



Attorney-General and Minister for Justice  
Minister for Training and Skills

In reply please quote: 566496/1, 2877340

Level 18 State Law Building  
50 Ann Street Brisbane 4000  
GPO Box 149 Brisbane  
Queensland 4001 Australia  
Telephone +61 7 3719 7400  
Email attorney@ministerial.qld.gov.au  
www.justice.qld.gov.au

04 JUN 2015

Mr Neil Laurie  
The Clerk of the Parliament  
Parliament House  
Cnr Alice and George Streets  
BRISBANE QLD 4000

Dear Mr <sup>Neil</sup>Laurie

I refer to petition 2327-14 regarding 'Improving the consumer laws in Queensland for new car buyers' by introducing 'lemon laws' similar to those in place in the United States of America.

The Australian Consumer Law (ACL) came into effect on 1 January 2011 and contains statutory consumer guarantees which provide consumers with certain rights and remedies for defective goods and services. Although the consumer guarantees are based on the same core principles as implied warranties and conditions as provided under the *Sale of Goods Act 1896* (Qld), statutory consumer guarantees under the ACL provide a clearer course of action for consumers where there has been a breach of the statutory consumer guarantees.

Unfortunately, a number of high profile cases in Queensland involving what appear to be lemon vehicles, pre-date the introduction of the ACL. As the ACL is not retrospective, consumers who purchased vehicles before 1 January 2011 could not make full use of the statutory consumer guarantees and remedies it contains.

Under the ACL, if a statutory consumer guarantee has not been met, depending on circumstances, consumers are entitled to a remedy which can include: (1), in the case of a minor failure, the trader choosing repair, replacement or a refund; or, (2) in the case of a major failure, the consumer choosing either replacement, refund or requesting compensation for any drop in value of the goods or services. In the case of a major failure, the consumer must notify the supplier that they reject the goods including the grounds for rejecting the goods and return the goods unless there is a significant cost involved in returning the goods.

The ACL is a national legislative scheme that provides a single set of generic consumer protections which are clearer and stronger than the previous set of differing state and national consumer laws. Further information about the ACL can be found at [www.consumerlaw.gov.au](http://www.consumerlaw.gov.au).

(2)

As concern about lemon vehicles is likely to be of national significance, involving both local and overseas manufacturers, I will raise this issue with Commonwealth Government and state and territory Governments at the next meeting of the Council of Australian Governments' Legislative and Governance Forum on Consumer Affairs (CAF). CAF is composed of Ministers responsible for consumer affairs and fair trading issues across Australia and considers proposed amendments to the ACL as well as its administration.

A review of the ACL is scheduled to commence in 2016 and is likely to provide an opportunity to consider a range of issues, including lemon laws. I will be asking my interstate colleagues to agree that lemon laws be placed on the agenda for consideration as part of the review. This will provide an opportunity to revisit the issues raised by the Commonwealth Consumer Affairs Advisory Council and the various submissions that were made by stakeholders during consultation at that time. Officers from across jurisdictions are already working to prepare for the ACL review.

In the interim, I am investigating ways to identify the impacts of the ACL since coming into effect on 1 January 2011 in Queensland, in relation to claims of major failure of a motor vehicle. I also will be responding separately to another petition in relation to limits before the Queensland Civil and Administrative Tribunal.

I encourage consumers who have concerns in relation to a vehicle they believe is a lemon to lodge a complaint with the Office of Fair Trading, seek their own legal advice and if needed take legal action to enforce their existing rights under the ACL.

I trust this information is of assistance.

Yours sincerely



**YVETTE D'ATH MP**  
Attorney-General and Minister for Justice  
Minister for Training and Skills