



Australian Government

Department of the Prime Minister and Cabinet Office of Best Practice Regulation

Reference: 16640
Telephone: 6271 6270
e-mail: helpdesk@obpr.gov.au

Mr David Fredericks
Deputy Secretary
Attorney-General's Department
3-5 National Circuit
BARTON ACT 2600

Dear Mr Fredericks *David*

Regulation Impact Statement – Application of the *Personal Property Securities Act 2009* to leases

Thank you for forwarding the single stage Regulation Impact Statement (RIS) for the above proposal for final assessment on 17 March 2014. I note that you have formally certified the single stage RIS as required by the best practice regulation requirements.

The OBPR assesses single stage RISs for consistency and adequacy – consistency relate to following the prescribed process and adequacy relates to the quality of the analysis. I note our comments of 6 March 2014 on the initial draft have been appropriately addressed, as you confirmed in your letter certifying the final version of the RIS.

I note the agency has been consistent with the RIS guidelines, having twice provided a certified single stage RIS (addressing all seven elements) to the OBPR for the two-pass assessment before the decision-maker considers the RIS.

I note that the single stage RIS is adequate as it does not contain obvious errors and has a degree of detail and depth of analysis that is commensurate with the magnitude of the problem and the size of the potential impact of the proposal.

I note that the regulatory costs and cost offsets have been agreed with the OBPR.

I note that the RIS concerns the way in which the *Personal Properties Securities Act 2009* (PPS Act) applies to leases, particularly leases of serial numbered goods such as motor vehicles. The RIS explains that the current requirements require businesses to consider a number of factors when determining to register a lease, including the nature of the good and the length of the lease.

It is particularly difficult for businesses to determine whether to register a lease for a term of less than 12 months. Under the current rules, leases of serial numbered goods can be registered if the term of the lease is more than 90 days. Where this is the case, a separate registration may be required for serial numbered goods even if a general registration has

been made against a commercial customer's name. The preferred option is to change the rules that relate to when a lease may need to be registered on the PPS Register. The changes also minimise the need for small and medium hire businesses to consider making both a general registration and a separate registration for serial numbered goods.

The Government's best practice regulation requirements are that for legislation which is tabled in the Parliament, a copy of the details stage RIS must be included in the explanatory memorandum (for primary legislation) or the explanatory statement (for legislative instruments). Please ensure that your officers provide the OBPR with a copy of (or link to) the explanatory memorandum or explanatory statement when these are made public.

Additionally, the Office of Best Practice Regulation (OBPR) maintains a RIS website and the Government requires that details stage RISs be posted within 5 business days of a regulatory decision being publicly announced. We would appreciate you advising us when a decision on this proposal is announced, and forwarding a final copy of the details stage RIS in *Microsoft Word .doc* format in a form meeting the Australian Government's *Web Content Accessibility Guidelines*. We suggest liaising with your web services team to ensure these guidelines are met. The OBPR should be consulted if the details stage RIS is amended. It is the agency preparing the RIS, not the OBPR, which is responsible for the content of the published details stage RIS.

The website provides a public comment facility on RISs posted on the site. The OBPR moderates this facility for offensive content but does not moderate debate. Please retain this letter as a record of the OBPR's advice. Our reference number for this issue is 16640. If you have any further queries, please do not hesitate to contact me.

Yours sincerely



Jason McNamara
Executive Director
Office of Best Practice Regulation

17 March 2014