Personal Property Securities Amendment Regulations (No 2) 2007

Preamble

At Wellington this 3rd day of December 2007

Pursuant to section 190 of the Personal Property Securities Act 1999, His Excellency the Governor-General, acting on the advice and with the consent of the Executive Council, makes the following regulations.

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1 Title

These regulations are the Personal Property Securities Amendment Regulations (No 2) 2007.

2 Commencement

These regulations come into force on 1 January 2008.

3 Principal regulations amended

These regulations amend the Personal Property Securities Regulations 2001.

4 Forms

Regulation 23 is amended by inserting the following subclause after subclause (1):

"(1A) A prescribed form does not include any notes stated to be not part of that form."

5 Form 1 of Schedule 2 amended

(1) The first paragraph 1 of form 1 of Schedule 2 is amended by omitting "with priority over all other secured parties".

(2) Form 1 of Schedule 2 is amended by revoking the second paragraph 2 and substituting the following paragraph:

"**2 If you are the debtor, you may,—**

(a) unless you have otherwise agreed in writing after default, in accordance with section 132(1) of the Personal Property Securities Act 1999, redeem the collateral in accordance with section 132 of the Personal Property Securities Act 1999. Your right has priority over any other person's right to redeem the collateral; or

"(b) unless you have otherwise agreed, reinstate the security agreement under section 133 of the Personal Property Securities Act 1999. Any right of reinstatement is subject, unless you have otherwise agreed, to section 134 of the Personal Property Securities Act 1999."

(3) Form 1 of Schedule 2 is amended by revoking the note and substituting the following heading and notes:

"**Notes**

"These notes are not part of the form.

"1 The parties to a security agreement may contract out of certain provisions of the Personal Property Securities Act 1999. If this has occurred, this notice needs to be altered accordingly.

"2 If the security interest is created or provided for by a mortgage over goods, then under section 114(4) of the Personal Property Securities Act 1999—

"(a) sections 128 to 136 of the Property Law Act 2007 apply; and

"(b) the notice of intention to sell collateral that is given under section 114(1) of the Personal Property Securities Act 1999 must be—

"(i) in the form prescribed by regulations made under the Property Law Act 2007 (instead of being in this form); and

"(ii) given to the persons referred to in sections 128 and 130 of the Property Law Act 2007 (instead of to the persons referred to in section 114(1) of the Personal Property Securities Act 1999)."

6 Forms 2 and 3 of Schedule 2 amended

Forms 2 and 3 of Schedule 2 are amended by revoking the note in each form and substituting the following heading and note:

"**Note**

"This note is not part of the form.

"The parties to a security agreement may contract out of certain provisions of the Personal Property Securities Act 1999. If this has occurred, this notice needs to be altered accordingly."

Martin Bell,

for Clerk of the Executive Council.

Explanatory note

This note is not part of the regulations, but is intended to indicate their general effect.

These regulations, which come into force on 1 January 2008, amend the prescribed forms in Schedule 2 of the Personal Property Securities Regulations 2001. The main amendments are to form 1 (notice of intention to sell collateral) and reflect amendments made to the Personal Property Securities Act 1999 on that date by the Property Law Act 2007. The rest are consequential amendments.

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