



## PPS Reform Newsletter - November 2008

### Introducing PPS Reform

I am pleased to be able to introduce to you the first edition of the PPS Reform Newsletter.

The Australian Government is committed to pursuing personal property securities reform. Businesses should not have to implement complex and sometimes inconsistent business practices to comply with the more than 70 Commonwealth, State and Territory Acts dealing with personal property securities. Harmonising the law and practice on personal property securities through a single national Act, supported by a single national online register, will generate real benefits for business and consumers.

I commend PPS reform to you and ask for your support for this part of the Australian Government's ambitious deregulation agenda.

**The Hon Robert McClelland MP, Attorney-General**

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### Why reform the Australian personal property securities regime?

In Australia today, there are significant limitations on the use of personal property as security due to complexities and gaps in the arrangements for registering security interests. The rules for registering an interest, and whether an interest can be registered at all, vary widely. The Commonwealth, States and Territories all have their own personal property schemes with separate registers and legislation relating to those registers – some 40 registers and 70 pieces of legislation.

### What is personal property?

Personal property, or non real estate assets, are any form of property that is not land or buildings. These include tangible property such as motor vehicles, machinery, office furniture, currency, artworks and stock-in-trade. It covers crops and livestock, and extends to accessions (like an engine affixed to a boat) and commingled goods (such as steel rods transformed into machinery). It also includes intangible property such as contract rights, uncertificated shares, intellectual property rights and deemed securities.

### Personal property securities

Personal property securities are created when a lender takes an interest in personal property as security for a loan or other obligation, or enters into a transaction that in substance provides secured finance. Early securities took the form of legal mortgages and over time the concept has extended to transactions such as hire purchase and lease arrangements, conditional sale agreements, commercial consignments, the factoring of book debts and retention of title arrangements. More sophisticated financing options have, and will, continue to emerge.

### Latest News

#### Where next for Draft Bill?

**Intergovernmental Agreement signed.**

**Consultation period on Regulations closes.**

**Systems Integrator announced.**

**Contact Centre tender to be released.**

#### Draft PPS Bill - where next?

While consultations reflected strong support for the Bill, there were issues raised which we have addressed (see the article **Consultation on legislation and PPS program milestones**).

The revised Bill has been referred to the Senate Standing Committee on Legal and Constitutional Affairs for inquiry and report by 24 February 2009. More information about the inquiry can be found at: [www.aph.gov.au/senate/committee/legcon\\_ctte/inquiries.htm](http://www.aph.gov.au/senate/committee/legcon_ctte/inquiries.htm)

#### Intergovernmental Agreement

On 2 October 2008, the Council of Australian Governments signed an intergovernmental agreement (IGA) formalising its commitment to the reform of Australia's personal property securities law and arrangements. This agreement represents a significant step forward in the development of a national system for the registration and regulation of personal property securities in Australia. Copies of the agreement are available on the COAG website: [www.coag.gov.au](http://www.coag.gov.au)

#### Consultation on PPS regulations

Comments were invited by 17 October 2008 on a Discussion Paper on Regulations to be made under the Personal Property

## Consultation on legislation

Following consultation on the draft bill, we have revised it to ensure:

- the approach to investment products supports Australia being a global financial centre with innovative financial products
- a more streamlined approach to enforcement that better recognises the interests of first in line priority holders
- existing employee preferences in insolvency are maintained
- rules related to the acquisition of knowledge, extinguishment of prior security interests and requirements for obtaining priority are clear, and
- issues effecting the operation of State and Territory governments such as water rights, licences and land titles registers are clarified.

The revised Bill is available at <http://www.ag.gov.au/pps>.

We have also formed an IT User group to consult with industry users for the new system and ensure there is sufficient lead time to allow industry to interface with the new PPS Register.

## A National PPS Register

The Australian PPS Register will draw upon the experience of existing PPS registers in New Zealand, Canada and in the United States to advance best practice in design and ease of use.

The Register will be a single, national Personal Property Securities Register (PPSR). It will be computer based, publicly accessible and updatable in real time. The PPSR will primarily be accessed through the internet and B2G connections, but will also have IVR, SMS, call centre and physical lodgement channels.

## PPS Program Milestones

Milestone	Date
✓ PPS exposure bill released	May 2008
✓ PPS exposure bill consultation complete	August 2008
✓ PPS Outline Regulations released to public	August 2008
✓ IGA signed	October 2008
✓ KAZ Group selected as SI contractor	November 2008
✓ Parliamentary committee review of Bill commences	November 2008
Contact Centre RFT released	November 2008
SI detailed design complete	March 2009
Contact Centre contract announced	March 2009
B-G Interface published	April 2009
First PPSR prototype	April/May 2009
PPSR Contact Centre online	August 2009
PPSR available for industry testing	September 2009
PPS transitional arrangements commence	January 2010
PPS regulations made	March 2010
PPSR released	May 2010

Securities Act. The consultation period has closed and the comments received are being evaluated. A copy of the Discussion Paper is available at <http://www.ag.gov.au/pps>.

## Systems Integrator announced

KAZ Group PL has been selected to design and build the PPS Register and associated information technology. We will work together and with our stakeholders to deliver world's best practice

## Contact Centre Tender

The next procurement for PPS infrastructure will be for a contact centre to support the operations of the Office of the PPS Registrar.

That tender will be released in late November 2008. Details will be found at <https://www.tenders.gov.au/>

## Invitation

We are committed to working with stakeholders to assist with their preparations for transition and integration into the new PPS Register before it commences operation in May 2010.

If you have had this newsletter passed to you and you would like to subscribe in your own right, please let us know.

If you have a question or a suggestion for the newsletter, please contact us.

You can contact us by  
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## Our Website

<http://www.ag.gov.au/pps>

**'An Australian personal property securities system, including a single national online register, to benefit business and consumers through increased certainty and consistency, and reduced complexity and cost.'**