

Personal Property Securities (Ancillary Provisions) Bill 2010

Explanatory Notes

Short Title

The short title of the Bill is the Personal Property Securities (Ancillary Provisions) Bill 2010.

Policy Objectives

The policy objectives of the Bill are to: cease the existing Queensland personal property securities registers and transfer the information in those registers to the new national register; exempt certain statutory licences from the national scheme; and clarify State interests over abandoned or seized property.

Background

A personal property security is created when an entity (usually a financier) takes an interest in property other than land, as security for a loan or other obligation, or enters into a transaction that involves the provision of finance. There is a complex network of legislation in Australia regulating security interests over personal property. Currently, the Commonwealth, States and Territories have their own regimes for registering security interests in various forms of personal property, encompassing multiple pieces of legislation.

Following initiation by the Standing Committee of Attorneys-General in 2006, the Council of Australian Governments agreed to proceed with the reform of Australian personal property securities law.

In 2008 an Inter-Governmental Agreement (IGA) was signed by First Ministers and the Prime Minister to progress the reforms. Under the IGA, the States agreed to refer power to the Commonwealth Parliament to regulate personal property securities.

The Queensland referral of powers legislation, the *Personal Property Securities (Commonwealth Powers) Act 2009* (Referral Act), received royal

assent on 22 September 2009 and commenced on 27 November 2009. The explanatory notes that accompanied the Referral Act provides detailed information about the development of the new personal property securities scheme.

Upon its commencement, the Commonwealth *Personal Property Securities Act 2009* (Commonwealth PPS Act) will establish a single, national law governing personal property securities. The Commonwealth PPS Act will also establish a single, national register for all personal property security interests—the Personal Property Securities Register (PPS Register).

Cessation of existing personal property securities registers

The Queensland Government is required to cease the key personal property securities registers prior to the commencement of the national scheme. These are the Bills of Sale Register (which includes the Register of Liens on Crops of Sugar Cane), the Register of Encumbered Vehicles and the Register of Cooperative Charges administered by the Department of Employment, Economic Development and Innovation (DEEDI).

Interests recorded on these registers must be migrated to the new PPS Register with the commencement of the Commonwealth PPS Act. The Commonwealth PPS Act ensures that the interests will continue to be afforded the same priority as they had prior to their migration and will be subject to the same rules about content, form and enforcement. The Commonwealth PPS Act also provides for the registration of interests which exist prior to the commencement of the PPS Register, and not registered on existing state-based registers.

Statutory licences, rights, entitlements and other authorities

The IGA provides for the States and Territories to continue to regulate any licence, right, entitlement or authority (a statutory right) created pursuant to their legislation. Therefore the Commonwealth PPS Act allows State or Territory legislation to expressly exclude such statutory rights from the application of the PPS Act.

Accordingly, States and Territories have the capacity to ‘opt out’ any statutory right granted or created by the State or Territory from the national scheme. This means any entity with a security interest in such an entitlement would not be able to register their interest on the PPS Register. Also, priority between competing interests and enforcement of security interests would not be governed by the Commonwealth PPS Act.

The Bill proposes to ‘opt out’ the following statutory rights from the national scheme:

- tenements and authorities granted under various Acts administered by the Mines and Energy service delivery area of DEEDI, relating to the mining, petroleum and gas, greenhouse gas and geothermal energy industries;
- licences and authorities under the *Electricity Act 1994* (i.e. electricity generation, transmission, distribution and retail authorities, and special approvals) and the *Gas Supply Act 2003* (i.e. gas distribution and retail authorities);
- casino licences under the *Casino Control Act 1982*;
- operating authorities and gaming machine entitlements under the *Gaming Machine Act 1991*;
- liquor licences under the *Liquor Act 1992*; and
- wine producer licences and merchant licences under the *Wine Industry Act 1994*.

The rationale for excluding the statutory rights include, for example, that the legislation establishing certain licences only permits the assignment of a licence to a person approved by the Governor in Council, prohibits encumbering an operating authority, or a licence is site-specific. The exclusion of the statutory rights also ensures that the State’s administration of the rights can continue without being hindered by a security interest that could otherwise be registered under the Commonwealth PPS Act.

Clarification of State Interests

A number of Queensland Acts preserve the rights of the State and Local Governments to the proceeds of the sale or disposal of abandoned or seized personal property. In order to maintain the rights of such entities to recover the costs of seizing, storing and selling abandoned or seized personal property, amendments have been included to ensure their interests in recovering costs are maintained as first priority.

Reasons for the Bill

Following the referral of power to the Commonwealth Parliament to enact the Commonwealth PPS Act, this Bill is required to make necessary changes to Queensland law to transition to the new national scheme.

In particular, the Bill is required to: repeal or amend the Queensland Acts which establish registers for security interests over personal property; enable the transfer of data held in the Queensland registers to the PPS Register; opt out certain statutory rights; and clarify priority to State and local government interests when dealing with abandoned or seized personal property.

Achievement of the Objectives

Cessation of existing Queensland personal property securities registers

The Bill will cease the operation of three Queensland registers for security interests in personal property, being the Register of Encumbered Vehicles, Bills of Sale Register (which includes the Register of Liens on Crops of Sugar Cane), and Register of Cooperative Charges. This will be achieved by repealing the *Motor Vehicles and Boats Securities Act 1986*, *Bills of Sale and Other Instruments Act 1955*, *Liens on Crops of Sugar Cane Act 1931* and the relevant register provisions in the *Cooperatives Act 1997*.

The Bill will provide for transitional arrangements in relation to the winding down of these Queensland registers, for example, to finalise outstanding applications. It will also facilitate the migration of data from the Queensland registers to the new PPS register and make consequential amendments to Queensland legislation resulting from the commencement of the Commonwealth PPS Act.

Statutory licences, rights, entitlements and other authorities

Section 8(1)(k) of the Commonwealth PPS Act allows a right, licence or authority (statutory right) granted by a law of the State, to be declared not to be personal property for the purposes of the Commonwealth PPS Act.

The Bill includes provisions declaring the relevant statutory licences not to be personal property for the purposes of the Commonwealth PPS Act. This will ensure Queensland retains appropriate control over these statutory licences.

Clarification of State interests in personal property

The Bill includes provisions to ensure the State and other interested parties, including local governments, can continue to cover the expenses of seizing or impounding abandoned or seized personal property and disposing of that property above the interest of other secured parties. The Bill also ensures in appropriate cases, the amounts owing to secured interest holders can be

paid out of the balance of proceeds of sale of seized or impounded property, before paying any money to the person entitled to the property.

Alternative ways of achieving the policy objectives

There is no alternative way to achieve the policy objectives other than through this Bill. The Bill is necessary because the Queensland Parliament passed the Referral Act to allow the Commonwealth Parliament to make personal property security laws to have effect in Queensland.

Estimated Cost for Government Implementation

The explanatory notes which accompanied the Referral Act provide detailed information about the estimated costs of implementing the new national personal property securities scheme in Queensland.

There will be some costs for Departments transitioning to the new scheme. Agencies are expected to meet any such costs from within their existing budgets.

Consistency with Fundamental Legislative Principles

The Bill is consistent with fundamental legislative principles. The Bill does however, provide immunity from civil liability for Queensland public servants involved in the migration of data from the Queensland registers to the PPS Register, but only to the extent the person has acted honestly and without negligence. The immunity from liability does not extend to the State, and therefore does not prevent an aggrieved party from seeking damages against the State for any loss suffered as a result of the person's actions.

Consultation

The policy underpinning the primary legislation for the national personal property securities law reform has been subject to extensive public and industry consultation by the Australian Attorney-General's Department from 2006 until 2009.

Extensive consultation has been conducted with Queensland Government departments in preparation for the transition to the new personal property securities scheme. All Queensland Government departments have been

consulted and support the introduction of the Bill. The Commonwealth Attorney-General's Department has also been consulted on the Bill.

As noted in the explanatory notes that accompanied the referral Bill, in February 2009, officers from the Australian Attorney-General's Department met with representatives from a number of Queensland Government departments to review specific agency queries.

A meeting dedicated to data migration issues was also conducted with relevant DEEDI personnel and the Australian Attorney-General's Department in March 2009.

From February 2009, Queensland Government departments considered the consequential amendments necessary to their administered legislation as a result of the commencement of the new national scheme. Agencies also considered which, if any, statutory licences, rights and authorities should be opted out of the national scheme and which recovery of cost provisions need to be a first priority for sale proceeds of abandoned property.

The Mines and Energy service delivery area of DEEDI consulted with the resources industry, including the Queensland Resources Council, Australia Petroleum Production and Exploration Association, and BHP Billiton. All organisations consulted indicated they did not support their industries' statutory authorities being included in the PPS scheme.

No separate community consultation has been conducted on the Bill. This is because the policy underpinning the Bill is well settled and is concerned with making the necessary consequential amendments to implement the national scheme.

Uniform or complementary with legislation of the Commonwealth or another State

The Queensland Parliament passed the Referral Act to enable the Commonwealth Parliament to pass the Commonwealth PPS Act. This is in line with other States and Territories, all of which have agreed under the IGA to refer the powers necessary to the Commonwealth Parliament to make laws with respect to personal property securities. Similarly, each State and Territory will introduce or have introduced an ancillary provisions Bill similar to this one.

Notes on Provisions

Chapter 1 Preliminary

1 Short title

Clause 1 provides that the short title of the Act is the *Personal Property Securities (Ancillary Provisions) Act 2010*.

2 Commencement

Clause 2 provides for the commencement of the Act. The Act, other than sections 3 and 4 and chapter 2, part 1, commences on a date to be fixed by proclamation.

3 Purpose

Clause 3 provides that the purpose of the Act is to enact ancillary provisions, including transitional provisions, relating to the enactment of the Commonwealth PPS Act (i.e. the *Personal Property Securities Act 2009 (Cwlth)*).

4 Definitions

Clause 4 provides for definitions of specific words used in the Act. These include terms defined by reference to the Commonwealth PPS Act.

5 References to charges and fixed and floating charges

Clause 5 amends the meaning of references to charges, fixed charges and floating charges in Queensland laws and other documents in order to be consistent with section 339 of the Commonwealth PPS Act.

Section 339 of the Commonwealth PPS Act changes the meaning of references to charges, fixed charges and floating charges in Commonwealth laws and security references. A reference to a charge over property is taken to be a reference to a security interest that has attached to a circulating asset or personal property that is not a circulating asset. A reference to a fixed

charge over property is taken to be a reference to a security interest that has attached to personal property that is not a circulating asset. A reference to a floating charge over property is taken to be a reference to a security interest that has attached to a circulating asset.

Chapter 2 Migration of personal property data

Part 1 General

6 Giving of information to PPS registrar

Clause 6 authorises the chief executive to give the Commonwealth, the PPS registrar or any other officer of the Commonwealth information recorded in, or concerning the use of, a Queensland register that the chief executive considers appropriate in order to assist the PPS registrar to establish the PPS register. This will facilitate the migration of data from the Queensland registers to the PPS register.

7 Protection from liability

Clause 7 provides protection from civil liability to the chief executive, an officer or employee of the department, or a delegate of the chief executive. The protection covers civil liability for an act done or omission made, honestly and without negligence in relation to the giving of information to the PPS registrar. Any liability would instead attach to the State.

8 Delegation

Clause 8 allows for the delegation of the chief executive's powers under the Act to an appropriately qualified officer or employee of the department.

9 Regulation-making power

Clause 9 allows the Governor in Council to make a regulation under the Act. Without limiting the regulation-making power, regulations may be made about the fees payable under the Act and the matters for which the fees are payable.

Part 2 Transitional provisions

10 Proceedings

Clause 10 provides that any proceedings relating to any matter arising under the provisions of a Queensland register Act that were commenced before the commencement of this part but were not finally decided as at the commencement, may continue to be dealt with or otherwise decided as if those provisions had not been repealed.

11 Offences

Clause 11 provides for the continuation of proceedings for an alleged offence against a Queensland register Act before commencement of this part. Proceedings for any such alleged offence may be started or continued, and the court may hear and decide the proceedings, as if this Act, other than this section, had not commenced. This is despite the operation of section 11 of the Criminal Code.

Chapter 3 Acts with Queensland registers

Chapter 3 repeals or amends the Queensland register Acts in order to cease the operation of the Bills of Sale Register, Register of Cooperative Charges, Register of Liens on Crops of Sugar Cane, and Register of Encumbered Vehicles. Chapter 3 also provides for transitional arrangements in relation to the winding down of these registers.

Part 1 Bills of Sale and Other Instruments Act 1955

Division 1 Repeal

12 Repeal

Clause 12 repeals the *Bills of Sale and Other Instruments Act 1955*.

Division 2 Transitional provisions

13 Definitions for div 2

Clause 13 provides that in this division, ‘existing Act’ means the *Bills of Sale and Other Instruments 1955* as in force immediately before its repeal. ‘Repeal’ means the repeal of the existing Act.

14 Words have meanings given by existing Act

Clause 14 confirms that a word used in this division and defined under the existing Act has the same meaning as it had under the existing Act.

15 Continuation of provisions of existing Act

Clause 15 provides that if, despite its repeal, a provision of the existing Act (the ‘primary provision’) is continued in effect for a purpose under this division, any other provision of the existing Act (a ‘related provision’) mentioned in the primary provision is also continued in effect to the extent necessary for the purposes of the continued application of the primary provision. This ensures the effective operation of any provision of the Bills of Sale and Other Instruments Act which is continued.

16 Applications for registration or renewal of security interests

The effect of clause 16 is to cease applications for registration or renewal of security interests under sections 9 and 10 of the Bills of Sale and Other Instruments Act after the application closing time. If the chief executive receives an application after the application closing time, the chief

executive can not deal with the application after the application closing time and must refund any fee that accompanied the application.

17 Inspection of register

Clause 17 continues section 13 of the Bills of Sale and Other Instruments Act for a period of 2 years after its repeal in relation to particulars included in the former register in the period starting 7 years before the repeal and ending at the repeal. This allows historical searches of the former Bills of Sale Register to be undertaken.

In order to give effect to historical searches, the chief executive is required to keep a copy of the information contained in the former register, as it existed immediately before repeal, for 7 years after the repeal. The clause also allows a regulation to prescribe a fee for inspecting the former register and lists the places where the former register may be inspected.

18 Requests for registration of confiscation orders

The effect of clause 18 is to cease the registration of confiscation orders under section 15 of the Bills of Sale and Other Instruments Act after the application closing time. If the chief executive receives a request for registration after the application closing time, the chief executive can not deal with the request after the application closing time.

19 Applications for registration of assignments of registered security interests

The effect of clause 19 is to cease the registration of assignments of registered security interests under sections 16 and 17 of the Bills of Sale and Other Instruments Act after the application closing time. If the chief executive receives an application for the assignment of a registered security interest after the application closing time, the chief executive can not deal with the application after the application closing time and must refund any fee that accompanied the application.

20 Applications for discharge of registered security interests

The effect of clause 20 is to cease applications for the discharge of security interests under section 18C of the Bills of Sale and Other Instruments Act after the application closing time. If the chief executive receives an application for the full or partial discharge of a registered security interest

after the application closing time, the chief executive can not deal with the application after the application closing time and must refund any fee that accompanied the application.

21 Requests to register discharge or change in particulars

Clause 21 continues section 18F of the Bills of Sale and Other Instruments Act if before the repeal, the borrower in relation to a registered security interest made a request to the lender under section 18F(1) and at the time of the repeal, the lender had not complied with section 18F(2) in relation to the request. Section 18F(2) requires the lender to file the application or join with the borrower in filing the application, or apply to a Magistrates Court for an order maintaining the registration within 30 days after receiving the request.

However, if the lender has been given a notice under section 18F(4) and has not complied with section 18F(5)(a) or (b) before the end of the notice period, the chief executive must ask the PPS registrar to register the discharge in the PPS register or change the particulars included in the PPS register.

22 Applications to change particulars in register

The effect of clause 22 is to cease applications to change particulars in the register under section 18G of the Bills of Sale and Other Instruments Act after the application closing time. If the chief executive receives an application to change particulars in the register after the application closing time, the chief executive can not deal with the application after the application closing time and must refund any fee that accompanied the application.

23 Removal of particulars of improperly registered interests

Clause 23 continues section 18I of the Bills of Sale and Other Instruments Act if before the repeal, the chief executive gave a notice under section 18I(2) to a person who appeared to be the lender under an interest, and at the time of the repeal, the person had not complied with the requirement in the notice.

However, if the person has been given a notice under section 18I(6) and has not complied with section 18I(7)(a) or (b) before the end of the notice

period, the chief executive must ask the PPS registrar to remove from the PPS register the particulars in relation to the interest.

24 Applications for compensation for loss

Clause 24 continues section 18K of the Bills of Sale and Other Instruments Act if a person suffers loss because an act or omission mentioned in section 18J was done or made before the repeal. This continues the right of a person who suffers loss to make an application for the payment of compensation.

25 Protection from liability

Clause 25 continues the immunity for officials for acts done, or omissions made, honestly and without negligence in the performance or purported performance of functions under the Bills of Sale and Other Instruments Act. The immunity applies to acts or omissions made before the repeal, or to acts or omissions after the repeal in relation to a matter that was authorised to be done under the division after the repeal. Any liability that would otherwise attach to an official attaches to the State.

26 Delegations

Clause 26 allows for the delegation of the chief executive's powers under a provision of the Bills of Sale and Other Instruments Act that continues to have effect after the repeal. The clause also continues delegations that were in force immediately before the repeal.

Part 2 Amendment of Cooperatives Act 1997

27 Act amended

Clause 27 provides that the part amends the *Cooperatives Act 1997*.

28 Amendment of s 45 (Filing of documents not to constitute constructive knowledge)

Clause 28 omits section 45(2), which deems a person who files a document relating to the registration of a charge to have constructive knowledge of a cooperative's rules, any of the contents of a cooperative's rules, a document, the contents of the document, or any particulars. This provision is omitted as it is inconsistent with section 300 of the Commonwealth PPS Act which provides generally that registration does not constitute constructive knowledge. Section 45(3) is subsequently renumbered as section 45(2).

29 Omission of pt 10, div 2 (Registration of charges)

Clause 29 omits part 10, division 2, which deals with the registration of charges.

30 Amendment of s 437 (Register of cooperatives)

Clause 30 omits section 437(1)(c), which establishes the register of cooperative charges.

31 Insertion of new pt 19, div 1, hdg

Clause 31 inserts a new division heading in part 19 before section 469 in relation to repeals, savings and transitional provisions for Act No. 39 of 1997. The division heading is required as new transitional provisions will be inserted for this Act.

32 Insertion of new pt 19, div 2

Clause 32 inserts a new division 2 into part 19 to provide transitional provisions for this Act.

The new section 472 provides definitions for the division.

The new section 473 allows for historical searches of the former Register of Cooperative Charges to be conducted. It continues the operation of section 440 for 2 years after the repeal of the Cooperatives Act in relation to particulars included in the former register immediately before the repeal. The chief executive must keep a copy of the information contained in the former register, as it existed immediately before the repeal, for 7 years after

the repeal. The new section 473 also allows a regulation to prescribe a fee for inspecting the former register.

The new section 474 deals with defective notices relating to charges received before the application closing time and are provisionally registered under section 21(1) of schedule 3. If a direction is given relating to the defective notice under section 21(2) of schedule 3 and if, at the application closing time, the direction has not been complied with, the requirement to comply with the direction ceases. Additionally, the requirement to give the direction ceases if, at the application closing time, the direction has not been given. Any provisionally registered charges at the application closing time will be taken to be registered under the Cooperatives Act so that they can be effectively migrated to the PPS register.

The effect of the new section 475 is to cease the filing of notices relating to charges after the application closing time. If the registrar receives a notice in relation to a charge for registration after the application closing time, the registrar can not deal with the notice after the application closing time and must return the notice and refund any fee that accompanied the notice.

The new section 476 applies to defective notices relating to charges for registration that are received after application closing time. The registrar can not deal with the notice after the application closing time and must return the notice and refund any fee that accompanied the notice.

The new section 477 applies to a registrable charge that, immediately before the repeal, is void under schedule 3, part 2, division 4. These provisions have the effect that an unregistered charge is void as a security on the property as against a liquidator or administrator. However, the Supreme Court has the discretion to extend the period in which to file a notice of a charge if the failure to file the notice was accidental or inadvertent, or the extension of the period will not prejudice the position of creditors or shareholders. The policy intention behind these provisions is to prevent a creditor from concealing the existence of a charge, and then registering the charge when a cooperative goes into liquidation in order to gain a preference over other creditors.

The new section 477 continues the operation of section 29 of schedule 3 so that the Supreme Court can declare the charge not to be, and never to have been void if the application is made before the repeal and, at the time of the repeal, the court has not made a decision; or the application is made at or after the repeal; and the court is satisfied of the matters set out in section

29. The Supreme Court can no longer make an order to extend the period of time as the Register of Cooperative Charges will no longer exist and there is no mandatory filing period under the Commonwealth PPS Act.

The new section 478 applies to a registrable charge that becomes void after the repeal of schedule 3 and, before the repeal, an application could have been made under section 29 of schedule 3. Section 29 is continued so that an application can be made to the Supreme Court to declare the charge not to be, and never to have been, void.

The new section 479 continues the application of schedule 3, part 2, division 5 to certain charges. These provisions provide that a charge created in favour of a relevant person, such as an officer of the cooperative, is void if, within 6 months after creation of the charge, the chargee purports to take a step in the enforcement of the charge without the court's leave. This is intended to prevent insolvent cooperatives granting debentures to its directors, which would allow the directors to gain control over the cooperative's books. The liquidator would then need to apply to the court to inspect the cooperative's books.

The new section 479 applies to such charges created before the repeal of schedule 3. The continuation of schedule 3, part 2, division 5 allows the Supreme Court to give leave for the enforcement of the charge upon the application of the chargee. Certain transactions will continue to be excluded by virtue of section 35 of schedule 3.

The new section 480 applies if, after the application closing time, the registrar receives a notice in relation to a charge for registration in the former register under section 36(1) or (2) of schedule 3. The registrar can not deal with the notice after the application closing time and must return the notice and refund any fee that accompanied the notice.

The new section 481 applies if, after the application closing time, the registrar receives a memorandum in relation to a charge for registration under section 37(2) of schedule 3. The registrar can not deal with the memorandum after the application closing time and must return the memorandum and refund any fee that accompanied the memorandum.

The new section 482 continues sections 40 and 41 of schedule 3 for a period of 2 years after the repeal so that a cooperative's register may be searched. A regulation may prescribe amounts for the purposes of section 41(3) and (4).

The new section 483 continues section 42 of schedule 3 so that the registrar can continue to issue a certificate relating to a registered charge if requested by a person, for a period of 2 years after the repeal.

The new section 484 determines the priority between charges that are in force immediately before the repeal of schedule 3. Although the priority provisions in the Commonwealth PPS Act are similar to those in the Cooperatives Act, the Cooperatives Act contains special priority rules under section 49 of schedule 3. These special priority rules deal with present and prospective liabilities. Additionally, priorities under the Cooperatives Act may be affected by notice of a charge rather than registration. For instance, a charge over property that was registered after a prior registered charge will take priority if the chargee had notice of the subsequent registered charge when the prior registered charge was created.

In order to maintain the priority rules for existing charges, the new section 484 provides that registrable charges continue to have the priority between themselves that they would have had under schedule 3, part 3. A 'registrable charge' is defined to mean a charge created before the repeal that was a registrable charge within the meaning given by schedule 3, section 1 when it was created.

The new section 485 provides that the amendment of the *Cooperatives Regulation 1997* by this Act does not affect the power of the Governor in Council to further amend the regulation or to repeal it.

33 Omission of sch 3 (Registration etc. of charges)

Clause 33 omits schedule 3 of the Cooperatives Act, which deals with the Register of Cooperative Charges. Certain provisions will, however, continue by virtue of transitional provisions inserted by this Act.

34 Amendment of sch 8 (Dictionary)

Clause 34 omits a number of redundant definitions from schedule 8 of the Cooperatives Act. The clause also inserts new definitions and amends existing definitions.

Part 3 Liens on Crops of Sugar Cane Act 1931

Division 1 Repeal

35 Repeal

Clause 35 repeals the *Liens on Crops of Sugar Cane Act 1931*.

Division 2 Transitional provisions

36 Definitions for div 2

Clause 36 defines ‘existing Act’, for the purposes of the division, to mean the *Liens on Crops of Sugar Cane Act 1931* as in force before its repeal. ‘Repeal’ means the repeal of the existing Act.

37 Words have meanings given by existing Act

Clause 37 provides that a word used in this division and defined under the existing Act has the same meaning as it had under the existing Act.

38 Continuing of provisions of existing Act

Clause 38 provides that if, despite its repeal, a provision of the existing Act (the ‘primary provision’) is continued in effect for a purpose under this division, any other provision of the existing Act (a ‘related provision’) mentioned in the primary provision is also continued in effect to the extent necessary for the purposes of the continued application of the primary provision.

39 Applications for registration or renewal of registration of liens

The effect of clause 39 is to cease the registration or renewal of liens under sections 6, 7 and 7A of the *Liens on Crops of Sugar Cane Act* after the application closing time. If the chief executive receives an application after the application closing time, the chief executive can not deal with the

application after the application closing time and must refund any fee that accompanied the application.

40 Inspection of register

Clause 40 continues section 7C of the Liens on Crops of Sugar Cane Act for a period of 2 years after its repeal in relation to particulars included in the former register in the period starting 7 years before the repeal and ending at the repeal. This allows historical searches of the former register to be undertaken.

In order to give effect to historical searches, the chief executive is required to keep a copy of the information contained in the former register, as it existed immediately before the repeal, for 7 years after the repeal. The clause also allows a regulation to prescribe a fee for inspecting the former register and lists the places where the former register may be inspected.

41 Requests for registration of confiscation orders

The effect of clause 41 is to cease the registration of confiscation orders under section 7DA of the Liens on Crops of Sugar Cane Act after the application closing time. If the chief receives a request for registration after the application closing time, the chief executive can not deal with the request after the application closing time.

42 Applications for registration of assignments of registered liens

The effect of clause 42 is to cease the registration of assignments of registered liens under sections 7E and 7F of the Liens on Crops of Sugar Cane Act after the application closing time. If the chief executive receives an application for the registration of an assignment after the application closing time, the chief executive can not deal with the application after the application closing time and must refund any fee that accompanied the application.

43 Applications for discharge of registered liens

The effect of clause 43 is to cease applications for the full or partial discharge of registered liens under section 7J of the Liens on Crops of Sugar Cane Act after the application closing time. If the chief executive receives an application after the application closing time, the chief

executive can not deal with the application after the application closing time and must refund any fee that accompanied the application.

44 Requests to register discharge or change in particulars

Clause 44 continues the operation of section 7M of the Liens on Crops of Sugar Cane Act if the lienor made a request to the lienee under section 7M(1) before the repeal and at the time of the repeal, the lienee had not complied with section 7M(2) in relation to the request.

However, if the lienee has not complied with section 7M(5)(a) or (b) before the end of the notice period, the chief executive must ask the PPS registrar to register the discharge in the PPS register or change the particulars included in the PPS register.

45 Applications to change particulars in register

The effect of section 45 is to cease applications to change particulars in the register under section 7N of the Liens on Crops of Sugar Cane Act after the application closing time. If the chief executive receives an application after the application closing time, the chief executive can not deal with the application after the application closing time and must refund any fee that accompanied the application.

46 Applications for compensation for loss

Clause 46 continues section 7Q of the Liens on Crops of Sugar Cane Act if a person suffers loss because an act or omission mentioned in section 7P was done or made before the repeal. This continues the right of a person who suffers loss to make an application for the payment of compensation.

47 Protection from liability

Clause 47 continues the immunity for officials for acts done, or omissions made, honestly and without negligence in the performance or purported performance of functions under the Liens on Crops of Sugar Cane Act. The immunity applies to acts or omissions made before the repeal, or to acts or omissions made after the repeal in relation to a matter that was authorised to be done under this part after the repeal. Any liability that would otherwise attach to an official attaches to the State.

48 Delegations

Clause 48 allows for the delegation of the chief executive's powers under a provision of the Liens on Crops of Sugar Cane Act that is continued under the division. The clause also continues a delegation that was in force immediately before the repeal in relation to a provision of the existing Act that is continued under the division.

Part 4 Motor Vehicles and Boats Securities Act 1986

Division 1 Repeal

49 Repeal

Clause 49 repeals the *Motor Vehicles and Boats Securities Act 1986*.

Division 2 Transitional provisions

50 Definitions for div 2

Clause 50 provides a definition of 'existing Act' for the purposes of the division to mean the *Motor Vehicles and Boats Securities Act 1986* as in force before its repeal. 'Repeal' means the repeal of the existing Act.

51 Words have meanings given by existing Act

Clause 51 provides that a word used in the division and defined under the existing Act has the same meaning as it had under the existing Act.

52 Continuing of provisions of existing Act

Clause 52 provides that if, despite its repeal, a provision of the existing Act (the 'primary provision') is continued in effect for a purpose under the division, any other provision of the existing Act (a 'related provision') mentioned in the primary provision is also continued in effect to the extent

necessary for the purposes of the continued application of the primary provision.

53 Applications for registration or renewal of registration of security interests

The effect of clause 53 is to cease the registration or renewal of security interests in the Register of Encumbered Vehicles under sections 7 and 7A of the Motor Vehicles and Boats Securities Act after the application closing time. If the chief executive receives an application after the application closing time, the chief executive can not deal with the application after the application closing time and must refund any fee that accompanied the application.

54 Requests for registration of confiscation orders

The effect of clause 54 is to cease the registration of confiscation orders under section 7D of the Motor Vehicles and Boats Securities Act after the application closing time. If the chief executive receives a request for the registration of a confiscation order after the application closing time, the chief executive can not deal with the request after the application closing time.

55 Applications for registration of assignments of registered security interests

The effect of clause 55 is to cease applications for the assignment of registered security interests under section 8 of the Motor Vehicles and Boats Securities Act after the application closing time. If the chief executive receives an application after the application closing time, the chief executive can not deal with the application after the application closing time and must refund any fee that accompanied the application.

56 Applications for discharge of registered security interests

The effect of clause 56 is to cease applications for the discharge of registered security interests under section 14 of the Motor Vehicles and Boats Securities Act after the application closing time. If the chief executive receives an application after the application closing time, the chief executive can not deal with the application after the application closing time and must refund any fee that accompanied the application.

57 Applications to change particulars in register

The effect of clause 57 is to cease applications to amend the register under section 18 of the Motor Vehicles and Boats Securities Act after the application closing time. If the chief executive receives an application after the application closing time, the chief executive can not deal with the application after the application closing time and must refund any fee that accompanied the application.

58 Show cause notices about improperly registered security interests

Clause 58 provides for the continuation of existing show cause notices, existing appeal applications and existing appeals under section 18A of the Motor Vehicles and Boats Securities Act after the repeal. As soon as practicable after the chief executive decides whether the interest is a security interest, the chief executive must give the PPS registrar written notice of the decision.

59 Show cause notices about cancellation of registered security interests that have been discharged or extinguished

Clause 59 applies to existing show cause notices regarding the cancellation of registered security interests that have been discharged or extinguished. Section 20 of the Motor Vehicles and Boats Securities Act continues in relation to these existing show cause notices. As soon as practicable after the chief executive decides whether the registration should have been cancelled, the chief executive must give the PPS registrar written notice of the decision.

60 Inspection of register

Clause 60 continues section 23 of the Motor Vehicles and Boats Securities Act for a period of 2 years after its repeal in relation to particulars included in the former register in the period starting 7 years before the repeal and ending at the repeal. This allows historical searches of the former register to be undertaken.

In order to give effect to historical searches, the chief executive is required to keep a copy of the information contained in the former register, as in force immediately before the repeal, for 7 years after the repeal. The

clause also allows a regulation to prescribe a fee for inspecting the former register.

61 Applications for compensation for loss

Clause 61 allows a person who suffers loss as a result of a security interest being extinguished under section 26(1) of the Motor Vehicles and Boats Securities Act before repeal to claim compensation under section 28.

The clause also allows a person who suffers loss as a result of a security interest being extinguished under section 30(2) before the repeal to claim compensation under section 30(4).

62 Compensation for repairing or replacing damaged property

Clause 62 allows a person to claim compensation under section 30ZB of the Motor Vehicles and Boats Securities Act if, before the repeal, there was an exercise or purported exercise of a power under a declared provision mentioned in section 30ZB.

63 Protection from liability

Clause 63 continues the immunity for public service employees for acts done, or omissions made, honestly and without negligence in the performance or purported performance of functions under the Motor Vehicles and Boats Securities Act. The immunity applies to acts or omissions made before the repeal, or to acts or omissions made after the repeal in relation to a matter that was authorised to be done under this division after the repeal.

64 Delegations

Clause 64 allows for the delegation of the chief executive's powers under a provision of the Motor Vehicles and Boats Securities Act that is continued under the division. The clause also continues a delegation that was in force immediately before the repeal in relation to a provision of the existing Act that is continued under the division.

Chapter 4 Other legislation

Chapter 4 amends a number of Queensland Acts in order to opt out statutory rights, licences, entitlements and other authorities (statutory rights). Section 8(1)(k) of the Commonwealth PPS Act allows a State law to declare a kind of statutory right not to be personal property for the purposes of the Commonwealth PPS Act. The statutory rights to be opted out are created or granted in legislation administered by the Department of Employment, Economic Development and Innovation. Accordingly, these Acts will be amended to declare the statutory rights not to be personal property for the purposes of the Commonwealth PPS Act.

Chapter 4 also amends a number of Queensland Acts in order to maintain and clarify the interests of the State, local governments, universities and other entities in relation to the proceeds of sale or disposal of abandoned or seized property. The amendments ensure that the interests of these entities will have priority over other security interests that may be in the personal property.

Consequential amendments will also be made as a result of the Commonwealth PPS Act and the closure of the Queensland registers. These amendments largely relate to changes in terminology and references to registers.

Department of Communities

Part 1 Amendment of Major Sports Facilities Act 2001

65 Act amended

Clause 65 provides that the part amends the *Major Sports Facilities Act 2001*.

66 Amendment of sch 1 (Control of traffic on facility land)

Clause 66 amends schedule 1, which deals with the control of traffic on facility land. An authorised person may seize, remove and hold an

abandoned or illegally parked motor vehicle. Unclaimed motor vehicles may be disposed of and section 11 of schedule 1 provides how the proceeds of the sale must be applied.

The clause replaces a reference to the repealed *Motor Vehicles and Boats Securities Act 1986* with a reference to the Commonwealth PPS Act in section 11(1)(c). Section 11(2) is renumbered as section 11(3). The new section 11(2) provides that a secured party can not enforce any security interest in the proceeds of sale against an entity to whom an amount is payable under subsection (1)(a) or (b). The new section 11(4) defines 'secured party' by reference to section 10 of the Commonwealth PPS Act.

Part 2 Amendment of Motor Racing Events Act 1990

67 Act amended

Clause 67 provides that the part amends the *Motor Racing Events Act 1990*.

68 Amendment of s 14 (Power to remove vehicles left unattended within declared area)

Clause 68 amends section 14, which allows unclaimed vehicles to be sold. Section 14(6) provides how the proceeds of the sale or disposal of a vehicle are to be applied.

The clause omits the ordinal numbering in section 14(6)(a), (b) and (c). Section 14(6)(c) is renumbered as section 14(6)(d). A new section 14(6)(c) is inserted to allow proceeds to be applied for the payment of an amount owing under a security interest registered for the vehicle under the Commonwealth PPS Act.

A new section 14(6A) is inserted which provides that a secured party can not enforce any security interest in the proceeds of sale or disposal against an entity to whom an amount is payable under subsection (6)(a) or (b). A new section 14(11) defines 'secured party' by reference to section 10 of the Commonwealth PPS Act.

Department of Community Safety

Part 3 Amendment of Fire and Rescue Service Act 1990

69 Act amended

Clause 69 provides that the part amends the *Fire and Rescue Service Act 1990*.

70 Amendment of s 69 (Requisition by commissioner to reduce fire risk)

Clause 70 amends section 69, which allows an authorised fire officer or an assistant to remove and retain vegetation or other flammable material from premises. Such property may be sold or disposed of. Section 69(8) and (9) deal with the proceeds of the disposal of material.

The clause replaces section 69(9)(b) with a new paragraph (b) to allow any proceeds which exceed the expenses incurred to be first applied for the payment of an amount owing under a security interest registered against the property under the Commonwealth PPS Act. Any excess proceeds are then applied to the payment of any balance to the person whose property the chief executive believes the material to have been.

Department of Education and Training

The university Acts amended by this Bill allow for the removal and detention of illegally parked or abandoned vehicles on university land. Additionally, a university may sell an unclaimed vehicle. The university Acts provide how the proceeds of the sale of unclaimed vehicles are to be applied. Proceeds must first be applied in the payment of the reasonable expenses incurred in the sale, and then in the payment of the reasonable cost of seizing, removing and holding the vehicle. Any balance is paid to the owner.

The amendments to the university Acts allow proceeds to be applied for the payment of an amount owing under a security interest registered for the vehicle under the Commonwealth PPS Act prior to any balance being paid to the owner.

Part 4 Amendment of Central Queensland University Act 1998

71 Act amended

Clause 71 provides that the part amends the *Central Queensland University Act 1998*.

72 Amendment of sch 1 (Control of traffic and conduct on university land)

Clause 72 amends section 11 of schedule 1 in relation to the order in which proceeds of the sale of an unclaimed vehicle are to be applied. Section 11(1)(c) is renumbered as section 11(1)(d). The new section 11(1)(c) allows proceeds to be applied for the payment of an amount owing under a security interest registered for the vehicle under the Commonwealth PPS Act.

Part 5 Amendment of Griffith University Act 1998

73 Act amended

Clause 73 provides that the part amends the *Griffith University Act 1998*.

74 Amendment of sch 1 (Control of traffic and conduct on university land)

Clause 74 amends section 11 of schedule 1 in relation to the order in which proceeds of the sale of an unclaimed vehicle are to be applied. Section 11(1)(c) is renumbered as section 11(1)(d). The new section 11(1)(c) allows proceeds to be applied for the payment of an amount owing under a security interest registered for the vehicle under the Commonwealth PPS Act.

Part 6 **Amendment of James Cook University Act 1997**

75 Act amended

Clause 75 provides that the part amends the *James Cook University Act 1997*.

76 Amendment of sch 1 (Control of traffic and conduct on university land)

Clause 76 amends section 10 of schedule 1 in relation to the order in which proceeds of the sale of an unclaimed vehicle are to be applied. Section 10(1)(c) is renumbered as section 10(1)(d). The new section 10(1)(c) allows proceeds to be applied for the payment of an amount owing under a security interest registered for the vehicle under the Commonwealth PPS Act.

Part 7 **Amendment of Queensland University of Technology Act 1998**

77 Act amended

Clause 77 provides that the part amends the *Queensland University of Technology Act 1998*.

78 Amendment of sch 1 (Control of traffic and conduct on university land)

Clause 78 amends section 11 of schedule 1 in relation to the order in which proceeds of the sale of an unclaimed vehicle are to be applied. Section 11(1)(c) is renumbered as section 11(1)(d). The new section 11(1)(c) allows proceeds to be applied for the payment of an amount owing under a security interest registered for a vehicle under the Commonwealth PPS Act.

Part 8 **Amendment of University of Queensland Act 1998**

79 Act amended

Clause 79 provides that the part amends the *University of Queensland Act 1998*.

80 Amendment of sch 1 (Control of traffic and conduct on university land)

Clause 80 amends section 11 of schedule 1 in relation to the order in which proceeds of the sale of unclaimed vehicles are to be applied. Section 11(1)(c) is renumbered as section 11(1)(d). The new section 11(1)(c) allows proceeds to be applied for the payment of an amount owing under a security interest registered for a vehicle under the Commonwealth PPS Act.

Part 9 **Amendment of University of Southern Queensland Act 1998**

81 Act amended

Clause 81 provides that the part amends the *University of Southern Queensland Act 1998*.

82 Amendment of sch 1 (Control of traffic and conduct on university land)

Clause 82 amends section 11 of schedule 1 in relation to the order in which proceeds of the sale of an unclaimed vehicle are to be applied. Section 11(1)(c) is renumbered as section 11(1)(d). The new section 11(1)(c) allows proceeds to be applied for the payment of an amount owing under a security interest registered for a vehicle under the Commonwealth PPS Act.

Part 10 **Amendment of University of the Sunshine Coast Act 1998**

83 Act amended

Clause 83 provides that the part amends the *University of the Sunshine Coast Act 1998*.

84 Amendment of sch 1 (Control of traffic and conduct on university land)

Clause 84 amends section 11 of schedule 1 in relation to the order in which proceeds of the sale of an unclaimed vehicle are to be applied. Section 11(1)(c) is renumbered as section 11(1)(d). The new section 11(1)(c) allows proceeds to be applied for the payment of an amount owing under a security interest registered for a vehicle under the Commonwealth PPS Act.

Department of Employment, Economic Development and Innovation

A number of Acts administered by the Department of Employment, Economic Development and Innovation (DEEDI) grant or create statutory rights, licences, entitlements and other authorities (statutory rights). Section 8(1)(k) of the Commonwealth PPS Act allows a State law to declare a kind of statutory right not to be personal property for the purposes of the Commonwealth PPS Act. This allows states to 'opt out' of the national scheme, statutory rights.

The statutory rights to be opted out are created or granted by legislation administered by DEEDI. These Acts will be amended to declare certain statutory rights not to be personal property for the purposes of the Commonwealth PPS Act. The rationale for this is that the legislation creating or granting the statutory rights either restrict their assignment, prohibit them being encumbered, or provide that they are site-specific. Opting out these statutory rights also ensures that the State's administration of the rights can continue without being hindered by a security interest that could otherwise be registered under the Commonwealth PPS Act.

Part 11 **Amendment of Agricultural Chemicals Distribution Control Act 1966**

85 Act amended

Clause 85 provides that the part amends the *Agricultural Chemicals Distribution Control Act 1966*.

86 Amendment of schedule (Dictionary)

Clause 86 amends the definition of ‘owner’ in the schedule. Paragraph (a) of the definition, which refers to the repealed *Bills of Sale and Other Instruments Act 1955*, is replaced with a new paragraph (a) which uses wording consistent with the Commonwealth PPS Act.

Part 12 **Amendment of Alcan Queensland Pty. Limited Agreement Act 1965**

87 Act amended

Clause 87 provides that the part amends the *Alcan Queensland Pty. Limited Agreement Act 1965*.

88 Insertion of new s 4B

Clause 88 inserts a new section 4B which declares a special bauxite mining lease not to be personal property under the Commonwealth PPS Act.

Part 13 Amendment of Casino Control Act 1982

89 Act amended

Clause 89 provides that the part amends the *Casino Control Act 1982*.

90 Insertion of new s 4B

Clause 90 inserts a new section 4B which declares a casino licence not to be personal property under the Commonwealth PPS Act.

Part 14 Amendment of Central Queensland Coal Associates Agreement Act 1968

91 Act amended

Clause 91 provides that the part amends the *Central Queensland Coal Associates Agreement Act 1968*.

92 Insertion of new s 9A

Clause 92 inserts a new section 9A which declares a special coal mining lease not to be personal property under the Commonwealth PPS Act.

Part 15 Amendment of Commonwealth Aluminium Corporation Pty. Limited Agreement Act 1957

93 Act amended

Clause 93 provides that the part amends the *Commonwealth Aluminium Corporation Pty. Limited Agreement Act 1957*.

94 Insertion of new s 4B

Clause 94 inserts a new section 4B which declares a special bauxite mining lease not to be personal property under the Commonwealth PPS Act.

Part 16 Amendment of Cooperatives Regulation 1997

95 Regulation amended

Clause 95 provides that the part amends the *Cooperatives Regulation 1997*.

96 Omission of s 23 (Charges required to be registered)

Clause 96 omits section 23, which prescribes charges required to be registered under certain laws. This consequential amendment is required as a result of the Register of Cooperative Charges being closed.

97 Amendment of s 24 (Inspection of register of charges)

Clause 97 amends section 24 by omitting the reference to section 41(3)(b) and inserting a reference to the continued section 482.

98 Amendment of s 25 (Copies of register of charges)

Clause 98 amends section 25 by omitting the reference to section 41(5)(a) and inserting a reference to the continued section 482.

Part 17 Amendment of Disposal of Uncollected Goods Act 1967

99 Act amended

Clause 99 provides that the part amends the *Disposal of Uncollected Goods Act 1967*.

100 Insertion of new s 4A

Clause 100 inserts a new section 4A which provides that if goods are sold under the Act, whether under an order under part 3 or otherwise, the charges of the bailee in relation to the goods are declared to be statutory interests to which section 73(2) of the Commonwealth PPS Act applies. Additionally, the charges of the bailee have priority over all security interests in relation to the goods. A ‘security interest’ is defined by reference to section 12 of the Commonwealth PPS Act.

The declaration under section 73(2) of the Commonwealth PPS Act allows priority between the statutory interest and a security interest to be determined under the Disposal of Uncollected Goods Act rather than the Commonwealth PPS Act. This ensures that the bailee’s interest in unpaid or undelivered goods is maintained.

101 Amendment of s 15 (Buyer of goods sold pursuant to this Act to acquire a good title)

Clause 101 amends section 15 by inserting the words ‘and the interest of anyone else ends’ after the words ‘the goods’. The buyer of any goods sold by a bailee therefore gains good title to the goods and the interest of any one else in relation to the goods ends.

102 Amendment of s 20 (Disposal of net proceeds of sale of goods)

Clause 102 inserts a new subsection (3A) into section 20 which provides that the State’s interest under subsection (3) in prescribed charges is declared to be a statutory interest to which section 73(2) of the Commonwealth PPS Act applies.

The declaration under section 73(2) of the Commonwealth PPS Act allows priority between the statutory interest and a security interest to be determined under the Disposal of Uncollected Goods Act rather than the Commonwealth PPS Act. This ensures that the public trustee’s interest as trustee over surplus proceeds is maintained.

Part 18 **Amendment of Electricity Act 1994**

103 Act amended

Clause 103 provides that the part amends the *Electricity Act 1994*.

104 Insertion of new s 18A

Clause 104 inserts a new section 18A which declares the following not to be personal property under the Commonwealth PPS Act:

- (a) a distribution authority;
- (b) a generation authority;
- (c) a retail authority;
- (d) a special approval;
- (e) a transmission authority.

Part 19 **Amendment of Gaming Machine Act 1991**

105 Act amended

Clause 105 provides that the part amends the *Gaming Machine Act 1991*.

106 Insertion of new s 13A

Clause 106 inserts a new section 13A which declares an entitlement and an operating authority not to be personal property under the Commonwealth PPS Act.

Part 20 **Amendment of Gas Supply Act 2003**

107 Act amended

Clause 107 provides that the part amends the *Gas Supply Act 2003*.

108 Insertion of new s 5A

Clause 108 inserts a new section 5A which declares a distribution authority and a retail authority not to be personal property under the Commonwealth PPS Act.

Part 21 **Amendment of Geothermal Exploration Act 2004**

109 Act amended

Clause 109 provides that the part amends the *Geothermal Exploration Act 2004*.

110 Insertion of new s 7B

Clause 110 inserts a new section 7B which declares a permit not to be personal property under the Commonwealth PPS Act.

Part 22 **Amendment of Gladstone Power Station Agreement Act 1993**

111 Act amended

Clause 111 provides that the part amends the *Gladstone Power Station Agreement Act 1993*.

112 Amendment of s 13 (Issue of licence)

Clause 112 inserts a new subsection (5) into section 13 which declares a licence not to be personal property under the Commonwealth PPS Act.

Part 23 Amendment of Greenhouse Gas Storage Act 2009

113 Act amended

Clause 113 provides that the part amends the *Greenhouse Gas Storage Act 2009*.

114 Insertion of new s 8A

Clause 114 inserts a new section 8A which declares a GHG authority not to be personal property under the Commonwealth PPS Act.

Part 24 Amendment of Liquor Act 1992

115 Act amended

Clause 115 provides that the part amends the *Liquor Act 1992*.

116 Insertion of new s 14

Clause 116 inserts a new section 14 which declares a licence not to be personal property under the Commonwealth PPS Act.

Part 25 **Amendment of Manufactured Homes (Residential Parks) Act 2003**

117 Act amended

Clause 117 provides that the part amends the *Manufactured Homes (Residential Parks) Act 2003*.

118 Amendment of s 34 (Automatic ending of sale agreement)

Clause 118 amends section 34(5)(a) by replacing the reference to the *Bills of Sale and Other Instruments Act 1955* with a reference to the Commonwealth PPS Act.

119 Amendment of s 54 (Proceeds of sale)

Clause 119 amends section 54(2)(b) by replacing the reference to the Bills of Sale and Other Instruments Act with a reference to the Commonwealth PPS Act.

Part 26 **Amendment of Mineral Resources Act 1989**

120 Act amended

Clause 120 provides that the part amends the *Mineral Resources Act 1989*.

121 Insertion of new s 3C

Clause 121 inserts a new section 3C which declares a mining tenement not to be personal property under the Commonwealth PPS Act.

122 Amendment of s 230 (Plant remaining on former mineral development licence may be sold etc.)

Clause 122 amends section 230 by inserting a new subsection (5A) which provides that a secured party can not enforce any security interest in the proceeds of sale against an entity to whom an amount is payable under subsection (3)(a) to (e). This preserves the order in which proceeds of the sale of plant are to be applied. A new subsection (7) is inserted which defines ‘secured party’, ‘security interest’ and ‘PPS Act’.

123 Amendment of s 314 (Property remaining on former mining lease may be sold)

Clause 123 amends section 314 by inserting a new subsection (5A) which provides that a secured party can not enforce any security interest in the proceeds of sale against an entity to whom an amount is payable under subsection (3)(a) to (e). This preserves the order in which proceeds of the sale of property are to be applied. A new subsection (7) is inserted which defines ‘secured party’, ‘security interest’ and ‘PPS Act’.

Part 27 Amendment of Mount Isa Mines Limited Agreement Act 1985

124 Act amended

Clause 124 provides that the part amends the *Mount Isa Mines Limited Agreement Act 1985*.

125 Insertion of new s 6

Clause 125 inserts a new section 6 which declares a mining lease, a sub-lease and a licence not to be personal property under the Commonwealth PPS Act.

Part 28 Amendment of Offshore Minerals Act 1998

126 Act amended

Clause 126 provides that the part amends the *Offshore Minerals Act 1998*.

127 Insertion of new s 3A

Clause 127 inserts a new section 3A which declares a special purpose consent and a tenure not to be personal property under the Commonwealth PPS Act.

Part 29 Amendment of Petroleum Act 1923

128 Act amended

Clause 128 provides that the part amends the *Petroleum Act 1923*.

129 Insertion of new s 5

Clause 129 inserts a new section 5 which declares a 1923 Act petroleum tenure not to be personal property under the Commonwealth PPS Act.

Part 30 Amendment of Petroleum and Gas (Production and Safety) Act 2004

130 Act amended

Clause 130 provides that the part amends the *Petroleum and Gas (Production and Safety) Act 2004*.

131 Insertion of new s 6C

Clause 131 inserts a new section 6C which declares a petroleum authority not to be personal property under the Commonwealth PPS Act.

Part 31 Amendment of Petroleum (Submerged Lands) Act 1982

132 Act amended

Clause 132 provides that the part amends the *Petroleum (Submerged Lands) Act 1982*.

133 Insertion of new s 6B

Clause 133 inserts a new section 6B which declares the following not to be personal property under the Commonwealth PPS Act:

- (a) an access authority;
- (b) a licence;
- (c) a permit;
- (d) a pipeline licence.

Part 32 Amendment of Property Agents and Motor Dealers Act 2000

134 Act amended

Clause 134 provides that the part amends the *Property Agents and Motor Dealers Act 2000*.

135 Omission of ch 7, pt 2, div 9 (Sales of water damaged motor vehicles)

Clause 135 omits chapter 7, part 2, division 9, which contains section 232A. Section 232A requires an auctioneer to announce, immediately before the auction of a water damaged motor vehicle, that the vehicle is water damaged. This requirement is being removed as a 'water damaged vehicle' is defined by reference to the repealed *Motor Vehicles and Boats Securities Act 1986*, which requires a security interest certificate for a vehicle to also state if the vehicle is water damaged.

Water damaged vehicles were previously recorded on the Register of Encumbered Vehicles but are now classified as written-off vehicles and registered in the Written-Off Vehicles Register, which does not form part of the national scheme. Consumer protection will be maintained under the Property Agents and Motor Dealers Act as a motor dealer or auctioneer is required to notify a prospective buyer if a motor vehicle has been written-off.

136 Replacement of ch 7, pt 3, hdg (Guarantee of title for motor vehicles)

Clause 136 replaces the chapter 7, part 3 heading with a new heading titled 'Sale of motor vehicles by auction'.

137 Amendment of s 233 (Guarantee of title for motor vehicles)

Clause 137 amends section 233 by removing the requirement for an auctioneer to give the buyer of a used motor vehicle a security interest certificate due to the repeal of the *Motor Vehicles and Boats Securities Act*. Amendments to numbering and cross-references are made as a result of the removal of the requirement.

The new subsection (12A) has the effect that an auctioneer is no longer required to ensure a buyer gains clear title to a used motor vehicle to the extent that a security interest in the vehicle is registered under the Commonwealth PPS Act. This requirement is removed as the Commonwealth PPS Act provides generally that a person who purchases a motor vehicle from a licensed motor dealer or auctioneer will purchase the vehicle free of any security interest. Consumer protection is maintained under the Property Agents and Motor Dealers Act for vehicles which do not have a security interest registered under the Commonwealth PPS Act as an auctioneer will still be required to ensure a buyer gains clear title.

As a result of these amendments, the heading of section 233 is replaced with a new heading titled ‘Obligations of auctioneer’.

138 Omission of ch 9, pt 2, div 6 (Sales of used motor vehicles that are water damaged motor vehicles)

Clause 138 omits chapter 9, part 2, division 6, which contains section 294A. Section 294A requires a motor dealer to notify the buyer of a water damaged motor vehicle that the vehicle is water damaged. This requirement is being removed as a ‘water damaged vehicle’ is defined by reference to the Motor Vehicles and Boats Securities Act 1986, which requires a security interest certificate for a vehicle to also state if the vehicle is water damaged.

Water damaged vehicles were previously recorded on the Register of Encumbered Vehicles but are now classified as written-off vehicles and registered in the Written-Off Vehicles Register, which does not form part of the national scheme. Consumer protection will be maintained under the Property Agents and Motor Dealers Act as a motor dealer or auctioneer is required to notify a prospective buyer if a motor vehicle has been written-off.

139 Replacement of ch 9, pt 3, hdg (Guarantee of title for motor vehicles)

Clause 139 replaces the chapter 7, part 3 heading with a new heading titled ‘Sale of motor vehicles by motor dealer’.

140 Amendment of s 295 (Guarantee of title for motor vehicles)

Clause 140 amends section 295 by removing the requirement for a motor dealer to give the buyer of a used motor vehicle a security interest certificate due to the repeal of the Motor Vehicles and Boats Securities Act. Amendments to numbering and cross-references are made as a result of the removal of the requirement.

The new subsection (7A) has the effect that a motor dealer is no longer required to ensure a buyer gains clear title to a used motor vehicle to the extent that a security interest in the vehicle is registered under the Commonwealth PPS Act. This requirement is removed as the Commonwealth PPS Act provides generally that a person who purchases a motor vehicle from a licensed motor dealer or auctioneer will purchase the

vehicle free of any security interest. Consumer protection is maintained under the Property Agents and Motor Dealers Act for vehicles which do not have a security interest registered under the Commonwealth PPS Act as a motor dealer will still be required to ensure a buyer gains clear title.

As a result of these amendments, the heading of section 295 is replaced with a new heading titled 'Obligations of motor dealer'.

141 Amendment of s 578 (Offence to charge fee for providing documents etc.)

Clause 141 omits section 578(3), which refers to the provision of a security interest certificate.

142 Insertion of new ch 19, pt 9

Clause 142 inserts a new chapter 19, part 9 to provide a transitional provision for this Act. A new section 652 is inserted which provides that the amendment of the *Property Agents and Motor Dealers Regulation 2001* by this Act does not affect the power of the Governor in Council to further amend the regulation or to repeal it.

143 Amendment of sch 2 (Dictionary)

Clause 143 omits the definitions of 'security interest certificate' and 'water damaged motor vehicle' from schedule 2.

Part 33 Amendment of Property Agents and Motor Dealers Regulation 2001

144 Regulation amended

Clause 144 provides that the part amends the *Property Agents and Motor Dealers Regulation 2001*.

145 Amendment of s 20 (Guarantee of title for motor vehicles)

Clause 145 omits section 20(2), which prescribes the maximum amount a selling agent may charge a buyer for the provision of a security interest certificate.

146 Amendment of s 30 (Motor dealer to keep transaction register)

Clause 146 omits section 30(1)(n), which requires a motor dealer to enter the number of the security interest given to the buyer in the transaction register. Sections 30(1)(o) and (p) are consequently renumbered as sections 30(1)(n) and (o).

Part 34 Amendment of Queensland Nickel Agreement Act 1970

147 Act amended

Clause 147 provides that the part amends the *Queensland Nickel Agreement Act 1970*.

148 Insertion of new s 6A

Clause 148 inserts a new section 6A which declares a special mineral lease not to be personal property under the Commonwealth PPS Act.

Part 35 Amendment of Second-hand Dealers and Pawnbrokers Act 2003

149 Act amended

Clause 149 provides that the part amends the *Second-hand Dealers and Pawnbrokers Act 2003*.

150 Amendment of s 64 (Proceeds of sale of property)

Clause 150 amends section 64 by inserting a new subsection (1A) which provides that the interest of a pawnbroker in the proceeds of sale mentioned in subsection (1) is declared to be a statutory interest to which section 73(2) of the Commonwealth PPS Act applies. Additionally, the pawnbroker's interest has priority over all security interests in relation to the property. A 'security interest' is defined in a new subsection (5) by reference to section 12 of the Commonwealth PPS Act.

The declaration under section 73(2) of the Commonwealth PPS Act allows priority between the statutory interest and a security interest to be determined under the Second-hand Dealers and Pawnbrokers Act rather than the Commonwealth PPS Act. This ensures that the pawnbroker's interest is maintained.

Part 36 Amendment of Storage Liens Act 1973

151 Act amended

Clause 151 provides that the part amends the *Storage Liens Act 1973*.

152 Insertion of new s 4A

Clause 152 inserts a new section 4A which declares a storer's lien to be a statutory interest to which section 73(2) of the Commonwealth PPS Act applies and has priority over all other security interests in relation to the goods. A 'security interest' is defined by reference to section 12 of the Commonwealth PPS Act.

The declaration under section 73(2) of the Commonwealth PPS Act allows priority between the statutory interest and a security interest to be determined under the Storage Liens Act rather than the Commonwealth PPS Act. This ensures that the storer's lien over warehoused goods is maintained.

Part 37 **Amendment of Thiess Peabody
Coal Pty. Ltd. Agreement Act
1962**

153 Act amended

Clause 153 provides that the part amends the *Thiess Peabody Coal Pty. Ltd. Agreement Act 1962*.

154 Insertion of new s 6

Clause 154 inserts a new section 6 which declares a special coal mining lease not to be personal property under the Commonwealth PPS Act.

Part 38 **Amendment of Wine Industry Act
1994**

155 Act amended

Clause 155 provides that the part amends the *Wine Industry Act 1994*.

156 Insertion of new pt 1, div 4

Clause 156 inserts a new part 1, division 4 and section 5A which declares a licence not to be personal property under the Commonwealth PPS Act.

Department of Environment and Resource Management

Part 39 **Amendment of Forestry Act 1959**

157 Act amended

Clause 157 provides that the part amends the *Forestry Act 1959*.

158 Amendment of s 61 (Removal of forest products)

Clause 158 amends section 61 by inserting a new subsection (5) which provides that the Crown's interest under subsection (4) in forest products and quarry material is declared to be a statutory interest to which section 73(2) of the Commonwealth PPS Act applies. A 'security interest' is defined by reference to section 12 of the Commonwealth PPS Act.

The declaration under section 73(2) of the Commonwealth PPS Act allows priority between the statutory interest and a security interest to be determined under the Forestry Act rather than the Commonwealth PPS Act. This ensures that the Crown's interest over property is maintained in order to secure the payment of any purchase moneys, royalties, stumpages or charges.

Department of Infrastructure and Planning

Part 40 Amendment of City of Brisbane Act 2010

159 Act amended

Clause 159 provides that the part amends the *City of Brisbane Act 2010*.

160 Insertion of new ch 3, pt 2, div 5

Clause 160 inserts a new chapter 3, part 2, division 5 and section 42A. The new section 42A applies if the council makes a local law about seizing and disposing of personal property and personal property is seized under the local law. The new section provides an order in which the proceeds of sale or disposal are to be applied. The provision ensures the council has a priority interest over the proceeds.

161 Replacement of ch 8, pt 2, hdg (Transitional and savings provisions)

Clause 161 replaces the chapter 8, part 2 heading with a new title 'Transitional and savings provisions for Act No. 23 of 2010'.

162 Insertion of new ch 8, pt 3

Clause 162 inserts a new chapter 8, part 3 which contains a transitional provision. The new section 265 provides that the amendment of the *City of Brisbane (Operations) Regulation 2010* by this Act does not affect the power of the Governor in Council to further amend the regulation or to repeal it.

Part 41 Amendment of City of Brisbane (Operations) Regulation 2010

163 Regulation amended

Clause 163 provides that the part amends the *City of Brisbane (Operations) Regulation 2010*.

164 Amendment of s 26 (Sale of vehicle removed from mall)

Clause 164 amends section 26 by inserting a new subsection (6) which provides that the proceeds of the sale or disposal of the vehicle must be applied in the same way as stated in the Act, section 42A(2) to (4) for the sale or disposal of personal property seized under a local law.

Part 42 Amendment of Local Government Act 2009

165 Act amended

Clause 165 provides that the part amends the *Local Government Act 2009*.

166 Insertion of new ch 3, pt 1, div 4

Clause 166 inserts a new chapter 3, part 1, division 4 and section 38A. The new section 38A applies if a local government makes a local law about seizing and disposing of personal property and personal property is seized under the local law. The new section provides an order in which the

proceeds of sale or disposal are to be applied. The provision ensures a local government has a priority interest over the proceeds.

Department of Justice and Attorney-General

Part 43 Amendment of Burials Assistance Act 1965

167 Act amended

Clause 167 provides that the part amends the *Burials Assistance Act 1965*.

168 Amendment of s 4A (Charge on account with financial institution)

Clause 168 amends section 4A by inserting a new subsection (4A) which provides that a charge under the section is declared to be a statutory interest to which section 73(2) of the Commonwealth PPS Act applies. This declaration allows priority between the statutory interest and a security interest to be determined under the Burials Assistance Act rather than the Commonwealth PPS Act. This ensures that the financial institution's charge over funds standing to the credit of the deceased is maintained.

Part 44 Amendment of Criminal Proceeds Confiscation Act 2002

169 Act amended

Clause 169 provides that the part amends the *Criminal Proceeds Confiscation Act 2002*.

170 Amendment of s 52 (Contravention of restraining order)

Clause 170 amends section 52 by inserting a new subsection (4) which provides that subsection (2) does not apply to a charge in relation to a

motor vehicle, boat or outboard motor restrained under a restraining order that is registered under the Commonwealth PPS Act. The new subsection (5) provides definitions of ‘boat’, ‘motor vehicle’ and ‘outboard motor’.

171 Amendment of s 88 (Charge on property)

Clause 171 inserts a new paragraph (d) into section 88(2) in order to declare a charge created under the section to be a statutory interest to which section 73(2) of the Commonwealth PPS Act applies. This declaration allows priority between the statutory interest and a security interest to be determined under the Criminal Proceeds Confiscation Act rather than the Commonwealth PPS Act. This ensures the State’s charge on the property is maintained.

172 Amendment of s 143 (Contravention of restraining order)

Clause 172 amends section 143 by inserting a new subsection (4) which provides that subsection (2) does not apply to a charge in relation to a motor vehicle, boat or outboard motor restrained under a restraining order that is registered under the Commonwealth PPS Act. The new subsection (5) provides definitions of ‘boat’, ‘motor vehicle’ and ‘outboard motor’.

173 Amendment of s 196 (Charge on restrained property under restraining order if pecuniary penalty order made)

Clause 173 inserts a new subsection (2A) into section 196 in order to declare a charge created under the section to be a statutory interest to which section 73(2) of the Commonwealth PPS Act applies. This declaration allows priority between the statutory interest and a security interest to be determined under the Criminal Proceeds Confiscation Act rather than the Commonwealth PPS Act. This ensures the State’s charge on the property is maintained.

A new subsection (8) is inserted which provides that subsection (7) does not apply to a charge over personal property mentioned on the register kept under the Commonwealth PPS Act.

174 Amendment of s 220 (Application of proceeds to satisfy order)

Clause 174 inserts a new subsection (3) into section 220 which declares the interest of the public trustee in the proceeds realised from the property or

the disposal of the property to be a statutory interest to which section 73(2) of the Commonwealth PPS Act applies. This declaration allows priority between the statutory interest and a security interest to be determined under the Criminal Proceeds Confiscation Act rather than the Commonwealth PPS Act. This ensures the public trustee's interest in the proceeds is maintained.

Clause 175 Amendment of s 237 (Charge on property subject to filed interstate restraining order)

Clause 175 inserts a new subsection (2A) into section 237 in order to declare a charge on property restrained under a restraining order to be a statutory interest to which section 73(2) of the Commonwealth PPS Act applies. This declaration allows priority between the statutory interest and a security interest to be determined under the Criminal Proceeds Confiscation Act rather than the Commonwealth PPS Act. This ensures the charge on the property subject to an interstate restraining order is maintained.

Clause 176 Amendment of s 256 (Orders for defeating arrangements)

Clause 176 inserts a new subsection (3) into section 256 which provides that a charge on property created under an order of the court under subsection (2)(d) is declared to be a statutory interest to which section 73(2) of the Commonwealth PPS Act applies. This declaration allows priority to be determined under the Criminal Proceeds Confiscation Act rather than the Commonwealth PPS Act. This ensures the priority of the charge created by the Supreme Court is maintained.

Part 45 Amendment of Drugs Misuse Act 1986

177 Act amended

Clause 177 provides that the part amends the *Drugs Misuse Act 1986*.

178 Amendment of s 84 (Cost recovery)

Clause 178 amends section 84 by replacing the reference to a lien under the *Bills of Sale and Other Instruments Act 1955* in subsection (5) with a reference to a security interest. The reference to a lien in subsection (5)(a) is replaced with a reference to a security interest. A new subsection (6) defines ‘security interest’ by reference to section 12 of the Commonwealth PPS Act.

Part 46 Amendment of Legal Aid Queensland Act 1997

179 Act amended

Clause 179 provides that the part amends the *Legal Aid Queensland Act 1997*.

180 Amendment of s 39 (How Legal Aid may recover particular unpaid amounts from a legally assisted person etc.)

Clause 180 amends section 39 by inserting a new subsection (7) in order to declare a charge created under the section to be a statutory interest to which section 73(2) of the Commonwealth PPS Act applies. This declaration allows priority between the statutory interest and a security interest to be determined under the *Legal Aid Queensland Act* rather than the Commonwealth PPS Act. This ensures the charge created in favour of *Legal Aid Queensland* is maintained.

A new subsection (8) provides how the proceeds of the sale of property which exceed the amount payable to *Legal Aid Queensland* are to be applied. Such proceeds are to be applied firstly to the payment of any amount owing under a security interest under the Commonwealth PPS Act and secondly in the payment of any balance to the legally assisted person.

Part 47 Amendment of Property Law Act 1974

181 Act amended

Clause 181 provides that the part amends the *Property Law Act 1974*.

Clause 182 Amendment of s 45 (Formalities of deeds executed by individuals)

Clause 182 omits section 45(5)(c), which refers to the repealed *Bills of Sale and Other Instruments Act 1955*.

Part 48 Amendment of Succession Act 1981

183 Act amended

Clause 183 provides that the part amends the *Succession Act 1981*.

184 Amendment of s 34A (Meaning of household chattels)

Clause 184 amends section 34A(3)(a) by replacing references to a charge, encumbrance or lien securing the payment of money with a reference to a security interest under the Commonwealth PPS Act. Section 34A(3)(b) is amended by removing the reference to a grantor under a bill of sale.

Part 49 Amendment of Supreme Court Act 1995

185 Act amended

Clause 185 provides that the part amends the *Supreme Court Act 1995*.

186 Amendment of s 161 (Court or judge may direct sale of goods seized in execution)

Clause 186 amends section 161 by omitting ‘under a bill of sale or otherwise’.

Department of Police

Part 50 Amendment of Police Powers and Responsibilities Act 2000

187 Act amended

Clause 187 provides that the part amends the *Police Powers and Responsibilities Act 2000*.

188 Amendment of s 99 (Consideration of application for forfeiture order—type 1 vehicle related offence)

Clause 188 amends section 99(6)(b) by replacing the reference to the repealed *Motor Vehicles and Boats Securities Act 1986* with a reference to the Commonwealth PPS Act.

189 Amendment of s 99B (Consideration of application for forfeiture order—type 2 vehicle related offence)

Clause 189 amends section 99B(6)(b) by replacing the reference to the repealed *Motor Vehicles and Boats Securities Act* with a reference to the Commonwealth PPS Act.

190 Amendment of s 101 (Consideration of application for forfeiture order)

Clause 190 amends section 101(6)(b) by replacing the reference to the repealed *Motor Vehicles and Boats Securities Act* with a reference to the Commonwealth PPS Act.

191 Amendment of s 121 (Application of proceeds of sale)

Clause 191 amends section 121(2)(c) by replacing the reference to the repealed Motor Vehicles and Boats Securities Act with a reference to the Commonwealth PPS Act.

192 Amendment of s 128 (Application of proceeds of sale)

Clause 192 renumbers section 128(1)(c) as section 128(1)(d). A new subsection (1)(c) is inserted so that the proceeds of sale may be applied to the payment of any amount owing to a person under a security interest registered for a vehicle, load or other thing under the Commonwealth PPS Act.

193 Amendment of s 141 (Application of proceeds of sale)

Clause 193 renumbers section 141(1)(c) as section 141(1)(d). A new subsection (1)(c) is inserted so that the proceeds of sale may be applied to the payment of any amount owing to a person under a security interest registered for an animal under the Commonwealth PPS Act.

194 Amendment of s 747 (Definitions for ch 22)

Clause 194 amends the definition of 'owner' in section 747 by replacing the reference to the repealed Motor Vehicles and Boats Securities Act with a reference to the Commonwealth PPS Act.

195 Amendment of s 766 (Consideration of application for forfeiture order)

Clause 195 amends section 766(4)(b) by replacing the reference to the repealed Motor Vehicles and Boats Securities Act with a reference to the Commonwealth PPS Act.

196 Amendment of s 786 (Application of proceeds of sale)

Clause 196 amends section 786(2)(c) by replacing the reference to the repealed Motor Vehicles and Boats Securities Act with a reference to the Commonwealth PPS Act.

197 Amendment of sch 6 (Dictionary)

Clause 197 amends the definition of ‘owner’ in schedule 6 by replacing the reference to the repealed Motor Vehicles and Boats Securities Act with a reference to the Commonwealth PPS Act.

Department of the Premier and Cabinet

The Acts amended allow a statutory body to dispose of abandoned property, or other property such as art or specimens accepted by the statutory body. Provisions will be inserted to prescribe the order in which the proceeds of sale or disposal are to be applied. This clarifies the position that the statutory bodies have priority over other interests. The amendments also clarify that a secured party can not enforce a security interest against a statutory body.

Part 51 Amendment of Libraries Act 1988

198 Act amended

Clause 198 provides that the part amends the *Libraries Act 1988*.

199 Amendment of s 28 (Disposal of abandoned property)

Clause 199 inserts a new subsection (2A) into section 28 which provides how the proceeds of the sale of abandoned property must be applied.

200 Amendment of s 30 (Effect of sale or other disposal of property)

Clause 200 renumbers section 30(3) as section 30(4). A new subsection (3) is inserted which provides that a secured party can not enforce any security interest in the proceeds of sale against the board, an entity to whom an amount is payable under section 28(2A)(a), or an entity to whom the property is sold. A new subsection (5) is inserted which provides definitions of ‘secured party’ and ‘security interest’ by reference to sections 10 and 12 of the Commonwealth PPS Act.

Part 52

Amendment of Queensland Art Gallery Act 1987

201 Act amended

Clause 201 provides that the part amends the *Queensland Art Gallery Act 1987*.

202 Amendment of s 26 (Disposal of works of art acceptable by the board)

Clause 202 amends section 26 by omitting subsections (6) and (7) and inserting a new subsection (6) which provides how the proceeds of the sale of works of art are to be applied.

203 Amendment of s 28 (Disposal of certain abandoned property)

Clause 203 inserts a new subsection (2A) into section 28 which provides how the proceeds of the sale of abandoned property are to be applied.

204 Amendment of s 30 (Effect of sale or other disposal of certain works of art or other property)

Clause 204 renumbers section 30(3) as section 30(4). A new subsection (3) is inserted which provides that a secured party can not enforce any security interest in the proceeds of sale against the board, an entity to whom an amount is payable under section 26(6)(a) or 28(2A)(a), or an entity to whom a property is sold. A new subsection (5) provides definitions of 'secured party' and 'security interest' by reference to sections 10 and 12 of the Commonwealth PPS Act.

Part 53 Amendment of Queensland Museum Act 1970

205 Act amended

Clause 205 provides that the part amends the *Queensland Museum Act 1970*.

206 Amendment of s 19 (Disposal of specimens accepted by the board)

Clause 206 omits sections 19(7) and (8) and inserts a new subsection (7) which provides how the proceeds of the sale of a specimen are to be applied.

207 Amendment of s 21 (Disposal of certain abandoned property)

Clause 207 inserts a new subsection (2A) into section 21 which provides how the proceeds of the sale of abandoned property are to be applied.

208 Amendment of s 23 (Effect of sale or other disposal of specimens or other property)

Clause 208 renumbers section 23(3) as section 23(4). A new subsection (3) is inserted which provides that a secured party can not enforce any security interest in the proceeds of sale against the board, an entity to whom an amount is payable under section 19(7)(a) or 21(2A)(a), or an entity to whom the property is sold. A new subsection (5) provides definitions of ‘secured party’ and ‘security interest’ by reference to sections 10 and 12 of the Commonwealth PPS Act.

Part 54 **Amendment of Queensland Performing Arts Trust Act 1977**

209 Act amended

Clause 209 provides that the part amends the *Queensland Performing Arts Trust Act 1977*.

210 Amendment of s 18 (Disposal of property accepted by the trust)

Clause 210 omits sections 18(6) and (7) and inserts a new subsection (6) which provides how the proceeds of the sale of property are to be applied.

211 Amendment of s 19 (Disposal of certain abandoned property)

Clause 211 inserts a new subsection (2A) into section 19 which provides how the proceeds of the sale of abandoned property are to be applied.

212 Amendment of s 21 (Effect of sale or other disposal of property)

Clause 212 renumbers section 21(3) as section 21(4). A new subsection (3) is inserted which provides that a secured party can not enforce any security interest in the proceeds of sale against the trust, an entity to whom an amount is payable under section 18(6)(a) or 19(2A)(a), or an entity to whom the property is sold. A new subsection (5) provides definitions of 'secured party' and 'security interest' by reference to sections 10 and 12 of the Commonwealth PPS Act.

Part 55 **Amendment of Queensland Theatre Company Act 1970**

213 Act amended

Clause 213 provides that the part amends the *Queensland Theatre Company Act 1970*.

214 Amendment of s 18 (Disposal of certain abandoned property)

Clause 214 inserts a new subsection (2A) into section 18 which provides how the proceeds of the sale of certain abandoned property are to be applied.

215 Amendment of s 20 (Effect of sale or other disposal of property)

Clause 215 renumbers section 20(3) as section 20(4). A new subsection (3) is inserted which provides that a secured party can not enforce any security interest in the proceeds of sale against the theatre company, an entity to whom an amount is payable under section 18(2A)(a), or an entity to whom the property is sold. A new subsection (5) provides definitions of 'secured party' and 'security interest' by reference to sections 10 and 12 of the Commonwealth PPS Act.

Department of Transport and Main Roads

The amendments to the transport legislation relate to the application of proceeds for the sale or disposal of property. The amendments clarify that the State has priority over other interests. The amendments also clarify that a secured party can not enforce a security interest in the proceeds as against the State.

Part 56 Amendment of Transport Infrastructure Act 1994

216 Act amended

Clause 216 provides that the part amends the *Transport Infrastructure Act 1994*.

217 Amendment of s 52 (Alteration etc. of ancillary works and encroachments)

Clause 217 inserts a new subsection (3A) into section 52 which provides how the proceeds of the sale of ancillary works and encroachment are to be

applied. A new subsection (3B) provides that a secured party can not enforce any security interest in the proceeds of sale against an entity to whom an amount is payable under subsection (3A)(a) or (b). A new subsection (7) defines 'secured party' by reference to section 10 of the Commonwealth PPS Act.

218 Amendment of s 289M (Proceeds from the sale of abandoned property)

Clause 218 omits section 289M(1)(d) and inserts a new paragraph (d) so that proceeds from the sale of abandoned property may be applied to the payment of an amount owing to a person under a security interest registered under the Commonwealth PPS Act. A new paragraph (e) allows the balance of proceeds to be paid to the owner or, if the owner can not be found, to the consolidated fund.

219 Insertion of new ch 21, pt 2

Clause 219 inserts a new chapter 21, part 2. The new section 577 provides that the amendment of the *Transport Infrastructure (Rail) Regulation 2006* by this Act does not affect the power of the Governor in Council to further amend the regulation or to repeal it.

Part 57 Amendment of Transport Infrastructure (Rail) Regulation 2006

220 Regulation amended

Clause 220 provides that the part amends the *Transport Infrastructure (Rail) Regulation 2006*.

221 Amendment of s 23 (Disposing of property)

Clause 221 renumbers section 23(3)(c) as section 23(3)(d). A new section 23(3)(c) allows proceeds to be applied in the payment of an amount owing to a person under a security interest registered under the Commonwealth PPS Act.

Part 58 **Amendment of Transport Operations (Marine Safety) Act 1994**

222 Act amended

Clause 222 provides that the part amends the *Transport Operations (Marine Safety) Act 1994*.

223 Amendment of s 175A (Removing abandoned property)

Clause 223 inserts a new subsection (7A) into section 175A which provides that a secured party can not enforce any security interest in the proceeds of sale against an entity to whom an amount is payable under subsection (7)(a) or (b). A new subsection (8) provides definitions of ‘secured party’, and ‘security interest’.

Part 59 **Amendment of Transport Operations (Road Use Management) Act 1995**

224 Act amended

Clause 224 provides that the part amends the *Transport Operations (Road Use Management) Act 1995*.

225 Amendment of s 46A (Seizing certain vehicles for sale)

Clause 225 amends section 46A(7) by removing the ordinal numbering in the paragraphs. A new paragraph (c) is inserted so that the proceeds of the sale of seized vehicles may be applied to the payment of an amount owing to a person under a security interest registered under the Commonwealth PPS Act. A new subsection (7A) is inserted which provides that a secured party can not enforce any security interest in the proceeds of sale against an entity to whom an amount is payable under subsection (7)(a) or (b). A new subsection (10) provides a definition of ‘secured party’ by reference to section 10 of the Commonwealth PPS Act.

226 Amendment of s 51L (Disposing of removed thing)

Clause 226 omits section 51L(4)(c) and inserts new paragraphs (c) and (d) so that the proceeds of the sale of a removed thing may be applied to the payment of any amount owing to a person under a security interest registered under the Commonwealth PPS Act. The balance is then applied to the owner of the removed thing or, if the owner can not be found, to the consolidated fund. A new subsection (4A) provides that a secured party can not enforce any security interest in the proceeds of sale against an entity to whom an amount is payable under subsection (4)(a) or (b). A definition of 'secured party' is inserted into subsection (8).

227 Amendment of s 100 (Removal of things from roads)

Clause 227 amends section 100(7) by removing the ordinal numbering in the paragraphs. A new paragraph (c) is inserted so that the proceeds from the sale or disposal of the vehicle, tram or animal may be applied to the payment of an amount owing to a person under a security interest registered under the Commonwealth PPS Act. A new subsection (7A) is inserted which provides that a secured party can not enforce any security interest in the proceeds of sale against an entity to whom an amount is payable under subsection (7)(a) or (b). A definition of 'secured party' is inserted into subsection (15).

228 Amendment of s 135 (Unlawfully interfering with, or detaining, vehicles etc.)

Clause 228 replaces the definition of 'security interest' in section 135(8), which currently refers to the repealed Motor Vehicles and Boats Securities Act, with a new definition of 'security interest' which refers to section 12 of the Commonwealth PPS Act.

Department of Treasury

**Part 60 Amendment of Financial
Intermediaries Act 1986**

229 Act Amended

Clause 229 provides that the part amends the *Financial Intermediaries Act 1986*.

**230 Amendment of s 97C (Application of Corporations
legislation in relation to certain matters)**

Clause 230 amends section 97C by removing the references to chapter 2K of the *Corporations Act 2001 (Cwlth)*. Chapter 2K deals with the register of company charges and will be repealed as a result of the Commonwealth PPS Act.

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