



National Consumer Credit Protection (Fees) Act 2009

No. 112, 2009

**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**

Note: An electronic version of this Act is available in ComLaw (<http://www.comlaw.gov.au/>)

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[Assented to 16 November 2009]

The Parliament of Australia enacts:

National Consumer Credit Protection (Fees) Act 2009 *No. 112, 2009* 1

Section 1

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.

Commencement information		
Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
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*.

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- (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.

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;
- (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;

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- (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
 - (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 and 8.

*[Minister's second reading speech made in—
House of Representatives on 25 June 2009
Senate on 7 September 2009]*

(144/09)

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