**TO: blackeconomy@treasury.gov.au**

**FM: Deborah Kerr**

**RE: Comment on proposed “Currency Restriction on the Use of Cash Bill**

**DATE: 8 August 2019**

**Submission re the Currency Restriction on the Use of Cash Bill 2019**

As a Citizen of Australia I object to this legislation for the following reasons:

1. The Bill fails to achieve the stated objective in Section 3. *“Objective 1. The object of this Act is to prevent the use of cash in economic activities in order to avoid the scrutiny of regulatory authorities. 2. This Object is to be achieved by making it an offence for an entity to make or accept cash payments that are equal to or that exceed the cash payment limit, unless the transaction is expressly exempted under this Act. Instead, for such cash payments, entities will need to make use of more transparent payment methods.”* To achieve this objective the Government intends to take away Australians previous freedom to use their cash in any way they choose while imposing onerous obligations on citizens, businesses and bodies corporate.
2. If enacted, this Bill will not only not achieve its objective but it will prevent the use of cash by honest Australians who are not trying to avoid the scrutiny of regulatory authorities.
3. The reason the Bill fails to achieve its objective is due to the fact that two parties will still be able to make several payments under the stated limit or one large payment over the limit and not be detectable by the Government because both parties would be culpable to the “illegal” transaction and therefore agree to conceal it. If this is not the case how is it not so?
4. If the draft Legislation fails to address this likely fundamental error then it fails in its overall objective i.e. to fight the “black” economy.
5. The fundamental and most disturbing aspect of this legislation is that it infers that a Government can dictate how a person uses their money. Only the Regulations (that can be easily changed by the Minister) give exemptions. The ease to which future Governments can change Regulations and the exemptions is worrying and takes away certainty from Australian citizens.
6. Cash exists in a democracy so that citizens can have privacy and freedom. This has always come at the cost of criminal activity but it is a price that most free democracies are willing to pay. Any attempt to take this freedom away from citizens is an overreach of power by the Government in a free democratic society and this Bill would fundamentally change our democracy to Totalitarian society.
7. There has been no mandate given to the existing Government to implement a restricted cash policy.
8. The Bill effectively and unfairly passes the Government’s own responsibility of collecting taxes to its citizens. If the “black economy” is problematic the Government should not be using citizens to solve its problems.
9. To pass legislation that would result in citizens going to gaol for doing what they have had the right to do for hundreds even thousands of years is draconian.
10. Many businesses are prepared to give a discount for cash and Australians should be allowed to continue to use this benefit.
11. How is it that the Government is willing to take “cash rights” away from its citizens but does nothing to prevent the laundering of “cash” through Casinos and other well-known cash laundering operations?
12. Due to the obvious failings of the legislation, Citizens are understandably suspicious that there is a much larger agenda planned – the eventual removal of all cash from society.
13. If this is the real motivation of the Government it should be aware that cash in a democracy gives freedom and privacy while a cashless society is tyranny and scrutiny.
14. Cash is essential in a democratic society that provides the “oil” for the economy at a grass roots level. Cash provides protection from:
    1. Hackers
    2. Payment of goods where machines don’t or can’t work
    3. Survival in an economic down period
    4. bank fees which affects everyone particularly the poor
    5. deflationary periods
    6. bank profit gouging
    7. erosion of value in the event of negative interest rates.
    8. reckless and undisciplined behaviour of banks
    9. emergencies
    10. also: giving money to family members and to people who do not have a bank account, including the disadvantaged, dependents and younger members of the family.
    11. Cash allows one citizen to do a favour for another e.g. shopping without giving private pin numbers away.
    12. Cash allows people of disadvantage to transact easily, e.g. elderly, intellectual disabilities, young.
    13. Cash protects citizens against improper or mistaken seizure of assets.
    14. Cash is a citizen’s “right to privacy”
    15. Giving money to charities
15. This Bill will effectively mean that the Government is viewing all citizens’ transactions which removes a citizen’s privacy and freedom as far as cash is concerned. The press has reported on the massive over reach by Government Departments on meta data use and as a citizen I am concerned with this abuse of power that will only be extended in the event of this legislation passing. How much money a citizen has should be a right of non-disclosure for that citizen.
16. This Bill puts the burden of proof on the Defendant to establish their innocence (Ref: 1.48 of Summary). This is a complete reversal of the natural justice system in Australia where innocence is presumed until the prosecutor proves otherwise. This clause in itself should surely be contrary to existing legislation. On this basis any person could theoretically be charged whether real or not and it is up to the person to prove their innocence. This is clearly open to abuse and incompetence and no free democracy can operate this way.
17. Re: 1.65 The inclusion of holding committee members on bodies corporate responsible until proven innocent will have two effects:
    1. it will further discourage owners from taking the simple action of being on bodies corporate of thousands of apartment blocks due to being personally liable with the prospect of possible financial fines, gaol and having to incur legal expenses to defend their innocence. It is already becoming increasingly difficult to enlist committee members who don’t want the legislative responsibilities. This legislation will make it virtually impossible to enlist members on a committee that would result in many negative ramifications including gaol.
    2. will raise insurance costs for office bearers to cover such an event.
18. Re 1.69 Businesses are already overburdened by red tape and are collecting taxation on behalf of the Government for which it is not paid. An added burden is yet another straw that will help break the camel’s (economic) back. In this economic environment the Government should be doing everything in its power to relieve the burden on businesses not increase it. This is all in the name of legislation that is as stated above unfit for its purpose.
19. The amount of $10,000 will be deteriorated over time through inflation which may be the Government’s intention but gives no comfort to the citizen. According to the Act it is an amount that cannot be raised, only decreased by Regulation. There should be CPI added to counter this effect in the event of inflation or even hyper-inflation.
20. The Act itself should not limit cash transactions with exemptions only referenced in the Regulation. This is because Regulations can be changed or taken away by any Government minister – an easy and quick process without proper debate and consideration by parliament.
21. This Bill appears to be a “war on cash” that translates to a “war on Australian citizens.” A Labor Government in the future could easily remove all exemptions.
22. The legislation proposes that everyone has their money in the bank which is not necessarily the case or desirable for economic stability.
23. With the introduction of the G20 rule which now allow banks to “bail in” in the event that banks make irresponsible, corrupt or incompetent decisions which in turn cause them to fail and, the recent Royal Commission in to Misconduct in the Banking, Superannuation and Financial Services Industry revealing massive misconduct and corruption, Citizens have lost faith in the Australian Banks and are feeling increasingly compelled to hold cash privately.
24. One of the onerous aspects of the legislation is that it literally forces Australians to use the banking system. A system that has recently been proven to be corrupt and inept by the recent Royal Commission that clearly highlighted that banks are profit driven with no regard for their clients’ welfare. The Government is taking away Australians choice to avoid these corrupt institutions and forcing them to deal with them.
25. It is dangerous situation for Australians that the banks have the authority to bail in and use their money to get themselves out of trouble as a result of greedy commercial decisions and citizens. Australians could lose massive amounts of money if they want to transact a large product by depositing the money in one day and the bank deciding to “bail in” the next. The Government needs to protect Australians from these institutions not force them to use them.
26. The question needs to be asked if there is provision for Australians to go to a bank and retrieve more than $10,000 at a time since the banks are a business and it would therefore be a business to private individual transaction? Will it be viewed simply as a deposit holder retrieving their money or is it viewed by this Bill as a “transaction”?
27. **In Summary**
28. The Bill is a defective piece of legislation that fails practically to meet its objective while restricting the traditional use of cash by Australians. Meanwhile it imposes onerous fines and gaol sentences on citizens who are charged with a responsibility that belongs to the Government– that of tax evasion. It will be a huge burden to both citizens and businesses and take away their fundamental right they have enjoyed in a free democratic society including the presumption of innocence before a court. It forces honest Australians to use what the Royal Commission has revealed as corrupt institutions. This legislation can too easily be changed through Regulations and will turn Australia from a free democratic society to a Totalitarian State.