

LEGISLATIVE ASSEMBLY OF THE
NORTHERN TERRITORY

MINISTER FOR JUSTICE AND ATTORNEY-GENERAL

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

SERIAL NO. 103

EXPLANATORY STATEMENT

GENERAL OUTLINE

The Personal Property Securities (National Uniform Legislation) Implementation Bill 2010 provides for:

- (a) the repeal of the *Instruments Act*, the *Registration of Interests in Motor Vehicles and Other Goods Act* and the *Motor Vehicles (Hire Car) Loan Security Regulations*;
- (b) amendments to 34 other NT Acts consequential to the enactment by the Commonwealth Parliament of the *Personal Property Securities Act 2009*, being an Act, providing for the registration of personal property securities, enacted pursuant to an intergovernmental agreement signed in October 2008 between the Commonwealth and the Australian States and Territories;
- (c) amendments to a number of Territory Acts to clarify that licences issued under them are not transferable;
- (d) amendments to the *Electricity Reform Act*, *Energy Pipelines Act*, *Fisheries Act*, *Gaming Control Act*, *Geothermal Energy Act*, *Liquor Act*, *Mining Act*, *Petroleum Act*, *Petroleum (Submerged Lands) Act*, *Tobacco Control Act*, *Totalisator Licensing and Regulation Act*, *Traffic Act* and *Water Act* so that licences granted under those Acts are declared, as provided for in section 8(1)(k) of the *Personal Property Securities Act 2009*, not to be personal property for the purposes of that Act;
- (e) for transitional matters relating to applications and court proceedings that had been commenced but not finalised at the time when personal property securities cease to be registered under NT law and are subject to the registration requirements of the *Personal Property Securities Act 2009*.

NOTES ON CLAUSES

Clause/Part

Part 1 Preliminary matters

1. Short title

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

2. Commencement

The Act (or parts of it) commences operation in accordance with the Administrator's fixing of a commencement date as published in the Gazette.

Part 1 and Division 1 of Part 2 will commence as soon as practicable after notification of the Act in the *Gazette*. These provisions provide for the migration of data and other matters generally relating to the PPS Act.

Division 2 of Part 2, Part 3, and Divisions 1 and 2 of Part 4, will commence on the "Registration Date" (i.e. the date the Commonwealth PPS Register commences). These provisions are those that should only become effective once the Commonwealth PPS Register becomes operative.

Division 3 of Part 4 (Repeals) will commence at a later time. This will allow for any residual matters relating to the closed NT Registers to be dealt with by the appointed Registrar prior to the actual repeal of the relevant Act.

3. Object of the Act

This clause sets out the object of the Act.

4. Definitions

This clause contains the definitions necessary for the Act.

5. NT register and repeal day

This clause contains further definitions, including the meaning of “NT registers”. The definition of “repeal day” is tied to the date the various Acts (or the provisions establishing the relevant register) are repealed.

6. Interpretation

As a general rule, words used in this Act have the same meaning as they have in the *Personal Property Securities Act 2009* (Cth) (the PPS Act). This general rule operates subject to any contrary intention (eg a specific definition) in the Act.

Part 2 Implementation of the PPS Act

Division 1 General rules

7. Cessation of NT registers

The NT registers are not to be altered after the “cessation time”. This is the day immediately before the day when registration commences under the Commonwealth PPS Act. See section 306(2) of the PPS Act.

An NT Registrar need not deal with an application made before the cessation time if the application does not comply with NT law as in force at the time of the application. If there is such a refusal the Registrar must refund any fees that have been paid. This sub-clause is intended to cover applications for registration of an interest that may be deficient in some way, in the days shortly before the NT Registers will be closed and registration will need to occur under the PPS Act.

8. Migration of data to PPS Register

The relevant NT Registrars are authorised to give information from the NT Registers to the PPS Registrar, the Commonwealth or any other person as may be appropriate for the purposes of the establishment of the PPS Register.

9. NT register information received by Territory after registration commencement time

The relevant Registrar under an NT Act must pass on to the PPS Registrar any relevant

information concerning an NT Register that is received after the registration commencement time that is information that would, but for the operation of this Act, have been included in a relevant NT Register.

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

The relevant Registrar under an NT Act is authorized to provide information or documents relating to a matter that was on a NT register to the PPS Registrar after the national scheme commences.

11. Issuing certificates after registration commencement time

This Act does not prevent a registrar from issuing a certificate (relating to registered interests) under the relevant Act.

This clause enables people to obtain historical information that may be needed (for example, for legal proceedings).

12. Compensation relating to PPS transitional matters

The Northern Territory, its authorities, agents and employees are not liable for any acts or omissions (except any that result in death or injury) that occur in good faith in relation to the PPS transitional matters. Protection from liability is necessary to ensure that Territory officers and agencies are fully able to participate in the design and implementation of the PPS Register. Territory officers will be able to readily transfer and give information without being unfairly exposed to liability.

13. Transitional security interests

This clause states that the NT Act does not affect the operation of the PPS Act concerning transitional security interests (which are interests that were registered before the PPS Act commences).

Division 2 Special rules for Registration of Interests in Motor Vehicles and Other Goods Act

14. Definitions

This clause contains definitions for the purposes of this Division.

15. Savings – existing cancellation or variation process

If a notice about cancellation or variation of an interest on the register has been given by the NT Registrar but the notice expires after the commencement of the national register, the NT Registrar must notify the PPS Registrar of any decision to cancel or vary the interest.

16. Savings – appeals

If the Local Court has not finalised an appeal that started under section 19 of the RIMVOG Act before the cessation date the Local Court must deal with the appeal as if the RIMVOG Act (except for section 19(3)) was still in force. The Local Court must notify the registrar of the decision. The registrar must then notify the PPS Registrar and provide any relevant information.

17. Savings – right to compensation

This clause saves a person's rights to compensation that they might have been entitled to under the repealed RIMVIG Act.

18.

Savings – Agreements under section 24 of RIMVOG Act

The agreement with New South Wales to provide the Northern Territory with services in relation to the REVS register continues for matters that arose before the commencement of the national scheme.

19. Delegation by registrar

The registrar may delegate a function that is continued because of this Act.

Part 3 – Other matters

20. Functions and powers of CEO on and after repeal day

After the Acts establishing NT registers have been repealed, the CEO of the Department of Justice may exercise powers of the relevant registrar as if the Act has not been repealed and the CEO was the registrar. This clause allows the CEO to deal with any residual matters (as after repeal day, there will be no relevant registrar to exercise these functions).

21. Delegation by CEO

The CEO may delegate functions under this Act.

22. Regulations

The Administrator may make regulations under this Act excluding NT matters from the operation of the PPS Act.

23. Transitional regulations

Regulations may deal with savings or transitional matters that are not dealt with in this Act. The regulations may have retrospective effect (back to the date this Act commences) provided they do not disadvantage a person by decreasing their rights or increasing their liabilities. This clause, and regulations made under it, are only operative for the first year the PPS Act is operative.

Part 4 Consequential amendments and repeals of legislation

24. Amendment of Agents Licensing Act

This clause inserts section 112A into the *Agents Licensing Act*.

112A Licence not transferable

This clause states that a licence under the *Agents Licensing Act* is not transferable.

25. Amendment of Agricultural and Veterinary Chemicals (Control of Use) Act

This clause inserts section 70A into the *Agricultural and Veterinary Chemicals (Control of Use) Act*.

70A Licence not transferable

This clause states that a licence under the *Agricultural and Veterinary Chemicals (Control of Use) Act* is not transferable.

26. Amendment of Animal Welfare Act

This clause inserts section 40A into the *Animal Welfare Act*.

40A Licence not transferable

This clause states that a licence under the *Animal Welfare Act* is not transferable.

27. Amendment of Auctioneers Act

This clause inserts section 20A into the *Auctioneers Act*.

20A Licence not transferable

This clause states that a licence under the *Auctioneers Act* is not transferable.

28. Amendment of Biological Resources Act

This clause inserts section 44A into the *Biological Resources Act*.

44A Licence not transferable

This clause states that a permit under the *Biological Resources Act* is not transferable.

29. Amendment of Commercial Passenger (Road) Transport Act

This clause inserts section 69A into the *Commercial Passenger (Road) Transport Act*.

69A Licence not transferable

This clause states that a licence under the *Commercial Passenger (Road) Transport Act* is not transferable.

30. Amendment of Consumer Affairs and Fair Trading Act

This clause inserts section 154A into the *Consumer Affairs and Fair Trading Act*.

154A Licence not transferable

This clause states that a licence under the *Consumer Affairs and Fair Trading Act* is not transferable.

31. Amendment of Cooperatives Act

This clause omits section 264 and schedule 3 (dealing with establishment of a register and registration of interests) from the *Cooperatives Act*.

32. Amendment of Electrical Workers and Contractors Act

This clause inserts section 55A into the *Electrical Workers and Contractors Act*.

55A Licence not transferable

This clause states that a licence under the *Electrical Workers and Contractors Act* is not transferable.

33. Amendment of Electricity Reform Act

This clause inserts section 37A into the *Electricity Reform Act*.

37A Licence not transferable

This clause states that a licence under the *Electricity Reform Act* is not personal property for the purposes of the PPS Act.

34. Amendment of Energy Pipelines Act

This clause inserts section 32A into the *Energy Pipelines Act*.

32A Licence not personal property

This clause states that a licence under the *Energy Pipelines Act* is not personal property for the purposes of the PPS Act. This means that licences under this Act will not be registered as securities under the PPS Act.

35. Amendment of Fisheries Act

This clause inserts section 14B into the *Fisheries Act*.

14B Licence not personal property

This clause states that a licence under the *Fisheries Act* is not personal property for the purposes of the PPS Act. This means that licences under this Act will not be registered as securities under the PPS Act.

36. Amendment of Gaming Control Act

This clause inserts sections 20A, 46R and 47R into the *Gaming Control Act*.

20A Licence not personal property

This clause states that a licence under section 20 of the *Gaming Control Act* is not personal property for the purposes of the PPS Act. This means that licences under this Act will not be registered as securities under the PPS Act.

46R Licence not personal property

This clause states that a licence under section 46 of the *Gaming Control Act* is not personal property for the purposes of the PPS Act.

47R Licence not personal property

This clause states that a licence under section 47 of the *Gaming Control Act* is not personal property for the purposes of the PPS Act. This means that licences under this Act will not be registered as securities under the PPS Act.

37. Amendment of Geothermal Energy Act

This clause inserts section 123A into the *Geothermal Energy Act*.

123A Licence not personal property

This clause states that a licence under the *Geothermal Energy Act* is not personal property for the purposes of the PPS Act. This means that licences under this Act will not be registered as securities under the PPS Act.

38. Amendment of Liquor Act

This clause inserts section 127A into the *Liquor Act*.

127A Licence not personal property

This clause states that a licence under the *Liquor Act* is not personal property for the purposes of the PPS Act. This means that licences under this Act will not be registered as securities under the PPS Act.

39. Amendment of Marine Act

This clause inserts section 142A into the *Marine Act*.

142A Licence not transferable

This clause states that a licence under the *Marine Act* is not transferable.

40. Amendment of Mining Act

This clause inserts section 173A into the *Mining Act*.

173A Licence not personal property

This clause states that a mining interest under the *Mining Act* is not personal property for the purposes of the PPS Act.

41. Amendment of Petroleum Act

This clause inserts sections 117AMA into the *Petroleum Act*.

117AMA Licence etc. not personal property

This clause states that an access authority, an exploration permit, a retention licence and a production licence under the *Petroleum Act* are not personal property for the purposes of the PPS Act.

42. Amendment of Petroleum (Submerged Lands) Act

This clause inserts section 137AC into the *Petroleum (Submerged Lands) Act*.

137AC Licence not personal property

This clause states that the various authorities, permits, leases and licences under of the *Petroleum (Submerged Lands) Act* are not personal property for the purposes of the PPS Act.

43. Amendment of Plumbers and Drainers Licensing Act

This clause inserts section 35A into the *Plumbers and Drainers Licensing*.

35A Licence not transferable

This clause states that a licence under the *Plumbers and Drainers Licensing* is not transferable.

44. Amendment of Poisons and Dangerous Goods Act

This clause inserts sections 27A and 59A into the *Poisons and Dangerous Goods Act*.

27A Licence not transferable

This clause states that a licence under section 27 of the *Poisons and Dangerous Goods Act* is not transferable.

59A Licence not transferable

This clause states that a licence under section 59 of the *Poisons and Dangerous Goods Act* is not transferable.

45. Amendment of Private Security Act

This clause inserts section 25A into the *Private Security Act*.

25A Licence not transferable

This clause states that a licence under the *Private Security Act* is not transferable.

46. Amendment of Prostitution Regulation Act

This clause inserts section 47B into the *Prostitution Regulation Act*.

47B Licence not transferable

This clause states that a licence under the *Prostitution Regulation Act* is not transferable.

47. Amendment of Racing and Betting Act

This clause inserts sections 88A and 119A into the *Racing and Betting Act*.

88A Licence not transferable

This clause states that a licence under section 88 of the *Racing and Betting Act* is not transferable.

119A Licence not transferable

This clause states that a licence under section 119 of the *Racing and Betting Act* is not transferable.

48. Amendment of Soccer Football Pools Act

This clause inserts section 11A into the *Soccer Football Pools Act*.

11A Licence not transferable

This clause states that a licence under the *Soccer Football Pools Act* is not transferable.

49. Amendment of Therapeutic Goods and Cosmetics Act

This clause inserts section 22A into the *Therapeutic Goods and Cosmetics Act*.

22A Licence and permit not transferable

This clause states that a licence and permit under the *Therapeutic Goods and Cosmetics Act* is not transferable.

Amendment of Tobacco Control Act

This clause inserts section 41A into the *Tobacco Control Act*.

41A Licence not personal property

This clause states that a licence under section 41 of the *Tobacco Control Act* is not personal property for the purposes of the PPS Act.

51. Amendment of Totaliser Licensing and Regulation Act

This clause inserts section 23A into the *Totaliser Licensing and Regulation Act*.

23A Licence not personal property

This clause states that a licence under the *Totaliser Licensing and Regulation Act* is not personal property for the purposes of the PPS Act.

52. Amendment of Traffic Act

This clause omits reference to the RIMVOG Act and replaces it with a reference to the PPS Act.

53. Amendment of Uncollected Goods Act

This clause omits reference to the RIMVOG Act and replaces it with a reference to the PPS Act, and inserts necessary definitions.

54. Amendment of Warehousemen's Liens Act

This clause amends the Warehousemen's Liens Act so as to reflect the repeal of the *Instruments Act* and its replacement with the PPS Act.

The Act also amended so that a Warehouseman does not need to give notice of a lien under the Act, to a person with a registered interest in goods deposited, if the value of the goods is less than \$200.

Amendment of Waste Management and Pollution Control Act

This clause omits reference to the RIMVOG Act and replaces it with a reference to the PPS Act.

56. Amendment to Water Supply and Sewerage Services Act

This clause inserts section 25A into the *Water Supply and Sewerage Services Act*.

25A Licence not personal property

This clause states that a licence under the *Water Supply and Sewerage Services Act* is not personal property for the purposes of the PPS Act.

Division 2 Consequential amendments of regulations

57. Amendment of Co-operatives Regulations

The Co-operatives Regulations are amended to omit a reference to repealed schedule 3 and to omit otiose regulations.

Division 3 Repeals and expiry

58. Repeal of Act

The Acts specified in Schedule 1 are repealed.

59. Repeal of Act and Regulations

The Act and Regulations specified in Schedule 2 are repealed.

60. Expiry of Part

This Part expires the day after all of the provisions in this Part have commenced.