
Regulations to Support Provisions in the *Consumer Credit Legislation Amendment (Enhancements) Bill 2012*

The Treasury

**Submission by the Australian Consumer Law Committee of the Legal Practice
Section of the Law Council of Australia**

18 September 2012

The Law Council of Australia is the peak national body representing the legal profession in Australia.

The Australian Consumer Law Committee (ACLC) of the Law Council is a special interest group of the Legal Practice Section. The ACLC takes a specific interest in legal developments affecting consumers and liaises with government and non-government bodies involved in consumer law.

Regulations to Support Provisions in the *Consumer Credit Legislation Amendment (Enhancements) Bill 2012* – Small Amount credit contracts

The ACLC notes the policy objectives underpinning the draft regulations relating to small amount credit contracts and the proposed caps on costs. In this respect the ACLC notes that consumers who turn to credit providers which offer high-cost, small-value loans are very often vulnerable and in desperate financial circumstances. The ACLC supports the need to take steps to protect such consumers from predatory lenders and also to ensure – as much as it is practicable to do so – that such vulnerable consumers understand the costs associated with these loans prior to taking one out.

To this end, the ACLC supports:

- The mechanism in the regulations which requires the display of warning notices at a credit provider's premises in the form set out in Schedule 7;
- The mechanism in the regulations for placing a warning on a credit provider's website in the form set out in Schedule 8.

The availability of appropriate financial counselling advice to financially vulnerable consumers at a time when it might be practically useful – such as at the point of entry into a high-cost loan – appears to the ACLC to be a potentially important protection. Accordingly, alerting financially vulnerable consumers to the existence of a telephone “hotline” (the 1800 007 007 phone number) in the warning notices is, in the view of the ACLC, a useful protective step. It is important, however, that the financial counselling agencies that support that number be adequately funded to provide the financial counselling necessary. In as much as it is possible for those entities to collect useful data about the financial distress of consumers considering these loans, it seems desirable that such data be collected to assist future policy formulation. The ACLC understands that the name of the hotline – proposed in the notice as the “National Financial Helpline” – may not yet be one that has uniform agreement by relevant parties, and that such agreement is clearly desirable.

The ACLC also supports the adoption of additional rules to protect the classes of consumers identified in draft regulation 28S(2), but is not currently in a position to comment on whether the rules in the draft regulation are likely to achieve the policy objective.

Attachment A: Profile of the Law Council of Australia

The Law Council of Australia exists to represent the legal profession at the national level, to speak on behalf of its constituent bodies on national issues, and to promote the administration of justice, access to justice and general improvement of the law.

The Law Council advises governments, courts and federal agencies on ways in which the law and the justice system can be improved for the benefit of the community. The Law Council also represents the Australian legal profession overseas, and maintains close relationships with legal professional bodies throughout the world.

The Law Council was established in 1933, and represents 16 Australian State and Territory law societies and bar associations and the Large Law Firm Group, which are known collectively as the Council's constituent bodies. The Law Council's constituent bodies are:

- Australian Capital Bar Association
- Australian Capital Territory Law Society
- Bar Association of Queensland Inc
- Law Institute of Victoria
- Law Society of New South Wales
- Law Society of South Australia
- Law Society of Tasmania
- Law Society Northern Territory
- Law Society of Western Australia
- New South Wales Bar Association
- Northern Territory Bar Association
- Queensland Law Society
- South Australian Bar Association
- Tasmanian Independent Bar
- The Large Law Firm Group (LLFG)
- The Victorian Bar Inc
- Western Australian Bar Association

Through this representation, the Law Council effectively acts on behalf of approximately 56,000 lawyers across Australia.

The Law Council is governed by a board of 17 Directors – one from each of the constituent bodies and six elected Executives. The Directors meet quarterly to set objectives, policy and priorities for the Law Council. Between the meetings of Directors, policies and governance responsibility for the Law Council is exercised by the elected Executive, led by the President who serves a 12 month term. The Council's six Executive are nominated and elected by the board of Directors. Members of the 2012 Executive are:

- Ms Catherine Gale, President
- Mr Joe Catanzariti, President-Elect
- Mr Michael Colbran QC, Treasurer
- Mr Duncan McConnel, Executive Member
- Ms Leanne Topfer, Executive Member
- Mr Stuart Westgarth, Executive Member

The Secretariat serves the Law Council nationally and is based in Canberra.