

Senate Economics Committee – Treasury Laws Amendment (Responsible Buy Now Pay Later and Other Measures) Bill 2024

Submission by Legal Aid Queensland

21 June 2024

Treasury Laws Amendment (Responsible Buy Now Pay Later and Other Measures) Bill 2024

Introduction

Legal Aid Queensland (LAQ) welcomes the opportunity to make a submission to the Senate Economics Committee Inquiry into Treasury Laws Amendment (Responsible Buy Now Pay Later and Other Measures) Bill 2024. LAQ provides input into State and Commonwealth policy development and law reform processes to advance its organisational objectives. Under the *Legal Aid Queensland Act 1997*, LAQ is established for the purpose of “giving legal assistance to financially disadvantaged persons in the most effective, efficient and economical way” and is required to give this “legal assistance at a reasonable cost to the community and on an equitable basis throughout the State”. Consistent with these statutory objects, LAQ contributes to government policy processes about proposals that will impact on the cost-effectiveness of LAQ’s services, either directly or consequentially through impacts on the efficient functioning of the justice system.

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, tribunals and Ombudsman schemes. LAQ believes that this experience provides LAQ with valuable knowledge and insights into the operation of the justice system that can contribute to government policy development. LAQ also endeavours to offer policy options that may enable government to pursue policy objectives in the most effective and efficient way.

LAQ’s Consumer Protection lawyers have extensive experience providing specialist advice and representation to vulnerable clients and regularly give advice to Queensland consumers affected by Buy Now Pay Later products. The lawyers provide advice to clients as well as lawyers and financial counsellors throughout Queensland in relation to mortgage stress, insurance, housing repossession, debt, contracts, loans, telecommunications and unsolicited consumer agreements.

LAQ has assisted and represented clients who have legal problems as a result of Buy Now Pay Later products. This submission is informed by that knowledge and experience.

Regulation of Buy Now Pay Later products

Over the past few years, LAQ has seen a significant rise in the number of people seeking assistance from financial counsellors and advice from LAQ concerning Buy Now Pay Later (“**BNPL**”) debts.

These clients generally have the following characteristics:

- They have a lower income
- They are experiencing financial hardship
- They have limited access to mainstream credit

Submission by Legal Aid Queensland

- They are using BNPL products to pay for basic expenses such as food. This reliance worsens the financial position of consumers rather than improving it.

In LAQ’s experience and the experience of clients, BNPL products are treated and used in the same way as every other credit product.

LAQ welcomes the Bill and the fact that BNPL products will be regulated as credit. However, LAQ sees no basis for the distinction that the Bill draws between BNPL products and other credit products. LAQ recommends that BNPL products be regulated in the same way as other credit products.

The Bill

LAQ welcomes the regulation of BNPL products as credit products.

LAQ has set out below recommendations for additional changes that would further improve the protection offered to consumers from harmful BNPL products in this Bill.

Financial abuse and identity theft

In LAQ’s submission it is important that, in assessing an application for BNPL credit, a consumer’s finances are verified. This additional protection would reduce the risk of irresponsible lending, financial abuse and identity theft.

Prohibit securing BNPL credit over assets

LAQ is concerned that, like practices adopted by some lower-level lenders, BNPL lenders would secure the credit against the cars of consumers. Lenders do this to ensure that their loan is paid first when consumers are in financial hardship or difficulty. People need their car to get to work and survive financially, particularly in regional Queensland where transport options are limited.

Prohibit the advertising of BNPL products for essentials

In LAQ’s submission, the practice of advertising BNPL products in a major supermarket as a mechanism to pay for groceries and other essentials causes harm to the people who can least afford it. LAQ considers that this harmful practice should be banned.

Organisation	Legal Aid Queensland
Address	44 Herschel Street Brisbane QLD 4001
Contact number	██████████
Approved by	Nicky Davies, CEO
Authored by	Paul Holmes, Principal Lawyer – Civil Justice Services, Toni Bell, Director Family Law and Civil Justice Services.