



THE LAW SOCIETY
OF NEW SOUTH WALES

Our ref: BLC:DH1b1553000

3 July 2018

Black Economy Division
The Treasury
Langton Crescent
PARKES ACT 2600

By email: blackedeconomy@treasury.gov.au

Dear Sir/Madam,

Introducing an economy-wide cash payment limit

The Law Society of NSW appreciates the opportunity to comment on the proposed introduction of an economy-wide cash payment limit of \$10,000 as part of the 2018-19 Budget. The Law Society's Business Law Committee has contributed to this submission.

1. Background

The Government has announced the introduction of an economy-wide cash payment limit of \$10,000 as part of the 2018-19 Budget, applicable to payments made to businesses for goods and services from 1 July 2019. Transactions in excess of this amount would need to be made using the electronic payment system or by cheque. The cash payment limit will be imposed for payments for all goods and services to all entities holding an Australian Business Number.

Australia does not currently have a cash payment limit, although businesses that provide designated services (broadly, financial services, services relating to bullion or gambling services) are regulated under the *Anti-Money Laundering and Counter-Terrorism Financing Act 2016* (Cth).

The introduction of an economy-wide cash payment limit is a high priority recommendation of the Black Economy Taskforce Final Report¹ ("Final Report"). The Final Report notes that any effective response to the black economy must be genuinely whole-of-government in nature.² The imposition of a cash limit is part of such a strategy, identified in the Final Report as one of a suite of measures designed to move people and businesses out of cash payments into the banking system, to make economic activity more visible, auditable and efficient.

¹ Black Economy Taskforce, Treasury (Commonwealth), *Black Economy Taskforce Final Report- October 2017*, 6.

² *Ibid* 5.

2. Law Society's position

The Law Society supports the introduction of an economy-wide cash payment limit as part of a strategic suite of recommendations set out in the Final Report.

We endorse the view expressed in the Final Report that any effective response to the black economy must be genuinely whole-of-government in nature. A cash payment limit will make it more difficult to under-report income or charge lower prices and not remit GST. The \$10,000 threshold aligns with, and supports, the Government's efforts in other areas such as AML/CTF. We agree that introducing a cash payment limit will send a strong signal to the community that it is not acceptable to avoid tax and other obligations by using cash as a means of payment. However, as noted in the Final Report, such a measure will be difficult to enforce and needs to be supported by enforcement and reporting obligations and integrity measures as part of a whole-of-government response to this issue.

The Law Society can see a strong rationale for penalties to apply to both parties to the transaction – the payer and the receiving business. This would ensure that both businesses requesting cash payments and consumers pressuring businesses to take cash in exchange for a discount are captured. It would also be consistent with a strategy designed to change societal norms which legitimise participation in the black economy.

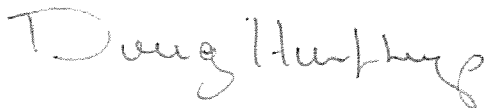
We agree that the design of the measure will need to ensure the payments are not broken up or artificially structured to circumvent the threshold. The existing reporting regime could provide guidance here. We suggest that appropriate enforcement measures could include the imposition of criminal offences and substantial fines, where appropriate, plus civil penalties for companies and individuals involved in the contravention, including advisors.

We suggest that from a practical perspective, this measure alone is unlikely to be effective in preventing and deterring individuals and businesses from participating in the black economy. We note however that it forms part only of a strategic response set out in the Final Report and we encourage the Government to implement the other high priority recommendations in the Final Report as soon as practicable.

Once again, we thank you for the opportunity to comment.

If you have any questions in relation to this submission, please contact Liza Booth, Principal Policy Lawyer, on 02 9926 0202 or liza.booth@lawsociety.com.au.

Yours faithfully,



Doug Humphreys OAM
President