



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

**No. 112, 2009**

## **Compilation No. 2**

**Compilation date:** 22 June 2022

**Includes amendments up to:** Act No. 68, 2020

**Registered:** 24 June 2022

**This compilation was rectified to take into account retrospective amendments made by Act No. 68, 2020 (as amended by Act No. 35, 2022). The original compilation is available in the rectification history on the Federal Register of Legislation.**

Prepared by the Office of Parliamentary Counsel, Canberra

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## About this compilation

### This compilation

This is a compilation of the *National Consumer Credit Protection (Fees) Act 2009* that shows the text of the law as amended and in force on 22 June 2022 (the *compilation date*).

The notes at the end of this compilation (the *endnotes*) include information about amending laws and the amendment history of provisions of the compiled law.

### Uncommenced amendments

The effect of uncommenced amendments is not shown in the text of the compiled law. Any uncommenced amendments affecting the law are accessible on the Legislation Register ([www.legislation.gov.au](http://www.legislation.gov.au)). The details of amendments made up to, but not commenced at, the compilation date are underlined in the endnotes. For more information on any uncommenced amendments, see the series page on the Legislation Register for the compiled law.

### Application, saving and transitional provisions for provisions and amendments

If the operation of a provision or amendment of the compiled law is affected by an application, saving or transitional provision that is not included in this compilation, details are included in the endnotes.

### Editorial changes

For more information about any editorial changes made in this compilation, see the endnotes.

### Modifications

If the compiled law is modified by another law, the compiled law operates as modified but the modification does not amend the text of the law. Accordingly, this compilation does not show the text of the compiled law as modified. For more information on any modifications, see the series page on the Legislation Register for the compiled law.

### Self-repealing provisions

If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

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**An Act to impose, as taxes, fees for things done under the *National Consumer Credit Protection Act 2009* or the *National Consumer Credit Protection (Transitional and Consequential Provisions) Act 2009*, and for related purposes**

**1 Short title**

This Act may be cited as the *National Consumer Credit Protection (Fees) Act 2009*.

**2 Commencement**

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

<b>Commencement information</b>		
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provision(s)</b>	<b>Commencement</b>	<b>Date/Details</b>
1. Sections 1 and 2 and anything in this Act not elsewhere covered by this table	The day on which this Act receives the Royal Assent.	16 November 2009
2. Sections 3 to 10	At the same time as section 3 of the <i>National Consumer Credit Protection Act 2009</i> .	1 April 2010

Note: This table relates only to the provisions of this Act as originally passed by both Houses of the Parliament and assented to. It will not be expanded to deal with provisions inserted in this Act after assent.

- (2) Column 3 of the table contains additional information that is not part of this Act. Information in this column may be added to or edited in any published version of this Act.

### 3 Application to the Crown

If the Crown, in a capacity, is bound by the provision or provisions of the *National Consumer Credit Protection Act 2009* or the *National Consumer Credit Protection (Transitional and Consequential Provisions) Act 2009* 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 *National Consumer Credit Protection Act 2009* or the *National Consumer Credit Protection (Transitional and Consequential Provisions) Act 2009*;
- (b) the inclusion of a document in a register maintained under either of those Acts;
- (c) the inspection or search of a register kept by, or a document in the custody of, ASIC under either of those Acts;
- (d) the making available by ASIC, under either of those Acts, 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, registration, consent or approval, or the doing of any other act, under either of those Acts, 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 either of those Acts;
- (h) the submission to ASIC of a document for examination by ASIC.

*representative* of a person:

- (a) if the person is a licensee—has the same meaning as in section 5 of the *National Consumer Credit Protection Act 2009*; and
  - (b) if the person is a registered person (within the meaning of the *National Consumer Credit Protection (Transitional and Consequential Provisions) Act 2009*—has the same meaning as in section 4 of that Act; and
  - (c) otherwise—has the same meaning as in section 5 of the *National Consumer Credit Protection Act 2009*.
- (2) Other expressions used in this Act that are defined in the *National Consumer Credit Protection Act 2009* have the same meanings as they have in those Acts.

## **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) Two 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 \$10,000) 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 \$50,000.

**7 Different fees for electronic compliance in relation to a chargeable matter**

Without limiting sections 5 and 6, the regulations may prescribe, in relation to a chargeable matter, different fees having regard to whether the matter is complied with by electronic means.

**8 Different fees for number of representatives of person by whom fee for chargeable matter is payable**

Without limiting sections 5 and 6, the regulations may prescribe, in relation to a chargeable matter, different fees having regard to the number of representatives (of the kind prescribed by the regulations) that the person by whom the fee for the chargeable matter is payable has at a particular time.

**8A Different fees for matters relating to person liable to pay fee**

Without limiting sections 5 and 6, the regulations may prescribe, in relation to a chargeable matter, different fees having regard to any matter relating to the person by whom the fee for the matter is payable.

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

The person by whom a fee for a chargeable matter is payable, and the time at which the person incurs 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;



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- (b) for a chargeable matter referred to in paragraph (b) of that definition:
    - (i) person liable—the person who requests inclusion of the document in the register, or if there is no request, the person who lodges the document; and
    - (ii) time liability incurred—when the request for inclusion of the document in the register 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, registration, 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
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- (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.

### **10 Regulations**

The Governor-General may make regulations for the purposes of sections 5, 6, 7, 8 and 8A.

## Endnotes

### Endnote 1—About the endnotes

The endnotes provide information about this compilation and the compiled law.

The following endnotes are included in every compilation:

Endnote 1—About the endnotes

Endnote 2—Abbreviation key

Endnote 3—Legislation history

Endnote 4—Amendment history

### Abbreviation key—Endnote 2

The abbreviation key sets out abbreviations that may be used in the endnotes.

### Legislation history and amendment history—Endnotes 3 and 4

Amending laws are annotated in the legislation history and amendment history.

The legislation history in endnote 3 provides information about each law that has amended (or will amend) the compiled law. The information includes commencement details for amending laws and details of any application, saving or transitional provisions that are not included in this compilation.

The amendment history in endnote 4 provides information about amendments at the provision (generally section or equivalent) level. It also includes information about any provision of the compiled law that has been repealed in accordance with a provision of the law.

### Editorial changes

The *Legislation Act 2003* authorises First Parliamentary Counsel to make editorial and presentational changes to a compiled law in preparing a compilation of the law for registration. The changes must not change the effect of the law. Editorial changes take effect from the compilation registration date.

If the compilation includes editorial changes, the endnotes include a brief outline of the changes in general terms. Full details of any changes can be obtained from the Office of Parliamentary Counsel.

### Misdescribed amendments

A misdescribed amendment is an amendment that does not accurately describe how an amendment is to be made. If, despite the misdescription, the amendment

## Endnotes

### Endnote 1—About the endnotes

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can be given effect as intended, then the misdescribed amendment can be incorporated through an editorial change made under section 15V of the *Legislation Act 2003*.

If a misdescribed amendment cannot be given effect as intended, the amendment is not incorporated and “(md not incorp)” is added to the amendment history.

**Endnote 2—Abbreviation key**

ad = added or inserted	o = order(s)
am = amended	Ord = Ordinance
amdt = amendment	orig = original
c = clause(s)	par = paragraph(s)/subparagraph(s) /sub-subparagraph(s)
C[x] = Compilation No. x	pres = present
Ch = Chapter(s)	prev = previous
def = definition(s)	(prev...) = previously
Dict = Dictionary	Pt = Part(s)
disallowed = disallowed by Parliament	r = regulation(s)/rule(s)
Div = Division(s)	reloc = relocated
ed = editorial change	renum = renumbered
exp = expires/expired or ceases/ceased to have effect	rep = repealed
F = Federal Register of Legislation	rs = repealed and substituted
gaz = gazette	s = section(s)/subsection(s)
LA = <i>Legislation Act 2003</i>	Sch = Schedule(s)
LIA = <i>Legislative Instruments Act 2003</i>	Sdiv = Subdivision(s)
(md) = misdescribed amendment can be given effect	SLI = Select Legislative Instrument
(md not incorp) = misdescribed amendment cannot be given effect	SR = Statutory Rules
mod = modified/modification	Sub-Ch = Sub-Chapter(s)
No. = Number(s)	SubPt = Subpart(s)
	<u>underlining</u> = whole or part not commenced or to be commenced

## Endnotes

### Endnote 3—Legislation history

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### Endnote 3—Legislation history

<b>Act</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>	<b>Application, saving and transitional provisions</b>
National Consumer Credit Protection (Fees) Act 2009	112, 2009	16 Nov 2009	s 3–10: 1 Apr 2010 (s 2(1) item 2) Remainder: 16 Nov 2009 (s 2(1) item 1)	
National Consumer Credit Protection (Fees) Amendment (ASIC Fees) Act 2018	56, 2018	28 June 2018	29 June 2018 (s 2(1) item 1)	—
National Consumer Credit Protection (Fees) Amendment (Registries Modernisation) Act 2020	68, 2020	22 June 2020	Sch 1: <u>awaiting commencement (s 2(1) item 2)</u>	—
<b>as amended by</b> Treasury Laws Amendment (2022 Measures No. 1) Act 2022	35, 2022	9 Aug 2022	Sch 4 (Pt 1, item 4): 21 June 2022 (s 2(1) item 5)	—

## Endnote 4—Amendment history

**Endnote 4—Amendment history**

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<b>Provision affected</b>	<b>How affected</b>
s 4.....	am <u>No 68, 2020</u>
s 8A.....	ad No 56, 2018
s 9.....	am <u>No 68, 2020</u>
s 10.....	am No 56, 2018

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