General may refuse to exercise functions
- 30 Registrar-General may dispose of certain documents
- 31 Regulations

Part 6—Repeal of Act

- 32 Repeal of Act

Part 24—Amendment of *Unclaimed Goods Act 1987*

- 64 Amendment of section 8—Proceeds of sale

Part 25—Amendment of *Wilderness Protection Act 1992*

- 65 Amendment of section 28—Control and administration of wilderness protection areas and zones
- 66 Amendment of section 33—Prohibited areas

Part 26—Amendment of *Worker's Liens Act 1893*

- 67 Insertion of section 9C
- 9C Application of Personal Property Securities Act

The Parliament of South Australia enacts as follows:**Part 1—Preliminary****1—Short title**

This Act may be cited as the *Statutes Amendment (Personal Property Securities) Bill 2010*.

5 2—Commencement

This Act will come into operation on a day to be fixed by proclamation.

3—Amendment provisions

In this Act, a provision under a heading referring to the amendment of a specified Act amends the Act so specified.

10 Part 2—Amendment of *Aquaculture Act 2001***4—Insertion of section 6A**

After section 6 insert:

6A—Licence or other right is not personal property for the purposes of Commonwealth Act

- 15 A right, entitlement or authority granted by or under this Act is not personal property for the purposes of the *Personal Property Securities Act 2009* of the Commonwealth.

Part 3—Amendment of *Bills of Sale Act 1886*

5—Amendment of section 2—Interpretation

- (1) Section 2(1)—after the definition of *bill of sale* insert:

business day means any day except a Saturday or a Sunday or other public holiday;

- (2) Section 2(1)—after the definition of *personal chattels* insert:

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

- (3) Section 2(1)—after the definition of *Registrar* insert:

registration commencement time has the same meaning as in the PPS Act;

6—Amendment of section 10A—Assignment of future crops

Section 10A(1)—delete "complying with this Act and executed after the commencement of the *Bills of Sale Act Amendment Act 1934*" and substitute:

executed before the registration commencement time that complied with this Act at the time of its execution

7—Amendment of section 11—Covenants and powers implied in bills of sale

Section 11—after "bill of sale for securing money" insert:

executed before the registration commencement time

8—Amendment of section 11A—Standard terms and conditions in bills of sale

- (1) Section 11A(1)—delete "A person" and substitute:

Subject to subsection (1a), a person

- (2) Section 11A—after subsection (1) insert:

(1a) A document of a kind referred to in subsection (1) cannot be deposited with the Registrar following the last business day before the registration commencement time.

- (3) Section 11A(2)—after "A bill of sale" insert:

executed before the registration commencement time

9—Amendment of section 12—Implication of certain words

Section 12—after "in any bill of sale" insert:

executed before the registration commencement time

10—Amendment of section 12A—Joint and several liability under bill of sale

Section 12A—after "bill of sale" insert:

executed before the registration commencement time

11—Amendment of section 12B—Joint and several entitlement of grantees

Section 12B—after "of a bill of sale" insert:

executed before the registration commencement time

12—Amendment of section 15—Bills of sale to be registered in General Registry Office

(1) Section 15—delete "All bills" and substitute:

Subject to subsection (2), all bills

(2) Section 15—after its present contents as amended by this section (now to be designated as subsection (1)) insert:

(2) A bill of sale or subsequent dealing is not to be registered under this Act following the last business day before the registration commencement time.

13—Amendment of section 19A—Renewal of registration of bills of sale

Section 19A—after subsection (2) insert:

(2a) However, the registration of a bill of sale under this Act cannot be renewed following the registration commencement time.

14—Amendment of section 21—Bills of sale may be extended, varied or corrected

(1) Section 21(1)—after "may be effected" insert:

before the registration commencement time

(2) Section 21—after subsection (3) insert:

(4) An extension of time, or any other variation, or any correction, of a bill of sale effected before the registration commencement time continues to have effect after that time.

15—Amendment of section 23—Registration of dealings with registered bills of sale

(1) Section 23(1)—delete "The Registrar" and substitute:

Subject to subsection (1a), the Registrar

(2) Section 23—after subsection (1) insert:

(1a) A dealing with a bill of sale is not to be registered under this Act following the registration commencement time.

16—Amendment of section 38B—Minister may discharge bill of sale in certain circumstances

(1) Section 38B(1)—delete "Where all money" and substitute:

Subject to subsection (1aa), if all money

(2) Section 38B—after subsection (1) insert:

(1aa) The Minister may not execute a discharge of a bill of sale after the registration commencement time.

(3) Section 38B(2)—delete "The Minister may" and substitute:

Subject to subsection (2a), the Minister may

(4) Section 38B—after subsection (2) insert:

(2a) The Minister may not receive money under subsection (2) after the registration commencement time.

17—Insertion of Parts 7 and 8

After Part 6 insert:

Part 7—Provisions relating to PPS Act

42—Certain provisions of Act to cease to have effect

(1) The following provisions of this Act will cease to have effect at the registration commencement time:

- (a) section 7;
- (b) sections 9 and 10;
- (c) section 13;
- (d) sections 17 to 18 (inclusive);
- (e) section 19B;
- (f) sections 19E and 20;
- (g) section 22;
- (h) the provisions of Part 4;
- (i) section 36;
- (j) section 37.

(2) Any proceedings on foot before the Supreme Court under section 17B or 19B at the registration commencement time are discontinued at the registration commencement time by force of this subsection.

43—Provision of information to Commonwealth

(1) The Registrar may provide the PPS Registrar, or any other officer of the Commonwealth, with such information concerning bills of sale registered under this Act, and any other information recorded by the Registrar in connection with registration under this Act, as the Registrar considers appropriate in order to assist the Commonwealth in establishing the PPS Register.

(2) The Registrar may provide the information referred to in subsection (1) in such form (including by means of electronic data or in a form approved for the purposes of the PPS Act) as the Registrar considers appropriate.

(3) In this section—

PPS Register means the Personal Property Securities Register established under the PPS Act;

PPS Registrar means the Registrar of Personal Property Securities under the PPS Act.

44—Immunity

The State, or an officer, employee or agent of the State, does not incur liability for anything done or omitted to be done in good faith by the State, officer, employee or agent—

- (a) in the exercise of a power or the discharge of a duty under section 43; or
- (b) in the reasonable belief that the act or omission was in the exercise of a power or the discharge of a duty under section 43.

45—Registrar may refuse to exercise functions

(1) The Registrar may refuse to exercise a function under this Act during the pre-PPS transitional period.

(2) Without limiting subsection (1), the Registrar may refuse to exercise a function during the pre-PPS transitional period in relation to a matter that was not finally determined or concluded immediately before the commencement of that period.

(3) In this section—

migration time has the same meaning as in the PPS Act;

pre-PPS transitional period means the period—

- (a) commencing at the migration time or such earlier time as may be prescribed by the regulations; and
- (b) ending at the registration commencement time.

46—Registrar may dispose of certain documents

The Registrar may, following the registration commencement time, destroy or otherwise dispose of any bill of sale kept in the Registrar's office, or any document or record kept in connection with such a bill of sale, if, in the opinion of the Registrar, retention of the bill of sale or other document or record would serve no useful purpose.

47—Regulations

- (1) The Governor may make regulations containing provisions of a savings or transitional nature—
- (a) consequent on the enactment of the *Personal Property Securities (Commonwealth Powers) Act 2009* or on the commencement of specified provisions of that Act; or
- (b) relevant to the interaction between this Act and the PPS Act.
- (2) The Governor may, by regulation—
- (a) provide that this Act is to apply to prescribed bills of sale, or bills of sale relating to property of a prescribed kind, as if it had not been amended by the *Statutes Amendment (Personal Property Securities) Act 2010* (the **amending Act**) or as if specified amendments made by the amending Act had not been made; and
- (b) make any consequential provision necessary in connection with a regulation under paragraph (a).
- (3) The Registrar may provide such information concerning bills of sale, or other information recorded by the Registrar in connection with registration under this Act, as the Registrar considers appropriate to the person responsible for maintaining a register under another Act if the information is provided in accordance with an arrangement entered into by the Minister with the Minister responsible for the administration of the other Act.

Part 8—Repeal of Act

48—Repeal of Act

- (1) After the registration commencement time, the Governor may, by proclamation, fix a date for the repeal of this Act.
- (2) On the date fixed under subsection (1), this Act is repealed.

Part 4—Amendment of *Coast Protection Act 1972*

18—Amendment of section 24—Temporary occupation

Section 24—after subsection (4) insert:

- (5) An authorisation of the Board under subsection (1) is not transferable.

Part 5—Amendment of *Co-operatives Act 1997*

19—Amendment of section 9—Exclusion of operation of Corporations Act

- (1) Section 9(2)(g)—delete paragraph (g)
- (2) Section 9(2)(m)—delete paragraph (m)

20—Amendment of section 46—Lodgment of documents not to constitute constructive knowledge

Section 46(2)—delete subsection (2) and substitute:

- 5 (2) Subsection (1) does not apply in relation to a document, or in relation to the contents of a document, that has been filed under the *Personal Property Securities Act 2009* of the Commonwealth to the extent that the document relates to a charge that may be the subject of registration under that Act.

21—Amendment of section 239—Registers to be kept by co-operatives

10 Section 239(1)(b)—delete "securities given by,"

22—Amendment of Schedule 3—Registration etc of charges

- (1) Schedule 3, clause 1—after the definition of *marketable security* insert:

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

- 15 (2) Schedule 3, clause 1, after the definition of *registrable charge* insert:

registration commencement time has the same meaning as in the PPS Act.

- (3) Schedule 3—after Part 3 insert:

Part 4—Provisions relating to PPS Act

50—Certain provisions of Schedule to cease to have effect

20 The following provisions of this Schedule will cease to have effect at the registration commencement time:

- (a) clause 13;
(b) clauses 15 to 17 (inclusive);
(c) the provisions of Part 2 Division 4;
25 (d) the provisions of Part 2 Division 5;
(e) the provisions of Part 2 Division 6;
(f) clauses 40 and 41;
(g) the provisions of Part 3.

51—Provision of information to Commonwealth

- 30 (1) The Commission may provide the PPS Registrar, or any other officer of the Commonwealth, with such information concerning charges registered under this Schedule, and any other information recorded by the Commission in connection with registration under this
35 Schedule, as the Commission considers appropriate in order to assist the Commonwealth in establishing the PPS Register.

- (2) The Commission may provide the information referred to in subclause (1) in such form (including by means of electronic data or in a form approved for the purposes of the PPS Act) as the Commission considers appropriate.

- (3) In this clause—

PPS Register means the Personal Property Securities Register established under the PPS Act;

PPS Registrar means the Registrar of Personal Property Securities under the PPS Act.

52—Immunity

The State, or an officer, employee or agent of the State, does not incur liability for anything done or omitted to be done in good faith by the State, officer, employee or agent—

- (a) in the exercise of a power or the discharge of a duty under clause 51; or
- (b) in the reasonable belief that the act or omission was in the exercise of a power or the discharge of a duty under clause 51.

53—Commission may refuse to exercise functions

- (1) The Commission may refuse to exercise a function under this Schedule during the pre-PPS transitional period.
- (2) Without limiting subclause (1), the Commission may refuse to exercise a function during the pre-PPS transitional period in relation to a matter that was not finally determined or concluded immediately before the commencement of that period.
- (3) In this clause—

migration time has the same meaning as in the PPS Act;

pre-PPS transitional period means the period—

- (a) commencing at the migration time or such earlier time as may be prescribed by the regulations; and
- (b) ending at the registration commencement time.

54—Regulations

The Governor may make regulations containing provisions of a savings or transitional nature—

- (a) consequent on the enactment of the *Personal Property Securities (Commonwealth Powers) Act 2009* or on the commencement of specified provisions of that Act; or
- (b) relevant to the interaction between this Act and the PPS Act.

Part 5—Repeal of Schedule and Part 10 Division 2

55—Repeal of Schedule and Part 10 Division 2

- 5
- (1) After the registration commencement time, the Governor may, by proclamation, fix a date for the repeal of this Schedule and Part 10 Division 2 of this Act.
 - (2) On the date fixed under subclause (1), this Schedule and Part 10 Division 2 of this Act are repealed.

Part 6—Amendment of *Criminal Assets Confiscation Act 2005*

23—Insertion of section 11A

10 After section 11 insert:

11A—Application of Personal Property Securities Act

Section 73(2) of the *Personal Property Securities Act 2009* of the Commonwealth applies to an interest in property that arises by being created, arising or being provided for under this Act.

Part 7—Amendment of *Criminal Law (Clamping, Impounding and Forfeiture of Vehicles) Act 2007*

24—Amendment of section 7—Extension of clamping period

Section 7(3)(b)—delete paragraph (b) and substitute:

- 20
- (b) each person registered under the *Personal Property Securities Act 2009* of the Commonwealth as a secured party in relation to a security interest for which the motor vehicle is collateral; and

25—Amendment of section 12—Court order for impounding or forfeiture on conviction of prescribed offence

25 Section 12(2)(c)—delete "holder of a registered security interest in respect of the motor vehicle under the *Goods Securities Act 1986*" and substitute:

person registered under the *Personal Property Securities Act 2009* of the Commonwealth as a secured party in relation to a security interest for which the motor vehicle is collateral

26—Amendment of section 20—Disposal of vehicles

30 Section 20(3)(b)—delete paragraph (b) and substitute:

- (b) each person registered under the *Personal Property Securities Act 2009* of the Commonwealth as a secured party in relation to a security interest for which the motor vehicle is collateral.

27—Amendment of section 21—Credit provider may apply to Magistrates Court for relief

Section 21(3)(d)—delete paragraph (d) and substitute:

- 5 (d) each person registered under the *Personal Property Securities Act 2009* of the Commonwealth as a secured party in relation to a security interest for which the motor vehicle is collateral;

Part 8—Amendment of *Electricity Act 1996*

28—Insertion of section 30A

After section 30 insert:

10 **30A—Licence is not personal property for the purposes of Commonwealth Act**

A licence under this Part is not personal property for the purposes of the *Personal Property Securities Act 2009* of the Commonwealth.

Part 9—Amendment of *Fisheries Management Act 2007*

15 **29—Insertion of section 5A**

After section 5 insert:

5A—Licence or other right is not personal property for the purposes of Commonwealth Act

20 An authority granted by or under this Act is not personal property for the purposes of the *Personal Property Securities Act 2009* of the Commonwealth.

Part 10—Amendment of *Gas Act 1997*

30—Insertion of section 32A

After section 32 insert:

25 **32A—Licence is not personal property for the purposes of Commonwealth Act**

A licence under this Part is not personal property for the purposes of the *Personal Property Securities Act 2009* of the Commonwealth.

Part 11—Amendment of *Goods Securities Act 1986*

30 **31—Amendment of section 3—Interpretation**

- (1) Section 3(1)—after the definition of *authorised person* insert:

business day means any day except a Saturday or a Sunday or other public holiday;

- (2) Section 3(1)—after the definition of *notice* insert:

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

- (3) Section 3(1)—after the definition of *Registrar* insert:

registration commencement time has the same meaning as in the PPS Act;

32—Amendment of section 4—The register

Section 4—after subsection (3) insert:

- (4) Despite subsections (2) and (3), no information is to be added to the register under this section following the last business day before the registration commencement time.

33—Amendment of section 5—Application for registration

- (1) Section 5(1)—delete "The holder" and substitute:

Subject to subsection (1a), the holder

- (2) Section 5—after subsection (1) insert:

- (1a) An application under subsection (1) may not be made following the last business day before the registration commencement time.

34—Amendment of section 6—Change of particulars

- (1) Section 6(1)—delete "The holder" and substitute:

Subject to subsection (1a), the holder

- (2) Section 6—after subsection (1) insert:

- (1a) An application under subsection (1) may not be made following the last business day before the registration commencement time.

35—Amendment of section 7—Cancellation of registration

- (1) Section 7(1)—delete "The holder" and substitute:

Subject to this section, the holder

- (2) Section 7—after subsection (1) insert:

- (1a) An application under subsection (1) may not be made following the last business day before the registration commencement time.

36—Amendment of section 8A—Interstate arrangements and registration of security interests under corresponding law

- (1) Section 8A(2)—delete "The Registrar" and substitute:

Subject to subsection (2a), the Registrar

- (2) Section 8A—after subsection (2) insert:

- (2a) No information is to be added to the register under this section following the last business day before the registration commencement time.

37—Amendment of section 9—Certificate of registered security interests

- (1) Section 9(1)—delete "A person" and substitute:

Subject to subsection (1a), a person

- (2) Section 9—after subsection (1) insert:

(1a) An application under subsection (1) may not be made following the last business day before the registration commencement time.

38—Repeal of section 19

Section 19—delete the section

39—Insertion of Parts 6 and 7

After Part 5 insert:

Part 6—Provisions relating to PPS Act

23—Certain provisions of Act to cease to have effect

The following provisions of this Act will cease to have effect at the registration commencement time:

- (a) section 7(1)(b);
- (b) section 8B;
- (c) the provisions of Part 3.

24—Provision of information to Commonwealth

- (1) The Registrar may provide the PPS Registrar, or any other officer of the Commonwealth, with such information concerning security interests registered under this Act, and any other information recorded by the Registrar in connection with registration under this Act, as the Registrar considers appropriate in order to assist the Commonwealth in establishing the PPS Register.
- (2) The Registrar may provide the information referred to in subsection (1) in such form (including by means of electronic data or in a form approved for the purposes of the PPS Act) as the Registrar considers appropriate.
- (3) In this section—

PPS Register means the Personal Property Securities Register established under the PPS Act;

PPS Registrar means the Registrar of Personal Property Securities under the PPS Act.

25—Immunity

The State, or an officer, employee or agent of the State, does not incur liability for anything done or omitted to be done in good faith by the State, officer, employee or agent—

- 5
- (a) in the exercise of a power or the discharge of a duty under section 24; or
 - (b) in the reasonable belief that the act or omission was in the exercise of a power or the discharge of a duty under section 24.

26—Registrar may refuse to exercise functions

- 10
- (1) The Registrar may refuse to exercise a function under this Act during the pre-PPS transitional period.
 - (2) Without limiting subsection (1), the Registrar may refuse to exercise a function during the pre-PPS transitional period in relation to a matter that was not finally determined or concluded immediately before the commencement of that period.
 - (3) In this section—

migration time has the same meaning as in the PPS Act;

pre-PPS transitional period means the period—

- 15
- (a) commencing at the migration time or such earlier time as may be prescribed by the regulations; and
 - (b) ending at the registration commencement time.
- 20

27—Expiry of registration 7 years after registration commencement time

25

Despite any other provision of this Act, the registration of all security interests registered under this Act immediately before the registration commencement time will expire on 1 May 2018 (unless otherwise cancelled before that day).

28—Regulations

30

The Governor may make regulations containing provisions of a savings or transitional nature—

- (a) consequent on the enactment of the *Personal Property Securities (Commonwealth Powers) Act 2009* or on the commencement of specified provisions of that Act; or
 - (b) relevant to the interaction between this Act and the PPS Act.
- 35

Part 7—Expiry of Act

29—Expiry of Act

- (1) Subject to this section, this Act will expire on the third anniversary of the commencement of this section.

- (2) After the registration commencement time, the Governor may, by proclamation, fix a day on which this Act will expire that is earlier than the day that applies under subsection (1) (and this Act will then expire on the day fixed by proclamation).

5 **Part 12—Amendment of *Historic Shipwrecks Act 1981***

40—Insertion of section 15A

After section 15 insert:

15A—Permits not transferable

A permit granted under this Act is not transferable.

10 **Part 13—Amendment of *Legal Practitioners Act 1981***

41—Amendment of section 21—Entitlement to practise

Section 21(3)(o)—delete paragraph (o) and substitute:

- (o) a conveyancer registered under the *Conveyancers Act 1994* from preparing for fee or reward—
- 15 (i) an instrument registrable under the *Real Property Act 1886*, the *Community Titles Act 1996* or the *Strata Titles Act 1988*;
or
- (ii) an instrument that creates or records a bill of sale, stock mortgage or lien over wool or fruit;

20 **Part 14—Amendment of *Liens on Fruit Act 1923***

42—Amendment of section 2—Interpretation

- (1) Section 2—before the definition of *fruit crop* insert:

business day means any day except a Saturday or a Sunday or other public holiday;

- 25 (2) Section 2—after the definition of *landlord* insert:

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

- (3) Section 2—after the definition of *produce* insert:

registration commencement time has the same meaning as in the PPS Act;

30 **43—Amendment of section 3—Right of lienee to fruit crops**

- (1) Section 3—delete "In all cases" and substitute:

Subject to subsection (2), in all cases

- (2) Section 3—after its present contents as amended by this section (now to be designated as subsection (1)) insert:

- (2) An agreement is not to be registered under this Act following the last business day before the registration commencement time.

5 **44—Repeal of section 9**

Section 9—delete the section

45—Insertion of sections 11 to 16

After section 10 insert:

11—Certain provisions of Act to cease to have effect

- 10 Sections 3 to 7 (inclusive) will cease to have effect at the registration commencement time.

12—Provision of information to Commonwealth

- 15 (1) The Registrar-General of Deeds may provide the PPS Registrar, or any other officer of the Commonwealth, with such information concerning agreements registered under this Act, and any other information recorded by the Registrar-General in connection with registration under this Act, as the Registrar-General considers appropriate in order to assist the Commonwealth in establishing the PPS Register.
- 20 (2) The Registrar-General of Deeds may provide the information referred to in subsection (1) in such form (including by means of electronic data or in a form approved for the purposes of the PPS Act) as the Registrar-General considers appropriate.

- 25 (3) In this section—
PPS Register means the Personal Property Securities Register established under the PPS Act;
PPS Registrar means the Registrar of Personal Property Securities under the PPS Act.

13—Immunity

- 30 The State, or an officer, employee or agent of the State, does not incur liability for anything done or omitted to be done in good faith by the State, officer, employee or agent—
- (a) in the exercise of a power or the discharge of a duty under section 12; or
- 35 (b) in the reasonable belief that the act or omission was in the exercise of a power or the discharge of a duty under section 12.

14—Registrar-General may refuse to exercise functions

- 40 (1) The Registrar-General of Deeds may refuse to exercise a function under this Act during the pre-PPS transitional period.

(2) Without limiting subsection (1), the Registrar-General of Deeds may refuse to exercise a function during the pre-PPS transitional period in relation to a matter that was not finally determined or concluded immediately before the commencement of that period.

5 (3) In this section—

migration time has the same meaning as in the PPS Act;

pre-PPS transitional period means the period—

(a) commencing at the migration time or such earlier time as may be prescribed by the regulations; and

10 (b) ending at the registration commencement time.

15—Regulations

The Governor may make regulations containing provisions of a savings or transitional nature—

15 (a) consequent on the enactment of the *Personal Property Securities (Commonwealth Powers) Act 2009* or on the commencement of specified provisions of that Act; or

(b) relevant to the interaction between this Act and the PPS Act.

16—Repeal of Act

20 (1) After the registration commencement time, the Governor may, by proclamation, fix a date for the repeal of this Act.

(2) On the date fixed under subsection (1), this Act is repealed.

Part 15—Amendment of *Marine Parks Act 2007*

46—Amendment of section 19—Permits for activities

Section 19—after subsection (8) insert:

25 (9) A permit granted under this section may be transferred only if it is a permit for a prescribed activity or a permit of a prescribed class and the transfer complies with any prescribed conditions.

Part 16—Amendment of *Mercantile Law Act 1936*

47—Amendment of section 4—Powers of mercantile agent with respect to disposition of goods

30 (1) Section 4(5)—delete "an interest that is registered under the *Goods Securities Act 1986*" and substitute:

a security interest that is the subject of a financing statement registered under the *Personal Property Securities Act 2009* of the Commonwealth

(2) Section 4—after subsection (5) insert:

- (6) In subsection (5), *security interest* and *financing statement* have the same respective meanings as in the *Personal Property Securities Act 2009* of the Commonwealth.

5 **Part 17—Amendment of *Mining Act 1971***

48—Insertion of section 83A

After section 83 insert:

83A—Licence or other right is not personal property for the purposes of Commonwealth Act

10 A right, entitlement or authority granted by or under this Act is not personal property for the purposes of the *Personal Property Securities Act 2009* of the Commonwealth.

Part 18—Amendment of *National Parks and Wildlife Act 1972*

49—Amendment of section 35—Control of reserves

15 Section 35—after subsection (4) insert:

- (4a) A licence granted under this section cannot be transferred or otherwise dealt with without the consent of the relevant authority that granted the licence.

50—Amendment of section 69—Permits

20 Section 69—after subsection (7) insert:

- (7a) A permit granted under a provision of this Act may be transferred only if it is a permit for a prescribed activity or a permit of a prescribed class and the transfer complies with any prescribed conditions.

25 **Part 19—Amendment of *Offshore Minerals Act 2000***

51—Insertion of section 5A

After section 5 insert:

5A—Licence or other right is not personal property for the purposes of Commonwealth Act

30 A right, entitlement or authority granted by or under this Act is not personal property for the purposes of the *Personal Property Securities Act 2009* of the Commonwealth.

Part 20—Amendment of *Petroleum and Geothermal Energy Act 2000*

52—Insertion of section 13A

After section 13 insert:

5 **13A—Licence is not personal property for the purposes of
 Commonwealth Act**

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

Part 21—Amendment of *Petroleum (Submerged Lands) Act 1982*

10 **53—Insertion of section 5B**

After section 5A insert:

**5B—Licence or other right is not personal property for the
 purposes of Commonwealth Act**

15 A right, entitlement or authority that is granted by or under this Act
is not personal property for the purposes of the *Personal Property Securities Act 2009* of the Commonwealth.

Part 22—Amendment of *Roxby Downs (Indenture Ratification) Act 1982*

54—Insertion of section 5A

20 After section 5 insert:

**5A—Certain rights etc are not personal property for the
 purposes of Commonwealth Act**

The following are not personal property for the purposes of the *Personal Property Securities Act 2009* of the Commonwealth:

- 25 (a) a Special Tenement;
- (b) a right, entitlement or authority granted by or under this Act that is of a kind declared by the regulations not to be personal property for the purposes of the *Personal Property Securities Act 2009* of the Commonwealth.

Part 23—Amendment of *Stock Mortgages and Wool Liens Act 1924*

55—Amendment of section 4—Interpretation

- (1) Section 4—before the definition of *lienee* insert:

5 *business day* means any day except a Saturday or a Sunday or other public holiday;

- (2) Section 4—after the definition of *mortgagor* insert:

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

10 *registration commencement time* has the same meaning as in the PPS Act;

56—Amendment of section 5—Stock mortgages

- (1) Section 5—delete "Every mortgage" and substitute:

 Subject to this section, every mortgage

- (2) Section 5—delete "to this Act" and substitute:

15 before the registration commencement time

- (3) Section 5—after its present contents (now to be designated as subsection (1)) insert:

- (2) A mortgage of stock is not to be registered in the general registry office following the last business day before the registration commencement time.

57—Amendment of section 14—Owner of sheep may grant preferable lien on wool

 Section 14—after subsection (2) insert:

- (3) An agreement conferring a preferable lien on wool is not to be registered in the general registry office following the last business day before the registration commencement time.

58—Amendment of section 19—Other implied covenants in stock mortgages and agreements for wool liens

- (1) Section 19(1)—after "stock mortgage" insert:

 executed before the registration commencement time

- 30 (2) Section 19(2)—after "lien on wool" insert:

 executed before the registration commencement time

59—Amendment of section 20—Meaning of abbreviated expressions

 Section 20—after "lien on wool" insert:

 executed before the registration commencement time

60—Amendment of section 21—Covenants to be several as well as joint

Section 21—after "lien on wool" insert:

executed before the registration commencement time

61—Amendment of section 22—Covenants to bind executors

5 Section 22—after "lien on wool" insert:

executed before the registration commencement time

62—Amendment of section 25—Certain provisions of Bills of Sale Act to apply to mortgages and agreements for liens

(1) Section 25—delete "The provisions" and substitute:

10 Subject to subsection (2), the provisions

(2) Section 25—after its present contents as amended by this section (now to be designated as subsection (1)) insert:

(2) A provision of the *Bills of Sale Act 1886* that will cease to have effect at the registration commencement time will, at that time, also cease to have effect in its application to stock mortgages and agreements conferring a preferable lien on wool under this Act.

63—Insertion of Parts 5 and 6

After Part 4 insert:

Part 5—Provisions relating to PPS Act

26—Certain provisions of Act to cease to have effect

The following provisions of this Act will cease to have effect at the registration commencement time:

- (a) sections 6 to 13 (inclusive);
- (b) sections 15 to 17 (inclusive);
- (c) sections 23 and 24.

27—Provision of information to Commonwealth

(1) The Registrar-General may provide the PPS Registrar, or any other officer of the Commonwealth, with such information concerning stock mortgages and agreements conferring a preferable lien on wool registered under this Act, and any other information recorded by the Registrar-General in connection with registration under this Act, as the Registrar-General considers appropriate in order to assist the Commonwealth in establishing the PPS Register.

(2) The Registrar-General may provide the information referred to in subsection (1) in such form (including by means of electronic data or in a form approved for the purposes of the PPS Act) as the Registrar-General considers appropriate.

(3) In this section—

PPS Register means the Personal Property Securities Register established under the PPS Act;

PPS Registrar means the Registrar of Personal Property Securities under the PPS Act.

28—Immunity

The State, or an officer, employee or agent of the State, does not incur liability for anything done or omitted to be done in good faith by the State, officer, employee or agent—

- (a) in the exercise of a power or the discharge of a duty under section 27; or
- (b) in the reasonable belief that the act or omission was in the exercise of a power or the discharge of a duty under section 27.

29—Registrar-General may refuse to exercise functions

- (1) The Registrar-General may refuse to exercise a function under this Act during the pre-PPS transitional period.
- (2) Without limiting subsection (1), the Registrar-General may refuse to exercise a function during the pre-PPS transitional period in relation to a matter that was not finally determined or concluded immediately before the commencement of that period.
- (3) In this section—

migration time has the same meaning as in the PPS Act;

pre-PPS transitional period means the period—

- (a) commencing at the migration time or such earlier time as may be prescribed by the regulations; and
- (b) ending at the registration commencement time.

30—Registrar-General may dispose of certain documents

The Registrar-General may, following the registration commencement time, destroy or otherwise dispose of any stock mortgage or agreement conferring a preferable lien on wool kept in the Registrar-General's office, or any document or record kept in connection with such a mortgage or agreement, if, in the opinion of the Registrar-General, retention of the mortgage, lien or other document or record would serve no useful purpose.

31—Regulations

The Governor may make regulations containing provisions of a savings or transitional nature—

- (a) consequent on the enactment of the *Personal Property Securities (Commonwealth Powers) Act 2009* or on the commencement of specified provisions of that Act; or

- (b) relevant to the interaction between this Act and the PPS Act.

Part 6—Repeal of Act

32—Repeal of Act

- 5 (1) After the registration commencement time, the Governor may, by proclamation, fix a date for the repeal of this Act.
- (2) On the date fixed under subsection (1), this Act is repealed.

Part 24—Amendment of *Unclaimed Goods Act 1987*

64—Amendment of section 8—Proceeds of sale

Section 8(2)—delete subsection (2) and substitute:

- 10 (2) If the Treasurer is satisfied that a person—
- (a) had, prior to the sale, an interest in goods sold under this Act; or
- (b) has, after the sale, an interest in the proceeds of the sale of goods under this Act,

15 the Treasurer may pay to that person the whole or any part of the balance paid to the Treasurer in respect of the sale of those goods under subsection (1)(b).

Part 25—Amendment of *Wilderness Protection Act 1992*

65—Amendment of section 28—Control and administration of wilderness protection areas and zones

Section 28—after subsection (4) insert:

- 20 (5) A licence granted under this section cannot be transferred or otherwise dealt with without the consent of the Minister.

66—Amendment of section 33—Prohibited areas

Section 33—after subsection (6) insert:

- 25 (7) A permit issued by the Minister under this section is not transferable.

Part 26—Amendment of *Worker's Liens Act 1893*

67—Insertion of section 9C

After section 9B insert:

9C—Application of Personal Property Securities Act

30 Section 73(2) of the *Personal Property Securities Act 2009* of the Commonwealth applies to an interest in property that arises by being created, arising or being provided for under this Act.