

CHAPTER 1

Introduction

Reference

1.1 By letter dated 11 November 2008 the Attorney-General, The Hon Robert McClelland MP, requested that the Senate Legal and Constitutional Affairs Committee inquire into and report on the proposed Personal Property Securities Bill 2008. On 12 November 2008 the Senate, on the recommendation of the Selection of Bills Committee, referred the exposure draft provisions of the bill to the committee for inquiry and report by 24 February 2009. The Committee subsequently obtained an extension of the tabling date to 19 March 2009.

Outline of the reform

1.2 The Government states that the proposed reform, as reflected in the exposure draft bill, would apply to all security interests in personal property and is designed 'to remove the uncertainty arising from the vast amount of Commonwealth, State and Territory legislation and the uneasy interaction of statutes, the common law and equitable legal principles.'¹

1.3 More background information about the reform is outlined in chapter 2 of this report.

Conduct of the inquiry

1.4 The committee advertised the inquiry in *The Australian* newspaper on 3 December 2008. Details of the inquiry were placed on the committee's website. On 18 November 2008 the committee also wrote to more than 50 organisations and individuals inviting submissions by 10 December 2008.

1.5 The committee received 33 submissions. These are listed at Appendix 1. All submissions published by the committee were placed on the committee's website.

1.6 The committee held public hearings in Sydney on 22 and 23 January 2009, in Melbourne on 29 January 2009 and in Canberra on 6 February 2009. A list of witnesses who appeared at the hearings is at Appendix 2 and copies of the Hansard transcript are available through the Internet at <http://www.aph.gov.au/hansard>.

Acknowledgement

1.7 The committee thanks those organisations and individuals who made submissions and gave evidence at the public hearings.

1 Attorney-General's Department, *Submission 8*, p. 19.

Structure of the report

1.8 The committee's report is structured in the following way:

- Chapter 2 provides background to the proposal and information about the need for reform, and outlines key concepts and key components of the proposed bill;
- Chapter 3 considers a threshold question raised about which system of reform is appropriate;
- Chapter 4 examines broad concerns with the proposed bill, such as drafting issues and the timetable for finalising and implementing the reform;
- Chapter 5 considers evidence the committee received about particular areas of concern such as the proposed national register, international conflict of laws and the new requirement to act in a *commercially reasonable manner*; and
- Chapter 6 outlines some of the other aspects of the bill that could have been considered if more time had been allocated to the inquiry.

Note on references

1.9 References in this report are to individual submissions as received by the committee, not to a bound volume. References to Committee Hansard are to the proof Hansard: page numbers may vary between the proof and the official Hansard.