

2008-2009

The Parliament of the
Commonwealth of Australia

HOUSE OF REPRESENTATIVES

Presented and read a first time

National Consumer Credit Protection Bill 2009

No. , 2009

(Treasury)

**A Bill for an Act relating to credit, and for related
purposes**

Contents

Chapter 1—Introduction	1
Part 1-1—Introduction	1
1	Short title..... 1
2	Commencement 2
3	The National Credit Code 2
Part 1-2—Definitions	3
Division 1—Introduction	3
4	Guide to this Part..... 3
Division 2—The Dictionary	4
5	The Dictionary 4
Division 3—Definitions relating to the meaning of credit activity	16
6	Meaning of <i>credit activity</i> 16
7	Meaning of <i>credit service</i> 17
8	Meaning of <i>credit assistance</i> 17
9	Meaning of <i>acts as an intermediary</i> 18
10	Assignees of credit providers, lessors, mortgagees and beneficiaries of a guarantee 18
Division 4—Other definitions	20
11	Meaning of <i>approved external dispute resolution</i> <i>scheme</i> 20
12	When a business is <i>carried on in this jurisdiction</i> 20
13	Meaning of <i>misleading</i> 20
14	Meaning of <i>person</i> —generally includes a partnership 21
15	Meaning of <i>person</i> —generally includes multiple trustees 21
16	Qualified privilege 23
Part 1-3—Application of this Act and the Transitional Act	24
Division 1—Introduction	24
17	Guide to this Part..... 24
Division 2—Constitutional basis and application of this Act and the Transitional Act	25
18	Constitutional basis for this Act and the Transitional Act..... 25
19	Meaning of <i>referring State</i> 26

20	Meaning of <i>referred credit matters</i>	28
21	General application of this Act and the Transitional Act.....	32
22	Acts bind Crown	33
Division 3—Interaction between the Commonwealth credit legislation and State and Territory laws		34
23	Concurrent operation intended	34
24	When Commonwealth credit legislation does not apply	34
25	Avoiding direct inconsistency between Commonwealth and State and Territory laws	35
26	Regulations to deal with interaction between laws.....	37
Chapter 2—Licensing of persons who engage in credit activities		39
Part 2-1—Requirement to be licensed to engage in credit activities		39
Division 1—Introduction		39
27	Guide to this Part.....	39
Division 2—Engaging in credit activities without a licence		40
28	Application of this Division	40
29	Prohibition on engaging in credit activities without a licence	40
Division 3—Other prohibitions relating to the requirement to be licensed and to credit activities		42
30	Prohibitions on holding out and advertising etc.	42
31	Prohibition on conducting business with unlicensed persons	43
32	Prohibition on charging a fee etc.....	43
33	Prohibition on giving misleading information etc.	44
Part 2-2—Australian credit licences		45
Division 1—Introduction		45
34	Guide to this Part.....	45
Division 2—Australian credit licences		46
35	Australian credit licences	46
Division 3—How to get an Australian credit licence		47
36	Applying for a licence	47

37	When a licence may be granted—applicants other than ADIs	47
38	When a licence may be granted—ADIs	49
39	Regulations may prescribe streamlined process for other applicants	50
40	Licences must not be granted to certain applicants	50
41	Applicant must be given hearing before refusal of licence	51
42	Notice of grant or refusal of licence and date of effect	51
43	Australian credit licence numbers	51
44	Basis on which licence is granted.....	51
Division 4—Conditions on an Australian credit licence		53
45	The conditions on the licence.....	53
46	Licence conditions—special procedures for APRA-regulated bodies	54
Division 5—Obligations of licensees		56
47	General conduct obligations of licensees	56
48	Requirements for compensation arrangements.....	57
49	Obligation to provide a statement or obtain an audit report if directed by ASIC.....	58
50	Obligation to give ASIC information required by the regulations.....	60
51	Obligation to provide ASIC with assistance if reasonably requested	61
52	Obligation to cite Australian credit licence number	61
53	Obligation to lodge annual compliance certificate	62
Division 6—When a licence can be suspended, cancelled or varied		64
Subdivision A—Suspensions and cancellations		64
54	Suspension or cancellation without hearing	64
55	Suspension or cancellation after offering a hearing	65
56	Suspension and cancellation—special procedures for APRA-regulated bodies	66
Subdivision B—Variations		67
57	Varying licences.....	67
Subdivision C—Miscellaneous rules about suspensions, cancellations and variations		67
58	Effect of suspension	67
59	Revocation of suspension.....	67
