



Corporations (Fees) Act 2001

No. 52, 2001



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**An Act to impose, as taxes, fees for things done
under the *Corporations Act 2001*, and for related
matters**

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An Act to impose, as taxes, fees for things done under the *Corporations Act 2001*, and for related matters

[Assented to 28 June 2001]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Corporations (Fees) Act 2001*.

2 Commencement

This Act commences at the same time as the *Corporations Act 2001*.

3 Application to the Crown

If the Crown, in a capacity, is bound by the provision or provisions of the *Corporations Act 2001* under which a chargeable matter arises or to which a chargeable matter relates, then the Crown, in that capacity, is bound by this Act in respect of that chargeable matter.

4 Definitions

(1) In this Act:

chargeable matter means any of the following:

- (a) the lodgment of a document under the *Corporations Act 2001*;
- (b) the registration of a document under that Act;
- (c) the inspection or search of a register kept by, or a document in the custody of, ASIC under that Act;
- (d) the making available by ASIC, under that Act, of information (whether in the form of a document or otherwise);
- (e) the production by ASIC, under a subpoena, of such a register or document;
- (f) the issuing of a document or of a copy of a document, the granting of a licence, consent or approval, or the doing of any other act, under that Act, by the Minister or ASIC;
- (g) the making of an inquiry of, or an application to, the Minister, or ASIC, in relation to a matter arising under that Act;
- (h) the submission to ASIC of a document for examination by ASIC;
- (i) the making of an application under that Act to the Panel;
- (j) the doing of any act by the Panel in dealing with an application under that Act to the Panel.

old Corporations Law, in relation to a State or Territory, has the same meaning as it has in Part 10.1 of the *Corporations Act 2001*.

- (2) Other expressions used in this Act that are defined in the *Corporations Act 2001* have the same meanings as they have in that Act.

5 Imposition of fees for chargeable matters

- (1) Subject to section 6, the regulations may prescribe fees for chargeable matters.
- (2) The fees prescribed by the regulations for chargeable matters are imposed, and are so imposed as taxes.
- (3) 2 or more fees may be prescribed for the same chargeable matter.

6 Matters relating to amount of fees

- (1) The regulations may prescribe a fee for a chargeable matter:
 - (a) by specifying an amount (not exceeding \$5,000) as the fee;
or
 - (b) by specifying a method for calculating the amount of the fee.

Note: The limitation in paragraph (a) applies separately to each fee imposed if more than one fee is prescribed for the same chargeable matter (see subsection 5(3)).

- (2) The fee for a chargeable matter need not bear any relationship to the cost of providing any service that forms part of, or is related to, that matter.
- (3) The fee, or the sum of the fees, for a chargeable matter must not exceed \$25,000.

7 Who is liable to pay the fee for a chargeable matter, and time liability is incurred

- (1) The person by whom a fee for a chargeable matter is payable, and the time at which they incur that liability, are as follows:
 - (a) for a chargeable matter referred to in paragraph (a) of the definition of *chargeable matter* in subsection 4(1):
 - (i) person liable—the person who lodges the document;
and
 - (ii) time liability incurred—when the document is lodged;

- (b) for a chargeable matter referred to in paragraph (b) of that definition:
 - (i) person liable—the person who requests registration of the document, or if there is no request, the person who lodges the document that is registered; and
 - (ii) time liability incurred—when the request for registration is made, or if there is no request, when the document is lodged;
- (c) for a chargeable matter referred to in paragraph (c) of that definition:
 - (i) person liable—the person who requests the inspection or search; and
 - (ii) time liability incurred—when the request is made;
- (d) for a chargeable matter referred to in paragraph (d) of that definition:
 - (i) person liable—the person who requests the information; and
 - (ii) time liability incurred—when the request is made;
- (e) for a chargeable matter referred to in paragraph (e) of that definition:
 - (i) person liable—the person who filed the subpoena; and
 - (ii) time liability incurred—when the subpoena is served on ASIC;
- (f) for a chargeable matter referred to in paragraph (f) of that definition:
 - (i) person liable—the person who requests the issue of the document (or copy), the grant of the licence, consent or approval, or the doing of the other act, or, if there is no such request, the person for whose benefit the act is done; and
 - (ii) time liability incurred—when the request is made, or if there is no request, when the act is done;
- (g) for a chargeable matter referred to in paragraph (g) of that definition:
 - (i) person liable—the person who makes the inquiry or application; and

- (ii) time liability incurred—when the inquiry or application is made;
 - (h) for a chargeable matter referred to in paragraph (h) of that definition:
 - (i) person liable—the person who submits the document; and
 - (ii) time liability incurred—when the document is submitted;
 - (i) for a chargeable matter referred to in paragraph (i) of that definition:
 - (i) person liable—the person who makes the application; and
 - (ii) time liability incurred—when the application is made;
 - (j) for a chargeable matter referred to in paragraph (j) of that definition:
 - (i) person liable—such party or parties to the proceedings before the Panel as the Panel determines (in accordance with subsection (2)) is or are to pay the fee; and
 - (ii) time liability incurred—when the Panel makes that determination.
- (2) A determination by the Panel for the purposes of subparagraph (1)(j)(i) must be made in accordance with rules made by the Panel in writing for the purposes of that subparagraph.

8 Regulations

The Governor-General may make regulations for the purposes of sections 5 and 6.

9 Transitional matters

- (1) Regulations referred to in paragraph 1351(a) of the old Corporations Law of a State or Territory in this jurisdiction that were in force immediately before the commencement of this Act continue to have effect, and may be amended or repealed, as if they were made under section 8 of this Act for the purposes of sections 5 and 6 of this Act.

Section 9

- (2) If, immediately before the commencement of this Act, a fee was payable by a person to the Commonwealth in respect of a matter under section 1351 of the old Corporations Law of a State or Territory in this jurisdiction, a liability to pay the same amount, in respect of the same matter, to the Commonwealth is imposed on the person by this subsection on the commencement of this Act, and is so imposed as a tax.

Note: The definition of *chargeable matter* in section 9 of the old Corporations Law contains a list of matters that corresponds to the list in the definition of *chargeable matter* in subsection 4(1) of this Act.

*[Minister's second reading speech made in—
House of Representatives on 24 May 2001
Senate on 18 June 2001]*

(87/01)