




Speech By
Corrine McMillan

MEMBER FOR MANSFIELD

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

 **Ms McMILLAN** (Mansfield—ALP) (12.14 pm): I rise to provide my contribution to debate on the Queensland Civil and Administrative Tribunal and Other Legislation Amendment Bill 2018. The bill contains significant reforms for Queensland consumers and I know that my constituents will absolutely benefit from these reforms. One of the most significant purchases a person will make in their life is the purchase of a car. When a person purchases a new car they do not expect there to be any issues, and certainly not any serious ongoing issues, with that vehicle. We can all understand the emotional and financial stress associated with owning a lemon motor vehicle. Often a car is purchased with finance, so a person is paying off a loan for years for a car that cannot even be used.

The objectives of the bill are to amend the Queensland Civil and Administrative Tribunal Act 2009 to implement conclusions from the report titled *Review of the Queensland Civil and Administrative Tribunal Act 2009* aimed at increasing the operational efficiency of QCAT to better achieve the objectives of the bill. The second aim is to amend the QCAT Act, the Fair Trading Act 1989 and the Motor Dealers and Chattel Auctioneers Act 2014 to implement the government's commitment to improve fairness and provide greater rights for Queenslanders buying a vehicle and address recommendation 7 of the report *'Lemon' laws—inquiry into consumer protections and remedies for buyers of new motor vehicles*, the lemon laws inquiry report prepared by the Legal Affairs and Community Safety Committee.

I know many families across Queensland have been the victims of purchasing lemon vehicles. Families who only have one vehicle can be crippled, especially where two parents are working. It can have a devastating impact on a business when a ute or van cannot be used for work, impacting on one's ability to make an income and provide for their families. As young people leave secondary school and begin their working life or tertiary studies, many have purchased second-hand vehicles, often more than 10 years old, that soon after taking ownership have experienced costly major mechanical repairs, rendering the vehicle not drivable. This results in a significant financial imposition for not only these young people but their families. These are the issues that this bill is aiming to address.

Returning to the review of the QCAT Act, the Attorney-General and Minister for Justice and Leader of the House tabled the report of the review of the QCAT Act on 21 September 2018. While the QCAT Act report concluded that overall the QCAT Act is working well, it also concluded that a number of legislative amendments to the QCAT Act should be made, generally to increase QCAT's efficiency. The bill will make these amendments.

QCAT's jurisdiction covers three broad operational areas—human rights, civil disputes and disciplinary matters. QCAT also has review and appellate jurisdictions conferred by enabling acts. There are over 160 acts and regulations which confer original review or appellate jurisdiction on QCAT. The amendments to the act following this review will improve the overall efficiency and operation of QCAT. Amendments such as allowing the principal registrar to issue notices to a party to attend a hearing or

proceeding or to require a person to produce a stated document to QCAT and allowing the minister to appoint members and others to a pool of persons who can act as senior members of QCAT from time to time will improve the operational efficiency of this very busy organisation.

As I mentioned earlier, the bill delivers on the Palaszczuk government's commitment at the last election to improve fairness and provide greater rights for Queenslanders buying a vehicle by lifting QCAT's jurisdictional limit on motor vehicles from \$25,000 to \$100,000; redefining the term 'vehicle' to include motorhomes and caravans; reinstating the statutory warranty for class B older second-hand vehicles sold by motor dealers; and continuing to advocate for national laws to specifically protect new car buyers, including purchases of lemon vehicles. I applaud the Attorney-General for this. Currently, QCAT hears and decides disputes about consumer guarantees under the Australian Consumer Law for goods and services. These guarantees are applied in Queensland through the Fair Trading Act 1989. The ACL includes nine statutory consumer guarantees for the supply of goods, including that the goods are of acceptable quality and fit for any disclosed purpose. In general, the consumer guarantees apply to both new and used vehicles, including motorhomes and caravans.

These remedies are available to consumers right now but, unfortunately, it has become clear that the process for enforcing these rights is difficult for Queensland consumers. I would also like to refer to the submission that the Caxton Legal Centre made to the Legal Affairs and Community Safety Committee's inquiry into lemon laws. It states that, while there are remedies available under the ACL—

... in practice, it is clear that purchasers often have difficulty enforcing their rights ... especially when there is an argument about whether or not a defect is a major defect under the ACL.

Currently, motor vehicle claims above \$25,000 must be heard in the Magistrates Court. QCAT, as a low-cost, informal jurisdiction, is the most appropriate place for these matters to be heard. The bill will amend the FTA and the MDCA Act to extend QCAT's jurisdiction to hear proceedings about motor vehicles. This will mean that claims may be made in relation to motor vehicles for up to \$100,000 rather than the current limit of \$25,000. To further ensure that costs are reduced for consumers, it is proposed to amend the QCAT regulation so that the fee provisions that currently apply to MCDs, which are scaled from \$26.35 to \$338.20 based on the claim amount, will continue to apply for motor vehicle proceedings with claims up to \$25,000.

QCAT also hears and decides disputes about the repair of defects under the Motor Dealers and Chattel Auctioneers Act 2014, which is the MDCA Act, and statutory warranty provisions that apply to the sale of certain used motor vehicles by motor dealers or chattel auctioneers. The statutory warranty does not apply to certain types of vehicles, such as caravans. The bill will also amend the MDCA Act to reinstate the class B statutory warranty that was contained in the now repealed Property Agents and Motor Dealers Act 2000.

The class B statutory warranty will apply to used motor vehicles that have an odometer reading of 160,000 kilometres or more or were manufactured more than 10 years before the day of sale. Currently, the MDCA Act includes a statutory warranty for vehicles with an odometer reading of less than 160,000 kilometres that were manufactured fewer than 10 years before the day of sale, previously called class A warranty vehicles under the PAMD Act. Under the MCDA Act, as well as the now repealed PAMD Act, a number of defects are not covered by statutory warranties, including defects in fitted airbags, tyres, batteries and spark plugs. In addition, the statutory warranty for a class B warranty vehicle under the PAMD Act did not cover the vehicle's air-conditioning system—a very costly mechanical device to repair.

The class B statutory used car warranty was scrapped by those opposite in 2014. As often happens with decisions made by the LNP, scrapping this warranty hurt the poorest in our community—those who are limited to buying an older used car. I know that many in my community have applauded the decision to bring back this warranty. The changes noted are welcome reforms for families in my electorate of Mansfield. I commend this bill to the House.