



ASIC
Australian Securities &
Investments Commission

**Australian Securities
and Investments Commission**

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Luke Rheinberger
Executive Director, Law Society of Tasmania
28 Murray Street
Hobart TAS 7000

By email only: info@lst.org.au

Dear Mr Rheinberger

Changes to the law in relation to the regulation of debt management services

As you may be aware, changes were recently made to the law in relation to how providers of debt management services will be regulated. The Australian Securities and Investments Commission (**ASIC**) is responsible for administering these changes that have been enacted through the [National Consumer Credit Protection Amendment \(Debt Management Services\) Regulations 2021 \(Regulations\)](#).

The purpose of this letter is to set out information that may be relevant to practising lawyers in your jurisdiction.

Background

Under the Regulations, persons providing 'debt management assistance' and/or 'credit reporting assistance' to consumers within the meaning of regulations 4B and 4C of the amended [National Consumer Credit Protection Regulations 2010](#) (together referred to as **debt management services**) will be engaging in a credit activity for which an Australian credit licence is required where:

- the activity is in relation to credit contracts; and
- a fee, charge or other amount is paid or payable by or on behalf of a consumer in relation to the assistance.

Accordingly, from **1 July 2021**, subject to transitional arrangements, providers of debt management services must hold a credit licence with a debt management authorisation. Under the transitional arrangements, if persons intend to provide debt management services from 1 July 2021, they will need to, by **30 June 2021**:

- have applied for a credit licence (or variation to an existing licence) with a debt management authorisation or have arrangements in place

to act as a representative of a provider that has applied for a credit licence to cover this activity; and

- be a member of the Australian Financial Complaints Authority.

For further information about these changes, please refer to ASIC's [Information Sheet 254](#) *Debt management services: Applying for a credit licence or variation*.

Lawyers and the provision of debt management services

Lawyers are permitted, in some circumstances, to engage in credit activities (including the provision of debt management services) in their professional capacity and in the ordinary course of their activities as a lawyer without needing to hold a credit licence (as set out in regulation 24 of the *National Consumer Credit Protection Regulations 2010*).

However, the exemption in regulation 24 will not apply if the lawyer holds out or advertises to consumers that they are able to provide credit services or debt management services. It also will not apply if a third party holds out or advertises to consumers that the lawyer is able to provide a debt management service and there is an arrangement by which the third party regularly refers persons to the lawyer for debt management services.

ASIC considers that circumstances where a lawyer is likely to be 'holding out' or 'advertising' that they can provide debt management services include promoting or making general representations to consumers that they can offer debt management services. By way of example, this may include a lawyer representing on their website that they can assist a consumer to 'repair' information in relation to their credit report. However, a lawyer who does not make such representations and merely provides assistance or advice of this kind in the ordinary course of generally advising their clients is less likely to be holding themselves out as providing or advertising credit services or debt management services as a result of giving that assistance or advice.

Next steps

We encourage you to keep apprised of these changes insofar as they may relate to lawyers in your jurisdiction. ASIC will continue to proactively monitor compliance with the new laws, including identifying any unlicensed conduct.

If you have any questions or would like to discuss, please contact Isabella Kang at isabella.kang@asic.gov.au.

Yours sincerely



Susanne Noack – Senior Manager
Credit and Banking
Australian Securities and Investments Commission