*PLACE ON INDIVIDUAL COMPANY LETTERHEAD*

**Unfair treatment of more than 5500 businesses: Personal Property Securities Act (PPSA)**

Consider this:

*You operate a generator hire business with the majority of your capital tied up in 20 large pieces of equipment. Your best customer hires 10 of them (worth approximately $3 million) for a mining project that will last 13 months.*

*Six weeks later you get a call from the liquidator of the customer. He tells you that because you made a minor mistake on an online registration form (or forgot, or didn’t know about the need to register) all 10 generators* ***are no longer yours****. Instead they belong to the bank (which has ‘all assets’ security over the customer).*

*You no longer own the equipment.*

*Despite this, you still have to meet any finance obligations you may have had in place for it – including personal guarantees or bank security over your family home.*

This is a ridiculous proposition.

Or is it?

The reality is that this is an increasingly common scenario facing small and medium-sized hire businesses across Australia.

The Personal Property Securities Act (PPSA) allows for a liquidator or administrator to seize equipment in the possession of a business that goes into liquidation, despite the fact that this equipment belongs to a hire company.

If the equipment is not registered on the PPS register – or an error was made in the registration process (yet another layer of red-tape facing small businesses) – it is deemed to be the property of the liquidator or administrator.

**Since the PPSA was introduced three years ago, we estimate it has cost our industry approximately $100 million in lost assets and legal fees.**

The figure may be far higher as many claims are not made public, are settled privately, and do not reach the courts.

**The legislation makes a mockery of the term *hire*, and places a hefty red tape burden, on more than 5500 businesses nationwide.**

The injustice has been recognised - and yet not addressed - in the Whittaker Review of the PPSA tabled in Parliament on 18 March 2015.

Under the Review recommendations, the PPSA will continue to cost hire businesses not only their assets, but possibly their livelihoods. It specifically recommends that **hire assets can still be taken by the banks** of insolvent customers of hire companies.

Despite more than two years of seeking redress on this matter, and participating fully in the Review process, our industry remains at risk.

Legal cases continue to highlight how serious this can be for:

* Maiden Civil (two Caterpillar excavators),
* Doka Formwork (up to $1m of hired formwork);
* ANZ’s claim to turbines leased to the Forge Group ($50m and which also triggered a number of complaints, including from the US Chamber of Commerce).

**Our industry is worth $6.5 billion employing more than 17,000 people across Australia. Most of these businesses employ just 15 or less people** (IBIS Report, March 2015).

As an industry we do not take security, provide finance or do anything equivalent to those activities, and we should not be caught up in PPSA security law complexities.

**The hire industry must be removed from the PPSA.**

Our industry body - the Hire and Rental Association – has met and will continue to meet respective Departmental and Ministerial representatives.

We are just seeking fair treatment for our industry, and many small and medium sized businesses across <insert name of electorate>. As a business in <insert name of town> I’d appreciate the opportunity to discuss this matter with you directly.

Yours sincerely

Insert individual name and company