

GOOD SHEPHERD YOUTH AND FAMILY SERVICE
RESPONSE TO THE MINISTERIAL COUNCIL ON CONSUMER AFFAIRS
CONSULTATION PACKAGE AUGUST 2007

Consumer Credit Code Amendment Bill 2007
Consumer Credit Amendment Regulations 2007

Good Shepherd Youth and Family Service is a community based organization which supports women youth and children through locally based services. Good Shepherd Youth and Family Service provides financial counselling services in the interface areas of metropolitan Melbourne (the Peninsula and St. Albans) and Micro finance through the NILS® (No Interest Loans) scheme established by Good Shepherd 27 years ago and now available through over 240 community groups Australia wide. Good Shepherd Youth and Family Services is also in partnership with the National Bank in the provision of Step-Up Loans which are low interest loans designed to promote inclusion in mainstream banking institutions for people living on low incomes.

Recent developments by the Victorian Government (4.8 million to support development of the NILS network) and the National Bank (4 million in a line of credit to cover loans) have provided a very real alternative to fringe credit providers by ensuring access to safe and affordable credit across Victoria.

Nevertheless we understand that some consumers find fringe credit attractive and necessary to their circumstances. We believe that this is largely because main stream credit providers are not responsive in providing the small scale, immediacy and accessibility of loans required by many users of fringe credit. These consumers are entitled to protection against exploitative practices.

“The challenge in relation to low-income and disadvantaged consumers of credit is not to provide increased protection or remedies for these consumers only but to give all consumers of financial services (including credit) access to the same levels of protection. Currently, those consumers who are not low-income or disadvantaged have better levels of protection and better access to remedies.”ⁱ

The strengthening of the UCCC will bring a level of protection previously denied low income consumers. We are very supportive of the Ministerial Council on Consumer Affairs in their move to strengthen the UCCC (Unified Credit Code) . It is particularly encouraging to see some recommendations of the recent Victorian Government Review of Consumer Credit 2006 taken up in these proposed amendments.

We especially support the intent to

- *establish a clear annual percentage rate for all loans where there is a charge for credit
- * include all short terms loans within the Uniform Consumer Credit Code
- * clarify responsibilities of credit providers under the Business Purpose declaration
- *give courts the power to review all aspects of loans
- * empower the Director of Consumer Affairs and his counterparts in other states to take action on behalf of consumers
- * clarify the operation of direct debit authorities
- * remove the use of securities/mortgages over household goods

OUR SPECIFIC RESPONSE TO THE AMENDMENTS

Inclusion of all short term loans in the Consumer Credit Code through Amendment of Section 7

We are pleased to see that all fees and charges relating to a loan are to be considered part of the loan and that this will draw many small amount loans into the legislative provisions.

Inclusion of all loans made by pawnbrokers (except those on security of pawned or pledged goods) under the aegis of the legislation.

We support this and believe that the amendments should be accompanied by appropriate public education strategies in relation to the changes..

Application of Business Purpose Declarations

Good Shepherd has been aware of circumstances where Business Purpose Declarations have been used to avoid responsibilities which would apply if the loan were clearly a domestic loan. We believe that credit providers who claim a Business Purpose should be able to demonstrate that that is in fact the case and that the consumers purpose for seeking the credit was not personal. This should be in the forum of a declaration.

The taking of security over essential household property

Good Shepherd strongly endorses the new amendments which prohibit the taking of security over essential household property and the flexible capacity to make regulations extending the definition of household property beyond the definitions in the Bankruptcy Regulations.

Review by the Court of unreasonable charges.

Good Shepherd supports the widening of the definition from uncounscionable to unreasonable believing that this will further open the path for consumers to take legal action although most individual consumers do not elect to take this path We are pleased that “unreasonable” will apply to all fees and charges including default fees

We are particularly supportive of the provision which enables Government Consumer Agencies to take action on behalf of consumers and groups of consumers. This provision is crucial to addressing the unacceptable behaviour of some fringe credit providers. We believe that the provision should have national effect.

Disclosure requirements

We believe that disclosure requirements concerning direct debit should be part of the code itself supported by regulations setting out the information “warning” on the forms themselves. We believe that as well as general information about direct debit arrangements the form should state the name of the financial institution where any direct debit arrangement is held and its contact details. Further the contact details for the Government Consumer Agency including telephone and postal contacts should be included on the forms

Finally we are disappointed that there are other issues identified in the Victorian review which have yet to be taken up in national legislation. These include the issue of Credit Card offers and the protections that should apply in continuing credit contracts
Participation in industry alternative dispute resolution schemes
Ability for courts to make interim orders
And Extension of penalties under the ACT

Further details on this submission can be obtained from

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ⁱ Consumer Credit Legal Service and Consumer Law Centre Victoria (2005) “Submission to James Merlino MP Member for Monbulk Consumer Credit Review Issues Paper”.