

## The Federal Government introduces unfair contract terms legislation, with penalties

Dear Member

Contract law can be complicated, but the principle is simple: big and powerful businesses must stop putting unfair contract terms (UCT) into their contracts with consumers and small businesses. The Victorian Automotive Chamber of Commerce (VACC) welcomes the Federal Government introducing legislation (a Bill)[\[1\]](#) to enhance the protections against unfair contract terms. The Bill has passed both Houses of Parliament.

A VACC policy priority, this announcement by the Federal Government is long-awaited given the culmination of many years of heavy advocacy on behalf of VACC and the MTAA network. A significant moment given that VACC has for some time complained that, without the threat of penalties, too many businesses ignore the UCT regime and continue to use standard form contracts that contain unfair terms.

### UCT legislation amends the following areas of the law

- *Competition and Consumer Act 2010 (CCA)*
- Australian Consumer Law (ACL) and
- *Australian Securities and Investments Commission Act 2001 (ASIC Act)*, for insurance contracts.

### The legislation will

- strengthen and clarify the existing unfair contract terms provisions (first introduced in 2010 for consumer contracts, and in 2016 for small business contracts) and
- reduce the prevalence of unfair contract terms in consumer and small business standard form contracts and
- introduce a civil penalty regime prohibiting the use of and reliance on unfair contract terms in standard form contracts and
- expand the class of contracts that are covered by the unfair contract terms provisions and
- strengthen remedies available under the new unfair contract terms regime

### Penalties

The maximum penalty that can be ordered by a court for an individual will be \$2.5 million.

For a company or body corporate, the maximum penalty will be \$50 million.

### What is next

It is anticipated the Bill will be presented to the Governor-General for assent within 2 weeks.

Businesses then have one year to review their standard form agreements and remove or amend any unfair contract terms.

For more about these new laws, VACC will provide a further update with explanatory material in a few weeks and once the Bill becomes an Act of Parliament.<sup>[2]</sup>

Should you have any questions, please contact Kathy Zdravevski [kzdravevski@vacc.com.au](mailto:kzdravevski@vacc.com.au)

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<sup>[1]</sup> Treasury Laws Amendment (More Competition, Better Prices) Bill 2022.

<sup>[2]</sup> An Act specifies the date on which the new law will commence.

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