



Townsville Community
LEGAL SERVICE INC

Unit 2 / 181 Sturt Street
PO Box 807
Townsville Queensland 4810

ph 07 4721 5511 fax 07 4721 5499
tcls@tcls.org.au
www.tcls.org.au

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Committee Secretary

Transport and Public Works Committee
Parliament House
George Street
BRISBANE QLD 4000

By email transmission: tpwc@parliament.qld.gov.au

Dear Secretary,

**QUEENSLAND CIVIL AND ADMINISTRATIVE TRIBUNAL AND OTHER LEGISLATION
AMENDMENT BILL**

The Townsville Community Legal Service Inc welcomes the introduction of the *Queensland Civil and Administrative Tribunal and other Legislation Amendment Bill 2018* (“**the Bill**”) and appreciates the opportunity to make this submission to the Transport and Public Works Committee.

We endorse CLCQ’s submission, which also commends the Government for the introduction of the Bill and expresses the need for amendments to form part of a broader, national approach to improve consumer protections for the purchase of motor vehicles.

We support the Bill in its current form, however remain concerned that the onus to prove a motor vehicle is not of acceptable quality remains with the consumer and at the consumer’s expense.

The Queensland Government’s own response suggested:

... that consumers can find it difficult to prove their new motor vehicle is a ‘lemon’ which can hinder their ability to obtain appropriate redress. Consumers can face a high evidentiary burden in establishing that a new ‘lemon’ motor vehicle has a major defect which can impose a significant cost on individual consumers.¹

This is a particular issue for our clients who are often experiencing financial hardship and may have additional vulnerabilities and disadvantages, such as age or disability, or be victims of family or domestic violence or elder abuse.

¹ Legal Affairs And Community Safety Committee Report, Report No. 17, 55th Parliament, November 2015
‘Lemon’ Laws – Inquiry into consumer protections and remedies for buyers of new motor vehicles
Queensland Government Response

It is our experience that many of our clients cannot afford to obtain expert reports to substantiate their claims. This is illustrated by a client case study:

Case study

Aba has recently settled in Townsville from North Africa. His first language is Swahili and he speaks limited English. Aba's main sources of income are a Centrelink allowance and part time wages.

Aba purchased a used Nissan Pathfinder from a Townsville second hand car dealer for \$12,990. He received a safety certificate. Almost immediately the vehicle started vibrating when operating and the engine made a strange noise. He took the car back to the seller. They denied there was a problem. He then took the car to an independent mechanic who said the car had many problems and that it was not roadworthy. Aba returned the car to the seller for repairs. They kept the car for nearly three weeks before returning it to him. The problems were not repaired.

TCLS referred Aba to Fair Trading and QCAT. We recommended he seek a report from an independent mechanic setting out all the problems with the vehicle and the cost to repair. Aba was unable to pay for such a report.

We note that under the proposed Bill, costs orders would be limited to only the filing fees paid by the applicant. We understand the intent behind this amendment is remove the deterrent to consumers of the threat of a costs order if they are unsuccessful. However, we suggest an amendment to allow for an order to be made for licensed motor vehicle dealers to pay the costs of expert reports, and attendance for cross examination, when the consumer is successful in their claim.

The amendment could be framed as follows:

18 Costs

QCAT may make an order under section 102(1) of the QCAT Act against a party to a proceeding under section 14—

(a) only if the party is a respondent against whom QCAT has made a final decision; and

(b) Any other reasonable costs incurred by the respondent only for example, to order the party to pay to the applicant the amount of any prescribed fee paid by the applicant on filing the application for the proceeding.

We would be happy to provide oral evidence to the Committee in support of this submission.

Yours faithfully

Townsville Community Legal Service Inc.

Per: **Bill Mitchell**
Principal Solicitor

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