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# Update Summary

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## **THE LAW RELATING TO BANKER AND CUSTOMER IN AUSTRALIA**

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Author Prue Weaver has extensively updated several of her chapters. Matters of significance are referred to below.

### **Financial sector regulatory initiatives grid**

In March 2023 the federal government announced the issue by Treasury of a grid intended to assist financial sector participants to better plan and allocate resources for regulatory initiatives planned by key regulators for the next two years. See [1.1707].

### **Reserve Bank Act 1959 (Cth) – Background**

Draft legislation was circulated before the *Treasury Laws Amendment (Reserve Bank Reforms) Act 2024* (Cth) commenced in March 2025. The amending legislation made several significant changes to the primary *Reserve Bank Act 1959*. See [1.1710] and [1.1740].

Commentary addressing further changes consequent upon the *Treasury Laws Amendment (Reserve Bank Reforms) Act 2024* (Cth) include:

- establishment and functions of the Monetary Policy Board – see [1.1720];
- changes to financial benchmarks – see [1.1725]; and
- establishment and functions of the Governance Board – see [1.1735].

### **Financial Claims Scheme**

It is noted that the value of a deposit guarantee scheme embedded in legislation is, arguably, as important for its message to the public of trust and confidence by the government in the banking system as it is for the financial protection that it provides to depositors. See [1.2003].

### **Australian Prudential Regulation Authority Act 1998 (Cth)**

To help the industries that APRA regulates, in June 2024 APRA released a digital prudential handbook. The handbook sets out the regulator's APSs and reporting standards together with supporting guidance such as PPGs. The information is divided into categories, referred to as "pillars", which focus on a particular aspect of legal responsibility such as governance or risk management. See [1.2600].

### **Payment Systems (Regulation) Act 1998 (Cth)**

In November the Government introduced to Parliament the *Treasury Laws Amendment (Better Targeted Superannuation Concessions and Other Measures) Bill 2023* (Cth). However, due to contentious issues relating to superannuation and taxation that were included in the Bill, it was eventually split into two. The proposed amendments to the Payment Systems (Regulation) Act lapsed when the 2024 federal election was called. See [1.2700].

## Licensing

ASIC has indicated that its position continues to be that many digital assets are financial products and so will require the product or service provider to hold an AFSL where digital assets are made available to retail consumers. See [1.3230] and [4.3262] ff.

### **National Consumer Credit Protection Act 2009 (Cth)**

Previously “buy now pay later” (BNPL) facilities were not regulated under credit legislation. After consultation with industry and other stakeholders, the *Treasury Laws Amendment (Responsible Buy Now Pay Later and Other Measures) Act 2024* (Cth) was developed and comes into effect in June 2025 after a six-month transition period. The legislation extends the NCC to apply to BNPL facilities under a new low-cost credit contracts regulatory regime. See [1.3260] and [6.37].

### **Scams Prevention Framework**

Schedule 1 of the *Scams Prevention Framework Act 2025* (Cth) amends the *Competition and Consumer Act 2010* (Cth) by introducing a new Pt IVF Scams Prevention Framework (ss 58AA to 58GF) (SPF).

The lead regulator under the SPF is the Australian Competition and Consumer Commission (ACCC) (see [1.2640]) within which operates the National Anti-Scam Centre, set up in July 2023 to disrupt scams before they reach their target by analysing and acting on shared data.

A regulated entity must comply with the six overarching Principles of the SPF set out in Pt IVF Div 2 Subdiv B (ss 58 to 58BZH) of the *Competition and Consumer Act 2010* (Cth). See [1.3350].

### **Revised Banking Code of Practice – 2025 version**

Following extensive public consultation undertaken by the Australian Securities and Investments Commission (ASIC), a new version of the Banking Code of Practice was approved by ASIC in June 2024 and came into effect on 28 February 2025. See [2.565].

### **Banking Code Compliance Committee**

There is no requirement for banks to lodge an annual compliance statement with the BCCC as there was with the CCMC, but there is a requirement under cl 4 of the BCCC Charter for member banks to lodge a Banking Code Compliance Statement every six months. See [2.605].

### **Reporting**

The first publication of industry-wide IDR data was released by ASIC in December 2024 and covered the period from 1 July 2023 to 30 June 2024. Most complaints were about service, charges or transactions and were resolved within one day. See [2.680].

## **Jurisdiction, principal powers and duties**

A post-implementation review of the Compensation Scheme of Last Resort was announced in January 2025 and concerns have been raised by the financial services industry about the high funding costs likely to be levied for the 2025/26 year. See [2.720].

### **Privacy Act reform**

The *Privacy and Other Legislation Amendment Act 2024* (Cth) introduced the tort for serious invasion of privacy, further expanded the enforcement and investigative powers of the Office of the Australian Information Commission (OAIC) and required increased transparency in privacy policies about substantially automated decisioning using personal information which could significantly affect an individual's rights or interests. See [2.4698].

### **Supply of cash**

One outcome of the decline in the use of cash has been a decline in the use of cash distribution services. In June 2024 the ABA and Armaguard issued a joint statement that agreement had been reached for a financial contribution to be made over 12 months by a group of funders including some of the major banks and retailers. See [4.350].

### **Surcharge and interchange fees**

In October 2024 the Reserve Bank announced a review of merchant card payment costs and surcharging and released an issues paper setting out several options for reducing merchant costs. Amendments to the current regulatory framework are being considered. See [4.2600].

### **The National Consumer Credit Protection legislation**

The responsible lending obligations in the NCCPA (see [6.37]) do not apply where a sole trader or small business seeks a multi-purpose loan, that is, a loan for a mix of personal and commercial purposes. See [6.36].

### **Hardship**

Access to hardship relief has continued to be of concern to ASIC in the years following the pandemic. This is due in part to the difficulty applicants encounter accessing financial assistance when they are in hardship. See [6.38].