

**Treasury Consultation –
Extending unfair contract
terms to insurance contracts –
Exposure draft legislation**
Submission by Legal Aid Queensland

Treasury Consultation – Extending unfair contract terms to insurance contracts – Exposure draft legislation

Legal Aid Queensland (LAQ) welcomes the opportunity to provide a submission in response to Treasury's Consultation on extending the unfair contract terms (UCT) regime to insurance.

LAQ provides input into State and Commonwealth policy development and law reform processes to advance its organisational objectives. LAQ always seeks to offer policy input that is constructive and is based on the extensive experience of LAQ's lawyers in the day to day application of the law in courts and tribunals.

LAQ's Civil Justice Services Unit lawyers provide advice and representation to clients as well as lawyers and financial counsellors throughout Queensland in relation to insurance, mortgage stress, housing repossession, banking and financial issues, financial hardship, debt, contracts, loans, telecommunications and unsolicited consumer agreements, including clients who are making claims against their insurance products.

LAQ supports extending the Unfair Contract Terms regime to insurance

The extension of the UCT regime to insurance contracts is an important legislative change because it:

- (a) removes the last remaining major exemption from the UCT regime;
- (b) ensures consumers receive the same protection from UCT irrespective of the type of standard form consumer contract that they enter into with a firm;
- (c) simplifies the law for consumers to avoid confusion and ensure that consumer rights are unambiguous;
- (d) improves protection for consumers in respect of insurance contracts;
- (e) will provide third party beneficiaries with the right to bring UCT claims against an insurer; and
- (f) encourages the insurance industry to review its current contracts in order to identify and remove existing UCT from its contracts.

Main subject matter of the contract

LAQ supports the draft Bill's narrow definition of the main subject matter of the contract. Restricting the main subject matter of the contract to the description of what is being insured will ensure that the UCT regime applies as widely as possible to insurance contracts.

This wide application of the UCT regime will:

- (a) improve the protection available for consumers from UCT by ensuring the widest possible application of the UCT regime to insurance contracts;
- (b) simplify the law, reduce confusion for consumers and remove unnecessary exemptions from the law; and

- (c) encourage the Insurance industry to proactively review its insurance contracts to remove existing unfair contract terms from its existing contracts.

Transparent excess terms

LAQ also supports the application of the UCT regime to excess terms in insurance contracts that are not transparent.