

Western Australia

**Personal Property Securities (Consequential
Repeals and Amendments) Act 2011**

As at 04 Oct 2011

No. 42 of 2011

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Western Australia

Personal Property Securities (Consequential Repeals and Amendments) Act 2011

(No. 42 of 2011)

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Western Australia

Personal Property Securities (Consequential Repeals and Amendments) Act 2011

No. 42 of 2011

An Act to repeal or amend various Acts as a result of the reform of the law relating to personal property securities by the *Personal Property Securities Act 2009* (Commonwealth), and for related purposes.

[Assented to 4 October 2011]

The Parliament of Western Australia enacts as follows:

Part 1 — Preliminary

1. Short title

This is the *Personal Property Securities (Consequential Repeals and Amendments) Act 2011*.

2. Commencement

This Act comes into operation as follows —

- (a) sections 1 and 2 — on the day on which this Act receives the Royal Assent;
- (b) sections 30, 31, 33, 34 and 44 — on the day after the day on which this Act receives the Royal Assent;
- (c) the rest of the Act — immediately before the registration commencement time as defined in the *Personal Property Securities Act 2009* (Commonwealth) section 306(2).

Part 2 — Agriculture and Food

Division 1 — *Bulk Handling Act 1967* amended

3. Act amended

This Division amends the *Bulk Handling Act 1967*.

4. Section 34D amended

After section 34D(3) insert:

- (4) In accordance with the *Personal Property Securities Act 2009* (Commonwealth) section 73(2)(a), it is declared that section 73(2) of that Act applies to a charge created under subsection (2)(b).

5. Section 35 amended

After section 35(1) insert:

- (2A) In accordance with the *Personal Property Securities Act 2009* (Commonwealth) section 73(2)(a), it is declared that section 73(2) of that Act applies to a lien created under subsection (1).

6. Section 51 amended

After section 51(2) insert:

- (3) In accordance with the *Personal Property Securities Act 2009* (Commonwealth) section 73(2)(a), it is declared that section 73(2) of that Act applies to a charge created under subsection (1)(a) or (aa).

Personal Property Securities (Consequential Repeals and Amendments) Act 2011

Part 2 Agriculture and Food

Division 2 Marketing of Potatoes Act 1946 amended

s. 7

Division 2 — *Marketing of Potatoes Act 1946* amended

7. Act amended

This Division amends the *Marketing of Potatoes Act 1946*.

8. Section 31 amended

In section 31 delete “The Corporation” and insert:

Subject to the *Personal Property Securities Act 2009*
(Commonwealth), the Corporation

Part 3 — Attorney General

Division 1 — *Criminal Property Confiscation Act 2000* amended

9. Act amended

This Division amends the *Criminal Property Confiscation Act 2000*.

10. Section 10 amended

In section 10(2) after “registerable under” insert:

the *Personal Property Securities Act 2009* (Commonwealth) or

11. Section 31 amended

In section 31(2) after “registrable under” insert:

the *Personal Property Securities Act 2009* (Commonwealth) or

12. Section 36 amended

In section 36(3) after “registrable under” insert:

the *Personal Property Securities Act 2009* (Commonwealth) or

13. Section 39 amended

In section 39(5) after “registrable under” insert:

the *Personal Property Securities Act 2009* (Commonwealth) or

Personal Property Securities (Consequential Repeals and Amendments) Act 2011

Part 3 Attorney General

Division 1 Criminal Property Confiscation Act 2000 amended

s. 14

14. Section 46 amended

In section 46(3) after “registrable under” insert:

the *Personal Property Securities Act 2009* (Commonwealth) or

15. Section 125 amended

(1) In section 125 delete “A charge” and insert:

(1) A charge

(2) At the end of section 125 insert:

(2) In accordance with the *Personal Property Securities Act 2009* (Commonwealth) section 73(2)(a), it is declared that section 73(2) of that Act applies to a charge created on property under section 123(1).

16. Section 127 amended

(1) In section 127(1):

(a) after “land under” insert:

the *Personal Property Securities Act 2009*
(Commonwealth) or

(b) after “accordance with” insert:

that Act or

- (2) In section 127(3):
- (a) after “memorial in accordance with” insert:

the *Personal Property Securities Act 2009*
(Commonwealth) or

- (b) after “accordance with” insert:

that Act or

Division 2 — *Fines, Penalties and Infringement Notices Enforcement Act 1994* amended

17. Act amended

This Division amends the *Fines, Penalties and Infringement Notices Enforcement Act 1994*.

18. Section 96 amended

In section 96(3)(c) delete “*Bills of Sale Act 1899*, the *Chattel Securities Act 1987*, the *Transfer of Land Act 1893*, the *Registration of Deeds Act 1856*, or the *Corporations Act 2001* of the Commonwealth,” and insert:

Personal Properties Securities Act 2009
(Commonwealth), the *Transfer of Land Act 1893*, the *Registration of Deeds Act 1856* or
the *Corporations Act 2001* (Commonwealth),

Personal Property Securities (Consequential Repeals and Amendments) Act 2011

Part 3 Attorney General

Division 3 Property Law Act 1969 amended

s. 19

19. Section 99 amended

In section 99 delete “the *Bills of Sale Act 1899*, the *Chattel Securities Act 1987*, the *Transfer of Land Act 1893*,” and insert:

the *Transfer of Land Act 1893*

Division 3 — Property Law Act 1969 amended

20. Act amended

This Division amends the *Property Law Act 1969*.

21. Section 6 replaced

Delete section 6 and insert:

6. Application of this Act to certain Acts

Except as in this Act expressly provided, this Act so far as inconsistent with the *Transfer of Land Act 1893*, or the *Strata Titles Act 1985*, does not apply to land that is under the provisions of either of those Acts.

Division 4 — Public Trustee Act 1941 amended

22. Act amended

This Division amends the *Public Trustee Act 1941*.

23. Section 63 amended

(1) In section 63:

(a) delete “Where” and insert:

(1) Where

(b) delete “thereon.” and insert:

thereon in priority to all other claims upon the policy moneys.

(2) At the end of section 63 insert:

(2) In accordance with the *Personal Property Securities Act 2009* (Commonwealth) section 73(2)(a), it is declared that section 73(2) of that Act applies to a lien created under subsection (1).

Division 5 — *Trustees Act 1962* amended

24. Act amended

This Division amends the *Trustees Act 1962*.

25. Section 72 amended

Delete section 72(3).

Division 6 — *Warehousemen’s Liens Act 1952* amended

26. Act amended

This Division amends the *Warehousemen’s Liens Act 1952*.

27. Section 4 amended

(1) In section 4 delete “Subject to” and insert:

(1) Subject to

Personal Property Securities (Consequential Repeals and Amendments) Act 2011

Part 3 Attorney General

Division 6 Warehousemen's Liens Act 1952 amended

s. 28

(2) In section 4(1) delete “for storage.” and insert:

for storage in priority to all other claims on the goods.

(3) At the end of section 4 insert:

(2) In accordance with the *Personal Property Securities Act 2009* (Commonwealth) section 73(2)(a), it is declared that section 73(2) of that Act applies to a lien arising under subsection (1).

28. Section 6 amended

Delete section 6(1) and insert:

- (1) The warehouseman must, within 3 months after the date of the deposit of goods with the warehouseman, give notice of the lien on the goods to a person if —
- (a) the goods are of, or greater than, the value prescribed under the *Criminal and Found Property Disposal Act 2006* section 33(1)(a); and
 - (b) one of the following applies —
 - (i) the person has an interest in the goods in relation to which a registration was made under the *Personal Property Securities Act 2009* (Commonwealth) before the deposit of the goods and the registration is in effect;
 - (ii) the person has an interest in the goods that the warehouseman is aware of at any time before the expiration of 2 months after the deposit of the goods.

29. Section 7 amended

Delete section 7(2)(c).

Part 4 — Commerce

Division 1 — *Bills of Sale Act 1899* amended and repealed

30. Act amended

This Division amends the *Bills of Sale Act 1899*.

31. Part IIA inserted

After section 5 insert:

Part IIA — Cessation of registration

6A. Early cessation of registration function

(1) In this section —

migration time has the meaning given in the *Personal Property Securities Act 2009* (Commonwealth) section 306(1);

pre-PPS transition period means the period —

- (a) commencing at the migration time or such earlier time as may be prescribed by the regulations; and
- (b) ending at the registration commencement time;

registration commencement time has the meaning given in the *Personal Property Securities Act 2009* (Commonwealth) section 306(2);

registration function means any function conferred or imposed on the Registrar under the *Bills of Sale Act 1899* relating to the registration of a Bill of Sale.

- (2) The Registrar may refuse to exercise a registration function during the pre-PPS transitional period.
- (3) Without limiting subsection (2), the Registrar may refuse to exercise a registration function during the

pre-PPS transitional period in relation to a matter that was not finally determined or concluded immediately before the commencement of that period.

32. Bills of Sale Act 1899 and regulations repealed

- (1) The *Bills of Sale Act 1899* is repealed.
- (2) These regulations are repealed:
 - (a) the *Bills of Sale (Fees) Regulations 1983*;
 - (b) the *Bills of Sale Regulations 2001*.

Division 2 — Chattel Securities Act 1987 amended

33. Act amended

This Division amends the *Chattel Securities Act 1987*.

34. Part IIA inserted

After section 3A insert:

Part IIA — Act ceases to have effect except as otherwise provided

3B. Terms used

In this Part —

migration time has the meaning given in the *Personal Property Securities Act 2009* (Commonwealth) section 306(1);

pre-PPS transition period means the period —

- (a) commencing at the migration time or such earlier time as may be prescribed by the regulations; and
- (b) ending at the registration commencement time;

Registrar has the meaning given in the *Personal Property Securities Act 2009* (Commonwealth) section 10;

registration commencement time has the meaning given in the *Personal Property Securities Act 2009* (Commonwealth) section 306(2);

registration function means any function conferred or imposed on the Commissioner under Part III.

3C. Effect of Act at and after registration commencement time

- (1) Subject to section 3D, this Act, other than the following provisions, has no effect at and after the registration commencement time —
 - (a) sections 3A, 22, 23, 24, 25, 26, 29, 30A, 30B, 30C, 30D and 31;
 - (b) any other provision of this Act (a **related provision**) that is referred to in provision listed in paragraph (a) (a **primary provision**) to the extent necessary for the purposes of the continued operation of the primary provision;
 - (c) any power to make regulations in respect of a matter that is conferred by the primary provision or a related provision.
- (2) Section 23 has no effect on and after the day after the end of the period of 7 years beginning at the registration commencement time.

3D. Refusal to exercise registration functions

- (1) Subject to section 3E, the Commissioner may refuse to exercise a registration function during the pre-PPS transitional period.
- (2) Without limiting subsection (1), the Commissioner may refuse to exercise a registration function during

the pre-PPS transitional period in relation to a matter that was not finally determined or concluded immediately before the commencement of that period.

- (3) After the end of the pre-PPS transitional period the Commissioner is not to exercise a registration function under section 15, 19, 20, 21 or 22.

3E. Show cause proceedings under s. 22

If the Commissioner —

- (a) has given a person a notice under section 22(1) and that notice is in force immediately before the registration commencement time; and
- (b) would have cancelled the registration of the person under section 22(2) had he or she been able to exercise that registration function after the end of the pre-PPS transition period,

the Commissioner may provide the Registrar with a written notice stating the registration of the person would have been so cancelled.

3F. Details of entry

At and after the registration commencement time, the Commissioner may, instead of providing a certificate under section 23(3), respond to an application made in accordance with section 23 by providing the applicant with an extract from the register.

3G. Act to expire

- (1) When the Minister is satisfied that there is no reason for this Act to continue, the Minister is to publish a notice in the *Gazette* stating that the Minister is satisfied as to that matter, and that the Act expires at the end of the day on which the notice is published.

- (2) This Act expires as stated in a notice published under subsection (1).

Division 3 — Companies (Co-operative) Act 1943 amended

35. Act amended

This Division amends the *Companies (Co-operative) Act 1943*.

36. Section 3 amended

In section 3 in the definition of **Charge** paragraph (c) delete “registration or would be registrable as a bill of sale;” and insert:

registration;

Division 4 — Co-operatives Act 2009 amended

37. Act amended

This Division amends the *Co-operatives Act 2009*.

38. Section 44 amended

Delete section 44(2).

39. Section 230 amended

Delete section 230(1)(f).

40. Section 267 amended

In section 267:

- (a) in paragraph (b) delete “the *Mining Act 1978*; or” and insert:

the *Mining Act 1978*.

- (b) delete paragraph (c).

41. Section 337 amended

(1) In section 337 delete “A co-operative” and insert:

(1) Subject to subsection (2), a co-operative

(2) At the end of section 337 insert:

(2) If the Registrar gives a certificate under section 314 for the winding-up of a co-operative, a co-operative is declared to be an applied Corporations legislation matter for the purposes of the *Corporations (Ancillary Provisions) Act 2001* Part 3 in relation to the Corporations Act sections 588FL and 588FM, subject to the following modifications —

- (a) those sections are to be read as if a co-operative were a company;
- (b) any other modifications (within the meaning of the *Corporations (Ancillary Provisions) Act 2001* Part 3) that are prescribed by the regulations.

42. Section 454 amended

After section 454(2) insert:

(3) The obligation to keep the Register of Co-operative Charges established under Schedule 3 clause 18 ceases on the day after the end of the period of 7 years beginning at the registration commencement time as defined in Schedule 3 clause 4A.

43. Section 457 amended

After section 457(3) insert:

- (4) On and after the day after the end of the period of 7 years beginning at the registration commencement time as defined in Schedule 3 clause 4A, this section has no effect in relation to the Register of Co-operative Charges referred to in clause 18 of that Schedule.

44. Schedule 3 Division 2A inserted

After Schedule 3 clause 3 insert:

Division 2A — Schedule ceases to have effect except as otherwise provided

4A. Terms used

In this Division —

migration time has the meaning given in the *Personal Property Securities Act 2009* (Commonwealth) section 306(1);

pre-PPS transition period means the period —

- (a) commencing at the migration time or such earlier time as may be prescribed by the regulations; and
(b) ending at the registration commencement time;

registrable charge means a charge created before the registration commencement time that was a registrable charge as defined in clause 1 when it was created;

registration commencement time has the meaning given in the *Personal Property Securities Act 2009* (Commonwealth) section 306(2);

registration function means any function conferred or imposed on the Registrar under this Schedule.

4B. Effect of Schedule at and after registration commencement time

- (1) Subject to subclause (2) and clause 4D, this Schedule has no effect at and after the registration commencement time.
- (2) If a registrable charge is void immediately before the registration commencement time or becomes void at or after that time, the Supreme Court may declare the charge not to be, and never to have been void if —
 - (a) an application has been made to the Supreme Court under clause 29 before the registration commencement time or is made at or after that time in accordance with clause 29; and
 - (b) the Supreme Court is satisfied as to the matters referred to in clause 29(a) or (b).

4C. Refusal to exercise registration functions

- (1) The Registrar may refuse to exercise a registration function during the pre-PPS transitional period.
- (2) Without limiting subclause (1), the Registrar may refuse to exercise a registration function during the pre-PPS transitional period in relation to a matter that was not finally determined or concluded immediately before the commencement of that period.
- (3) After the end of the pre-PPS transitional period the Commissioner is not to exercise a registration function.

4D. Priority between registrable charges

Subject to the *Personal Property Securities Act 2009* (Commonwealth) Chapter 9, at and after the registration commencement time, registrable charges have the priority between themselves that they would have had under this Act as in effect immediately before the registration commencement time.

Division 5 — *Growers Charge Act 1940* amended

45. Act amended

This Division amends the *Growers Charge Act 1940*.

46. Long title amended

In the long title delete “**bill of sale or other security**” and insert:

security agreement

47. Section 2 amended

- (1) In section 2 delete the definition of *bill of sale*.
- (2) In section 2 insert in alphabetical order:

secured party has the meaning given in the *Personal Property Securities Act 2009* (Commonwealth) section 10;

security agreement has the meaning given in the *Personal Property Securities Act 2009* (Commonwealth) section 10;

- (3) In section 2 in the definition of *crops* delete “grain.” and insert:
grain;

48. Section 3 amended

- (1) In section 3:
 - (a) delete “Whenever crops” and insert:
 - (1) Whenever crops

(b) delete “bill of sale then,” and insert:

security agreement then,

(c) delete “bill of sale.” (first and second occurrence) and insert:

security agreement.

(2) At the end of section 3 insert:

(2) In accordance with the *Personal Property Securities Act 2009* (Commonwealth) section 73(2)(a), it is declared that section 73(2) of that Act applies to a charge created under subsection (1).

49. Section 6 amended

In section 6(b):

(a) delete “grantee of a bill of sale” and insert:

secured party

(b) delete “grantee,” and insert:

secured party,

50. Section 7 amended

In section 7(d):

(a) delete “holders of bills of sale” and insert:

a secured party

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Part 4 Commerce

Division 6 Hire-Purchase Act 1959 amended

s. 51

(b) delete “holders of bills of sale,” and insert:

a secured party,

Division 6 — Hire-Purchase Act 1959 amended

51. Act amended

This Division amends the *Hire-Purchase Act 1959*.

52. Section 3 amended

Delete section 3(2)(e)(vii).

53. Section 9 amended

In section 9(4)(b) delete “counterparts and if required by the owner also the reasonable costs incurred by the owner in registering the same under the *Bills of Sale Act 1899*.” and insert:

counterparts.

54. Section 36A amended

In section 36A(2a)(b) delete “and agreement registration fees”.

55. First Schedule Part 1 amended

In the First Schedule Part 1 delete:

” Agreement Registration Fees
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Division 7 — *Motor Vehicle Dealers Act 1973* amended

56. Act amended

This Division amends the *Motor Vehicle Dealers Act 1973*.

57. Section 32A amended

In section 32A delete the definition of *security interest* and insert:

security interest has the meaning given in the *Personal Property Securities Act 2009* (Commonwealth) section 10;

Division 8 — *Settlement Agents Act 1981* amended

58. Act amended

This Division amends the *Settlement Agents Act 1981*.

59. Schedule 2 amended

Delete Schedule 2 clause 2(fa).

Part 5 — Energy

Division 1 — *Electricity Industry Act 2004* amended

60. Act amended

This Division amends the *Electricity Industry Act 2004*.

61. Section 131A inserted

After section 130 insert:

131A. Licence not personal property for the purposes of the *Personal Property Securities Act 2009* (Commonwealth)

If a licence is transferable by the licensee, in accordance with the *Personal Property Securities Act 2009* (Commonwealth) section 10 the definition of *licence* paragraph (d), the licence is declared not to be personal property for the purposes of that Act.

Division 2 — *Energy Coordination Act 1994* amended

62. Act amended

This Division amends the *Energy Coordination Act 1994*.

63. Section 26A inserted

After section 25 insert:

26A. Licence not personal property for the purposes of the *Personal Property Securities Act 2009* (Commonwealth)

If a licence is transferable by the licensee, in accordance with the *Personal Property Securities*

Act 2009 (Commonwealth) section 10 the definition of *licence* paragraph (d), the licence is declared not to be personal property for the purposes of that Act.

Part 6 — Environment

Division 1 — *Conservation and Land Management Act 1984* amended

64. Act amended

This Division amends the *Conservation and Land Management Act 1984*.

65. Section 88 amended

After section 88(2) insert:

- (3) If a permit or licence granted under subsection (1) to take forest produce on or from Crown land is transferable by the permit holder or licensee, in accordance with the *Personal Property Securities Act 2009* (Commonwealth) section 10 the definition of *licence* paragraph (d), the permit or licence is declared not to be personal property for the purposes of that Act.

66. Section 97A amended

After section 97A(10) insert:

- (11) If a licence granted under subsection (1) or a permit granted under subsection (3) is transferable by the licensee or permit holder, in accordance with the *Personal Property Securities Act 2009* (Commonwealth) section 10 the definition of *licence* paragraph (d), the licence or permit is declared not to be personal property for the purposes of that Act.

67. Section 99A amended

After section 99A(6) insert:

- (7) If a licence granted under subsection (1) is transferable by the licensee, in accordance with the *Personal Property Securities Act 2009* (Commonwealth) section 10 the definition of ***licence*** paragraph (d), the licence is declared not to be personal property for the purposes of that Act.

68. Section 101 amended

After section 101(5) insert:

- (6) If a licence granted under subsection (1) to enter and use any land to which this Division applies is transferable by the licensee, in accordance with the *Personal Property Securities Act 2009* (Commonwealth) section 10 the definition of ***licence*** paragraph (d), the licence is declared not to be personal property for the purposes of that Act.

Division 2 — *Swan and Canning Rivers Management Act 2006* amended

69. Act amended

This Division amends the *Swan and Canning Rivers Management Act 2006*.

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Part 6 Environment

Division 3 Wildlife Conservation Act 1950 amended

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70. Section 32 amended

After section 32(7) insert:

- (8) If a licence granted under subsection (1) in respect of the River reserve is transferable by the licensee, in accordance with the *Personal Property Securities Act 2009* (Commonwealth) section 10 the definition of *licence* paragraph (d), the licence is declared not to be personal property for the purposes of that Act.

Division 3 — *Wildlife Conservation Act 1950* amended

71. Act amended

This Division amends the *Wildlife Conservation Act 1950*.

72. Section 15 amended

After section 15(5) insert:

- (6) If such licences as are prescribed under subsection (1) are transferable by the licensee, in accordance with the *Personal Property Securities Act 2009* (Commonwealth) section 10 the definition of *licence* paragraph (d), the licences are declared not to be personal property for the purposes of that Act.

Part 7 — Fisheries

Division 1 — *Fish Resources Management Act 1994* amended

73. Act amended

This Division amends the *Fish Resources Management Act 1994*.

74. Section 66 amended

After section 66(4) insert:

- (5) In accordance with the *Personal Property Securities Act 2009* (Commonwealth) section 10 the definition of *licence* paragraph (d), an authorisation granted under subsection (1) is declared not to be personal property for the purposes of that Act.

75. Section 83 amended

After section 83(3) insert:

- (4) In accordance with the *Personal Property Securities Act 2009* (Commonwealth) section 10 the definition of *licence* paragraph (d), a fish processor's licence granted under subsection (1) is declared not to be personal property for the purposes of that Act.

76. Section 92 amended

After section 92(6) insert:

- (7) In accordance with the *Personal Property Securities Act 2009* (Commonwealth) section 10 the definition of *licence* paragraph (d), an aquaculture licence granted

under subsection (1) is declared not to be personal property for the purposes of that Act.

Division 2 — *Pearling Act 1990* amended

77. Act amended

This Division amends the *Pearling Act 1990*.

78. Section 23 amended

After section 23(1) insert:

- (2A) In accordance with the *Personal Property Securities Act 2009* (Commonwealth) section 10 the definition of ***licence*** paragraph (d), the following rights, entitlements or authorities are declared not to be personal property for purposes of that Act —
- (a) a pearl oyster farm lease issued under subsection (1)(a);
 - (b) a pearling licence issued under subsection (1)(b);
 - (c) a pearl oyster hatchery licence issued under subsection (1)(c);
 - (d) a pearling permit issued under subsection (1)(g);
 - (e) a pearl oyster hatchery permit issued under subsection (1)(h).

Part 8 — Lands

Division 1 — *Land Administration Act 1997* amended

79. Act amended

This Division amends the *Land Administration Act 1997*.

80. Section 48 amended

After section 48(2) insert:

- (3) If a licence granted under subsection (1) is transferable by the licensee, in accordance with the *Personal Property Securities Act 2009* (Commonwealth) section 10 the definition of *licence* paragraph (d), the licence is declared not to be personal property for the purposes of that Act.

81. Section 91 amended

After section 91(5) insert:

- (6) If a licence granted under subsection (1) is transferable by the licensee, in accordance with the *Personal Property Securities Act 2009* (Commonwealth) section 10 the definition of *licence* paragraph (d), the licence is declared not to be personal property for the purposes of that Act.

Part 9 — Mines and Petroleum

Division 1 — *Mining Act 1978* amended

82. Act amended

This Division amends the *Mining Act 1978*.

83. Section 162A inserted

After section 161 insert:

162A. Certain things are not personal property for the purposes of the *Personal Property Securities Act 2009* (Commonwealth)

In accordance with the *Personal Property Securities Act 2009* (Commonwealth) section 10 the definition of *licence* paragraph (d), the following rights, entitlements or authorities are declared not to be personal property for the purposes of that Act —

- (a) a prospecting licence granted under section 40(1), 56A(6) or 70(6);
- (b) an exploration licence granted under section 57(1);
- (c) a retention licence granted under section 70B(1);
- (d) a mining lease granted under section 71;
- (e) a general purpose lease granted under section 86(1);
- (f) a miscellaneous licence granted under section 91(1).

Division 2 — *Offshore Minerals Act 2003* amended

84. Act amended

This Division amends the *Offshore Minerals Act 2003*.

85. Section 443A inserted

After section 442 insert:

443A. Certain things are not personal property for the purposes of the *Personal Property Securities Act 2009* (Commonwealth)

In accordance with the *Personal Property Securities Act 2009* (Commonwealth) section 10 the definition of *licence* paragraph (d), the following rights, entitlements or authorities are declared not to be personal property for the purposes of that Act —

- (a) an exploration licence granted under section 63(a) or 81(1);
- (b) a retention licence granted under section 143(a);
- (c) a mining licence granted under section 206(a) or 225(1);
- (d) a works licence granted under section 276(a).

Division 3 — *Petroleum and Geothermal Energy Resources Act 1967* amended

86. Act amended

This Division amends the *Petroleum and Geothermal Energy Resources Act 1967*.

87. Section 152 inserted

After section 151 insert:

152. Certain things are not personal property for the purposes of the *Personal Property Securities Act 2009* (Commonwealth)

In accordance with the *Personal Property Securities Act 2009* (Commonwealth) section 10 the definition of *licence* paragraph (d), the following rights, entitlements or authorities are declared not to be personal property for the purposes of that Act —

- (a) a petroleum exploration permit or a geothermal exploration permit granted under section 37;
- (b) a drilling reservation granted under section 43C(4);
- (c) a petroleum retention lease or geothermal retention lease granted under section 48B(5);
- (d) a petroleum production licence or geothermal production licence granted under section 61(4).

Division 4 — *Petroleum Pipelines Act 1969* amended

88. Act amended

This Division amends the *Petroleum Pipelines Act 1969*.

89. Section 66E inserted

After section 66D insert:

66E. Licences under section 10 are not personal property for the purposes of the *Personal Property Securities Act 2009* (Commonwealth)

In accordance with the *Personal Property Securities Act 2009* (Commonwealth) section 10 the definition of *licence* paragraph (d), a licence granted under section 10 is declared not to be personal property for the purposes of that Act.

Division 5 — *Petroleum (Submerged Lands) Act 1982* amended

90. Act amended

This Division amends the *Petroleum (Submerged Lands) Act 1982*.

91. Section 152I inserted

At the beginning of Part IV insert:

152I. Certain things are not personal property for the purposes of the *Personal Property Securities Act 2009* (Commonwealth)

In accordance with the *Personal Property Securities Act 2009* (Commonwealth) section 10 the definition of *licence* paragraph (d), the following rights, entitlements or authorities are declared not to be personal property for the purposes of that Act —

- (a) an exploration permit for petroleum granted under section 27;
- (b) a retention lease granted under section 38B(5);
- (c) a production licence for petroleum granted under section 44(2);
- (d) a licence to construct and operate a pipeline granted under section 65(10).

Part 10 — Premier

Division 1 — *Gold Corporation Act 1987* amended

92. Act amended

This Division amends the *Gold Corporation Act 1987*.

93. Section 67 amended

(1) In section 67 delete “Where gold” and insert:

(1) Where gold

(2) At the end of section 67 insert:

(2) For the purposes of the *Personal Property Securities Act 2009* (Commonwealth) section 259, gold that is collateral purchased by Gold Corporation, the Mint or GoldCorp under subsection (1), but not the proceeds from the sale of gold to Gold Corporation, the Mint, or GoldCorp, is declared to be an excluded matter in relation to section 32 of that Act.

Part 11 — Racing and Gaming

Division 1 — *Liquor Control Act 1988* amended

94. Act amended

This Division amends the *Liquor Control Act 1988*.

95. Section 30A amended

After section 30A(2) insert:

- (3) In accordance with the *Personal Property Securities Act 2009* (Commonwealth) section 10 the definition of *licence* paragraph (d), a licence granted under subsection (1) that is transferable by the licensee is declared not to be personal property for the purposes of that Act.

Division 2 — *The Western Australian Turf Club Act 1892* amended

96. Act amended

This Division amends *The Western Australian Turf Club Act 1892*.

97. Section 30 amended

In section 30 delete “The respective” and insert:

Subject to the *Personal Property Securities Act 2009* (Commonwealth), the respective

Part 12 — Transport

Division 1 — *Jetties Act 1926* amended

98. Act amended

This Division amends the *Jetties Act 1926*.

99. Section 8A amended

(1) Delete section 8A(4) and insert:

(4) The cost of removal under subsection (3) is a debt due to the Crown and a first charge in priority to all other claims on the materials comprising the private jetty.

(5A) In accordance with the *Personal Property Securities Act 2009* (Commonwealth) section 73(2)(a), it is declared that section 73(2) of that Act applies to a charge created under subsection (4).

(5B) The Minister may recover that cost of removal under subsection (3) by causing the materials comprising the private jetty to be sold.

(5C) If under subsection (5B) any materials comprising the private jetty are sold in good faith to a person and the person takes the property in good faith, the person receives good title to the materials against every other person including its true owner.

(2) In section 8A(5) delete “subsection (4)” and insert:

subsection (5B)

Division 2 — *Perth Parking Management Act 1999* amended

100. Act amended

This Division amends the *Perth Parking Management Act 1999*.

101. Section 9 amended

After section 9(5) insert:

- (6) If a licence issued under subsection (1) is transferable by the licensee, in accordance with the *Personal Property Securities Act 2009* (Commonwealth) section 10 the definition of *licence* paragraph (d), the licence is declared not to be personal property for the purposes of that Act.

Division 3 — *Road Traffic Act 1974* amended

102. Act amended

This Division amends the *Road Traffic Act 1974*.

103. Section 15A inserted

At the end of Part II insert:

15A. Disclosure of information for the purposes of the *Personal Property Securities Act 2009* (Commonwealth)

The Director General may disclose the following information to the Registrar as defined in the *Personal Property Securities Act 2009* (Commonwealth) section 10 —

- (a) information relating to vehicles that have been stolen or written off;

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Part 12 Transport

Division 4 Shipping and Pilotage Act 1967 amended

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- (b) information contained in the register of vehicle licences referred to in section 27(1) that the Director General considers to be relevant to the operation of the register as defined in section 10 of that Act.

Division 4 — *Shipping and Pilotage Act 1967* amended

104. Act amended

This Division amends the *Shipping and Pilotage Act 1967*.

105. Section 5 amended

After section 5(3) insert:

- (4A) If under subsection (3) any wreckage is sold in good faith to a person and the person takes the property in good faith, the person receives good title to the wreckage against every other person including its true owner.

Division 5 — *Taxi Act 1994* amended

106. Act amended

This Division amends the *Taxi Act 1994*.

107. Section 16 amended

After section 16(9) insert:

- (10A) In accordance with the *Personal Property Securities Act 2009* (Commonwealth) section 10 the definition of ***licence*** paragraph (d), a lease of taxi plates under this section is declared not to be personal property for the purposes of that Act.

Division 6 — *Transport Co-ordination Act 1966* amended

108. Act amended

This Division amends the *Transport Co-ordination Act 1966*.

109. Section 20 amended

After section 20(4) insert:

- (5) In accordance with the *Personal Property Securities Act 2009* (Commonwealth) section 10 the definition of *licence* paragraph (d), a licence granted under this Part is declared not to be personal property for the purposes of that Act.

110. Section 47ZD amended

After section 47ZD(6) insert:

- (7) If a licence issued under subsection (1) is transferable by the licensee, in accordance with the *Personal Property Securities Act 2009* (Commonwealth) section 10 the definition of *licence* paragraph (d), the licence is declared not to be personal property for the purposes of that Act.

Division 7 — *Western Australian Marine Act 1982* amended

111. Act amended

This Division amends the *Western Australian Marine Act 1982*.

112. Section 71 amended

(1) Delete section 71(3) and insert:

- (3) The cost of removal under subsection (2) is a debt due to the Crown and a first charge in priority to all other claims on the navigational hazard.
- (4A) In accordance with the *Personal Property Securities Act 2009* (Commonwealth) section 73(2)(a), it is declared that section 73(2) of that Act applies to a charge created under subsection (3).
- (4B) The chief executive officer may recover the cost of removal under subsection (2) by —
 - (a) action in a court of competent jurisdiction against the owner of the navigational hazard; or
 - (b) selling or causing to be sold the navigational hazard.
- (4C) If under subsection (4B)(b) any navigational hazard is sold in good faith to a person and the person takes the property in good faith, the person receives good title to the navigational hazard against every other person including its true owner.

(2) In section 71(4) delete “subsection (3)(b)” and insert:

subsection (4B)(b)

Division 8 — *Western Australian Marine (Sea Dumping) Act 1981* amended

113. Act amended

This Division amends the *Western Australian Marine (Sea Dumping) Act 1981*.

114. Section 12 amended

- (1) In section 12(3) delete “charge upon the vessel, aircraft or platform,” and insert:

first charge in priority to all other claims upon the vessel, aircraft or platform,

- (2) After section 12(3) insert:

- (4A) In accordance with the *Personal Property Securities Act 2009* (Commonwealth) section 73(2)(a), it is declared that section 73(2) of that Act applies to a charge created under subsection (3).

Part 13 — Water

Division 1 — *Country Areas Water Supply Act 1947* amended

115. Act amended

This Division amends the *Country Areas Water Supply Act 1947*.

116. Section 81 amended

(1) In section 81 delete “The” and insert:

(1) The

(2) At the end of section 81 insert:

(2) In accordance with the *Personal Property Securities Act 2009* (Commonwealth) section 73(2)(a), it is declared that section 73(2) of that Act applies to a charge created under subsection (1).

Division 2 — *Country Towns Sewerage Act 1948* amended

117. Act amended

This Division amends the *Country Towns Sewerage Act 1948*.

118. Section 79 amended

(1) In section 79 delete “The” and insert:

(1) The

(2) At the end of section 79 insert:

(2) In accordance with the *Personal Property Securities Act 2009* (Commonwealth) section 73(2)(a), it is declared that section 73(2) of that Act applies to a charge created under subsection (1).

Division 3 — *Metropolitan Water Supply, Sewerage, and Drainage Act 1909* amended

119. Act amended

This Division amends the *Metropolitan Water Supply, Sewerage, and Drainage Act 1909*.

120. Section 109 amended

(1) In section 109 delete “The” and insert:

(1) The

(2) At the end of section 109 insert:

(2) In accordance with the *Personal Property Securities Act 2009* (Commonwealth) section 73(2)(a), it is declared that section 73(2) of that Act applies to a charge created under subsection (1).

Division 4 — *Water Services Licensing Act 1995* amended

121. Act amended

This Division amends the *Water Services Licensing Act 1995*.

122. Section 60C inserted

After section 60B insert:

60C. Operating licence (water supply services) is not personal property for the purposes of the *Personal Property Securities Act 2009* (Commonwealth)

If an operating licence granted under section 18 is transferable by the licensee, in accordance with the *Personal Property Securities Act 2009* (Commonwealth) section 10 the definition of *licence* paragraph (d), the licence is declared not to be personal property for the purposes of that Act.

