

CHAPTER 1

INTRODUCTION

Purpose of the Bill

1.1 On 18 March 2010, the Senate referred the provisions of the Personal Property Securities (Corporations and Other Amendments) Bill 2010 (the Bill) for inquiry and report by 12 May 2010.

1.2 The Bill will implement a second suite of consequential amendments arising from the passage of the *Personal Property Securities Act 2009* (PPS Act) in September 2009. Under the PPS Act, a new personal property securities (PPS) regime will commence in May 2011.¹

1.3 The Bill's main purpose is to amend the *Corporations Act 2001* to close the Australian Securities and Investments Commission (ASIC) register of company charges once the new PPS register commences. It will also amend the PPS Act to simplify its transitional provisions, and make consequential amendments to other Commonwealth legislation.

1.4 In the second reading speech to the Bill, the Minister for Small Business, Independent Contractors and the Service Economy, Minister Assisting the Finance Minister on Deregulation and Minister for Competition Policy and Consumer Affairs, the Hon. Dr Craig Emerson MP (the Minister), highlighted the principles underlying the introduction of the Bill:

Personal property securities reform is an important part of [the Council of Australian Governments] deregulation agenda.

By harmonising the current laws and creating a single national online register, the reform will have a significant positive impact on business and consumers.

Transaction costs will be reduced and businesses will be able to use more types of personal property to secure lending.

Consumers will be able to protect themselves by more easily checking whether major purchases, such as motor vehicles, have money owing on them.²

1.5 The Minister noted that the consequential amendments contained in the Bill 'are necessary to establish a clear and consistent single national legal regime for security interests in personal property'.³

1 Explanatory memorandum, p. 13.

2 *Senate Hansard*, 10 March 2010, p. 2099.

3 *Senate Hansard*, 10 March 2010, p. 2099.

Background

1.6 The current inquiry is the fourth inquiry relating to personal property securities reform undertaken by the committee since 2009. The previous inquiries considered:

- the exposure draft of the Personal Property Securities Bill 2009 (March 2009);
- the Personal Property Securities Bill 2009 [Provisions] (August 2009); and
- the Personal Property Securities (Consequential Amendments) Bill 2010 (November 2009).⁴

1.7 The committee's previous reports on the PPS reforms made a number of recommendations intended to improve the processes around the development of the new scheme and, ultimately, its substantive outcomes. These reports provide important context for the inquiry into the Bill.

1.8 In introducing the Bill, the Minister noted that the amendments it contains arise from submissions made to the August 2009 inquiry into the provisions of the Personal Property Securities Bill 2009. He stated:

The bill I introduce today contains amendments to the PPS Act made as a result of submissions to the committee and to the Attorney-General's Department following the committee's August 2009 report on its inquiry into the PPS Bill.⁵

Conduct of the inquiry

1.9 The committee advertised the inquiry in *The Australian* newspaper on 24 March and 7 April 2010, and invited submissions by 16 April 2010. The committee also wrote to approximately 80 organisations and individuals inviting submissions. Details of the inquiry, the Bill and associated documents were placed on the committee's website.

1.10 The committee received 11 submissions, which were placed on the committee's website for ease of access by the public. The submission from the Attorney-General's Department, which is relied on extensively in this report, is contained in Appendix 1. All of the submissions received are listed in Appendix 2.

1.11 The committee did not hold any public hearings for the inquiry. This was due to the relatively minor and technical nature of the issues raised in submissions. As noted above, many of the broader and substantive issues in relation to the PPS Act were considered in the committee's previous inquiries.

4 These reports are available through the committee's website at http://www.apf.gov.au/Senate/committee/legcon_ctte/completed_inquiries/index.htm

5 *Senate Hansard*, 10 March 2010, p. 2099.

Acknowledgement

1.12 The committee thanks the organisations and individuals who made submissions to this inquiry.

Note on references

1.13 Submission references in this report are to individual submissions as received by the committee, not to a bound volume. References to the committee *Hansard* are to the proof *Hansard*. Page numbers may vary between the proof and the official *Hansard* transcripts.