



<b>Committee</b>	Parliamentary Joint Committee on Corporations and Financial Services
<b>Inquiry</b>	Oversight of ASIC, the Takeover Panel and the Corporations Legislation
<b>Question No.</b>	062
<b>Topic</b>	Credit
<b>Reference</b>	Spoken, 3 November 2023, Hansard page 15
<b>Committee member</b>	Hon Keith Pitt MP

## Question

**Mr PITT:** Just on that, my recollection may be incorrect, but I thought there was a change in the legislation some years ago that basically wiped out all the small operators because they required them to have a registered—I can't remember the exact term. I thought it was with you guys actually. They needed a degree. They had to have some sort of finance provision. It meant that smaller operators in the regions couldn't meet the criteria, so it ended up being the national operators, predominantly, in this space. As part of the questions on notice, could you give us an indication of the size, and whether that change in the legislation actually had the impact people expected? I'll put on the record that I was opposed to it. I thought it was wrong.

**Ms Chester:** Mr Pitt, I think you might be referring to the debt management licensing. This is other predatory behaviour where people take on and manage the debt of vulnerable consumers. They are now licensed, and that has addressed some of that conduct and reduced the number of operators.

**Mr Longo:** Since the beginning of last year.

**Mr PITT:** No, this was back in about 2016, and it was in the small space for whitegoods.

## Answer

Jurisdiction in relation to the regulation of consumer credit transferred to the Commonwealth and ASIC in 2010 with the enactment of the *National Consumer Credit Protection Act 2009*. New obligations included the requirement to hold a credit licence, with significant scrutiny applied to licence applicants and their key office holders and responsible managers (See 10-143AD Licensing starts under new national consumer credit laws). Credit licensees are required, among a number of other obligations, to maintain the competence to engage in the credit activities authorised by the licence. ASIC's *Regulatory Guide 206: Credit licensing: Competence and training* (RG 206) details how ASIC considers the organisational competence obligation, including what qualifications and experience is expected.

These and subsequent reforms significantly lifted industry standards.

There has been some consolidation of providers in some credit sectors.

Legislative reforms relating to the small amount credit contract (SACC) and consumer lease sectors passed Parliament on 2 December 2022 (via the *Financial Sector Reform Bill 2022*) and received Royal Assent on 12 December 2022, with the majority of reforms commencing in June 2023.

The reforms implement most of the recommendations in a 2016 Report from an independent review of laws applying to SACCs and consumer leases.

The reforms in relation to consumer leases include:

- A new protected earnings regime, limiting repayments for consumer leases to no more than ten percent of consumers after tax income;
- A prohibition on unsolicited marketing of consumer leases;
- A cap on costs for consumer leases; and
- Introduction of an anti-avoidance provision for SACCs/consumer leases (commenced on 13 December 2022).

ASIC is currently undertaking work to identify industry's response and any non-compliance with these reforms.

As the legislation is still relatively new, it remains to be seen what the full impact will be.

We have seen some firms stop offering consumer leases and commence offering other regulated credit products, namely a credit contract by way of a sale of goods by instalment. These products are not subject to the specific requirements for consumer leases, but are subject to other requirements under the National Credit Act, including responsible lending provisions and an annual cost rate cap of 48%. ASIC is monitoring firms to ensure their compliance with these requirements.

We have also received anecdotal evidence from Services Australia that there has been a reduction in Centrepay deductions involving consumer lease repayments, which could be the result of the reforms.

We will continue to monitor industry's response and any non-compliance.