



## National Consumer Credit Protection (Fees) Bill 2009

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## National Consumer Credit Protection (Fees) Bill 2009

**Date introduced:** 25 June 2009

**House:** House of Representatives

**Portfolio:** Treasury

**Commencement:** Sections 3 to 10 commence when section 3 of the *National Consumer Credit Protection Act 2009* (the Main Act) commences. The rest of the Act commences on the day on which it receives Royal Assent.

**Links:** The [relevant links](#) to the Bill, Explanatory Memorandum and second reading speech can be accessed via BillsNet, which is at <http://www.aph.gov.au/bills/>. When Bills have been passed they can be found at ComLaw, which is at <http://www.comlaw.gov.au/>.

### Purpose

To allow for the imposition of fees for things done under the National Credit Legislation.

### Background

#### Basis of policy commitment

This Bill was introduced in a set of bills comprised of:

- the National Consumer Credit Protection Bill 2009 (the Main Bill)
- the National Consumer Credit Protection (Transitional and Consequential Provisions) Bill 2009 (the Transitional Bill), and
- the National Consumer Credit Protection (Fees) Bill 2009 (the Fees Bill).

Collectively, these bills are known as the National Credit Legislation.

The policy background to the Fees Bill is contained in the [Bills Digest](#) for the National Consumer Credit Protection Bill 2009.<sup>1</sup>

The Fees Bill sets the scope of activities conducted under the National Credit Legislation, such as lodgement of documents and inspection of registers maintained by the Australian Securities and Investments Commission (ASIC), that may have fees prescribed to them under regulation.

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1. P Tan, *National Consumer Credit Protection Bill 2009*, Bills Digest, no. 30, 2009-10, Parliamentary Library, Canberra, 2009, viewed 15 September 2009, <http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22legislation%2Fbillsdgs%2F0NOU6%22>

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*This Digest does not have any official legal status. Other sources should be consulted to determine the subsequent official status of the Bill.*

## Committee consideration

All of the Bills were referred to the Senate Economics Legislation Committee (the Senate Committee) for inquiry. Details of the inquiry, and the final report, are at the [Senate Economics Committee webpage](#).<sup>2</sup> The report was tabled on 7 September 2009.

The Senate Committee recommended that all three bills in the National Credit Legislation be passed subject to some recommendations made in the report.

Fifty-eight submissions were made to the Senate Committee about the National Credit Legislation package. A discussion of the submissions is contained in the Bills Digest for the Main Bill.

## Financial implications

The Explanatory Memorandum for the Fees Bill states:

The Government has provided \$70.2 million over four years to implement the decision of COAG as part of the 2008-09 Mid-Year Economic and Fiscal Outlook. This Bill includes measures to give effect to that transfer.

The funding will support the establishment of a national licensing regime for providers of credit and credit services, with ASIC as the sole national regulator. It will also support the national regulation of mortgages, margin lending, personal loans, credit cards and pay day lending.

The funding will be partially offset by revenue raised from fees required to be paid by persons regulated by the national framework, payment of which commences during the 2009-10 financial year. The amount of revenue generated from these fees will depend, in part, on the number and type of persons seeking to be licensed.<sup>3</sup>

## Main provisions

**Clause 4** of the Fees Bill defines '*chargeable matter*' as the following matters (thus allowing for the charging of a fee for these activities)

- the lodgement of a document under the *National Consumer Credit Protection Act 2009*, or the accompanying Transitional Act
- the inclusion of a document in a register maintained under the *National Consumer Credit Protection Act 2009*, or the accompanying Transitional Act

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2. Senate Economics Legislation Committee, viewed 9 September 2009, [http://www.aph.gov.au/senate/committee/economics\\_ctte/consumer\\_credit\\_09/index.htm](http://www.aph.gov.au/senate/committee/economics_ctte/consumer_credit_09/index.htm)
  3. Explanatory Memorandum, National Consumer Credit Protection (Fees) Bill 2009, p. 3.

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- the inspection of registers kept by ASIC under the *National Consumer Credit Protection Act 2009*, or the accompanying Transitional Act
- the making available of information from ASIC under the *National Consumer Credit Protection Act 2009*, or the accompanying Transitional Act
- the production of a register or document by ASIC under subpoena
- any of the following done by the Minister or ASIC:
  - the issue of a document or copy of a document
  - the granting of a licence, registration, consent or approval
  - the doing of any other act, under *National Consumer Credit Protection Act 2009* or accompanying Transitional Act
- the making of an inquiry of, or an application to, the Minister or ASIC, in relation to a matter arising under the *National Consumer Credit Protection Act 2009*, or the accompanying Transitional Act, and
- the submission to ASIC of a document for examination by ASIC.

**Clause 5** allows for regulations to prescribe fees for the chargeable matters set out in **clause 4**.

**Clause 6** limits the fees, or sum of the fees, for a chargeable matter at \$50 000. **Subclause 6(2)** clarifies that the fee need not be a fee for a service, but can be charged in the form of a tax under the Act.

**Clause 7** allows for different fees to be charged in cases when a matter is complied with electronically.

**Clause 8** allows for fees to be adjusted in accordance with the number of credit representatives that the person has at the time (licensees can authorise credit representatives under Part 2-3 of the Main Bill). This provision enables ASIC to charge fees that correspond with the size of a licensed body under the National Credit Legislation.

**Clause 9** sets out the liability for fees charged under the Fees Bill. Generally, the liability falls to the person who is conducting the activity—that is, whoever is lodging the document, requesting the inclusion on the register, requesting the inspection or search, and so on. The time the liability arises is generally at the time when the activity is conducted.

**Clause 10** provides a regulation-making power to the Governor-General for the purposes of clauses 5–8 of the Bill.

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