

2008-2009

The Parliament of the
Commonwealth of Australia

HOUSE OF REPRESENTATIVES

Presented and read a first time

**National Consumer Credit Protection
(Fees) Bill 2009**

No. , 2009

(Treasury)

**A Bill for 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**

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1 **A Bill for an Act to impose, as taxes, fees for things**
2 **done under the *National Consumer Credit***
3 ***Protection Act 2009* or the *National Consumer Credit***
4 ***Protection (Transitional and Consequential***
5 ***Provisions) Act 2009, and for related purposes***

6 The Parliament of Australia enacts:

7 **1 Short title**

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

Section 2

1 **2 Commencement**

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

6

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.	
2. Sections 3 to 10	At the same time as section 3 of the <i>National Consumer Credit Protection Act 2009</i> .	

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

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

13 **3 Application to the Crown**

14 If the Crown, in a capacity, is bound by the provision or provisions
15 of the *National Consumer Credit Protection Act 2009* or the
16 *National Consumer Credit Protection (Transitional and
17 Consequential Provisions) Act 2009* under which a chargeable
18 matter arises or to which a chargeable matter relates, then the
19 Crown, in that capacity, is bound by this Act in respect of that
20 chargeable matter.

21 **4 Definitions**

- 22 (1) In this Act:

23 ***chargeable matter*** means any of the following:

- 1 (a) the lodgment of a document under the *National Consumer*
2 *Credit Protection Act 2009* or the *National Consumer Credit*
3 *Protection (Transitional and Consequential Provisions) Act*
4 *2009*;
- 5 (b) the inclusion of a document in a register maintained under
6 either of those Acts;
- 7 (c) the inspection or search of a register kept by, or a document
8 in the custody of, ASIC under either of those Acts;
- 9 (d) the making available by ASIC, under either of those Acts, of
10 information (whether in the form of a document or
11 otherwise);
- 12 (e) the production by ASIC, under a subpoena, of such a register
13 or document;
- 14 (f) the issuing of a document or of a copy of a document, the
15 granting of a licence, registration, consent or approval, or the
16 doing of any other act, under either of those Acts, by the
17 Minister or ASIC;
- 18 (g) the making of an inquiry of, or an application to, the
19 Minister, or ASIC, in relation to a matter arising under either
20 of those Acts;
- 21 (h) the submission to ASIC of a document for examination by
22 ASIC.

23 ***representative*** of a person:

- 24 (a) if the person is a licensee—has the same meaning as in
25 section 5 of the *National Consumer Credit Protection Act*
26 *2009*; and
- 27 (b) if the person is a registered person (within the meaning of the
28 *National Consumer Credit Protection (Transitional and*
29 *Consequential Provisions) Act 2009*—has the same meaning
30 as in section 4 of that Act; and
- 31 (c) otherwise—has the same meaning as in section 5 of the
32 *National Consumer Credit Protection Act 2009*.
- 33 (2) Other expressions used in this Act that are defined in the *National*
34 *Consumer Credit Protection Act 2009* have the same meanings as
35 they have in those Acts.

1 **5 Imposition of fees for chargeable matters**

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

8 **6 Matters relating to amount of fees**

- 9 (1) The regulations may prescribe a fee for a chargeable matter:
10 (a) by specifying an amount (not exceeding \$10,000) as the fee;
11 or
12 (b) by specifying a method for calculating the amount of the fee.

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

- 16 (2) The fee for a chargeable matter need not bear any relationship to
17 the cost of providing any service that forms part of, or is related to,
18 that matter.
- 19 (3) The fee, or the sum of the fees, for a chargeable matter must not
20 exceed \$50,000.

21 **7 Different fees for electronic compliance in relation to a chargeable
22 matter**

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

26 **8 Different fees for number of representatives of person by whom
27 fee for chargeable matter is payable**

28 Without limiting sections 5 and 6, the regulations may prescribe, in
29 relation to a chargeable matter, different fees having regard to the
30 number of representatives (of the kind prescribed by the

1 regulations) that the person by whom the fee for the chargeable
2 matter is payable has at a particular time.

3 **9 Who is liable to pay the fee for a chargeable matter, and time**
4 **liability is incurred**

5 The person by whom a fee for a chargeable matter is payable, and
6 the time at which the person incurs that liability, are as follows:

- 7 (a) for a chargeable matter referred to in paragraph (a) of the
8 definition of *chargeable matter* in subsection 4(1):
9 (i) person liable—the person who lodges the document;
10 and
11 (ii) time liability incurred—when the document is lodged;
- 12 (b) for a chargeable matter referred to in paragraph (b) of that
13 definition:
14 (i) person liable—the person who requests inclusion of the
15 document in the register, or if there is no request, the
16 person who lodges the document; and
17 (ii) time liability incurred—when the request for inclusion
18 of the document in the register is made, or if there is no
19 request, when the document is lodged;
- 20 (c) for a chargeable matter referred to in paragraph (c) of that
21 definition:
22 (i) person liable—the person who requests the inspection
23 or search; and
24 (ii) time liability incurred—when the request is made;
- 25 (d) for a chargeable matter referred to in paragraph (d) of that
26 definition:
27 (i) person liable—the person who requests the information;
28 and
29 (ii) time liability incurred—when the request is made;
- 30 (e) for a chargeable matter referred to in paragraph (e) of that
31 definition:
32 (i) person liable—the person who filed the subpoena; and
33 (ii) time liability incurred—when the subpoena is served on
34 ASIC;

Section 10

- 1 (f) for a chargeable matter referred to in paragraph (f) of that
2 definition:
- 3 (i) person liable—the person who requests the issue of the
4 document (or copy), the grant of the licence,
5 registration, consent or approval, or the doing of the
6 other act, or, if there is no such request, the person for
7 whose benefit the act is done; and
- 8 (ii) time liability incurred—when the request is made, or if
9 there is no request, when the act is done;
- 10 (g) for a chargeable matter referred to in paragraph (g) of that
11 definition:
- 12 (i) person liable—the person who makes the inquiry or
13 application; and
- 14 (ii) time liability incurred—when the inquiry or application
15 is made;
- 16 (h) for a chargeable matter referred to in paragraph (h) of that
17 definition:
- 18 (i) person liable—the person who submits the document;
19 and
- 20 (ii) time liability incurred—when the document is
21 submitted.

22 **10 Regulations**

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