

INSOLVENCY LAW JOURNAL

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ARTICLES

Reform of the law on personal property securities in Australia: The current state of play – *Justice Berna Collier*

After a number of false starts stretching back to the 1980s at both Commonwealth and State level, the laws with respect to personal property security reform in Australia appear to be set for a long overdue reform. The plethora of personal property security registration regimes in Australia, coupled with a multitude of common law principles, specific statutes, and priority systems, has lead to a confusing patchwork of law in this country. The position here is to be compared with the approach taken recently in New Zealand, which has adopted a paperless registration regime for personal property security interests. This article considers the current situation in Australia with respect to security interests in personal property, it examines briefly the approaches in other jurisdictions, and considers the way forward in Australia if reform does proceed.

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Taking security over book debts: The position in Australian law – *Richard Johnson*

A company's book debts are often its most valuable asset. Accordingly, and in light of the preferential creditor provisions of the *Corporations Act 2001* (Cth), a secured creditor will generally want to ensure that their security over a company's book debts arises by virtue of a fixed charge rather than a floating charge. This article examines the traditional view that charges over book debts can only ever be floating in nature, and the endemic uncertainty that has been generated by a number of decisions that have cast doubt on the traditional view. It also considers the position in Australia in light of the decision of the House of Lords in *National Westminster Bank plc v Spectrum Plus Ltd*, and the extent to which that decision has resolved the prevailing uncertainty. It concludes that while a reform of Australia's personal property securities laws could end this uncertainty, the endorsement of *Spectrum Plus* by a superior Australian court represents a simple and satisfactory solution.

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