

# **National Consumer Credit Protection Act 2009**

No. 134, 2009

## Compilation No. 35

Compilation date: 22 June 2022

**Includes amendments up to:** Act No. 8, 2022

**Registered:** 4 July 2022

This compilation is in 2 volumes

**Volume 1:** sections 1–322 Volume 2: sections 323–337

Schedule 1 Endnotes

Each volume has its own contents

This compilation includes commenced amendments made by Act No. 69, 2020

Prepared by the Office of Parliamentary Counsel, Canberra

### About this compilation

### This compilation

This is a compilation of the *National Consumer Credit Protection 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). 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If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

Authorised Version C2022C00190 registered 04/07/2022

# Contents

Chapte	r 1—Introd	uction	1	
Part 1-1-	—Introduction	n	1	
	1	Short title	1	
	2	Commencement	1	
	3	The National Credit Code	2	
Part 1-2-	—Definitions		3	
Division 1—Introduction				
	4	Guide to this Part	3	
Divis	sion 2—The Dic	etionary	4	
	5	The Dictionary	4	
Divis	sion 3—Definiti	ions relating to the meaning of credit activity	23	
	6	Meaning of credit activity	23	
	7	Meaning of credit service		
	8	Meaning of credit assistance	24	
	9	Meaning of acts as an intermediary	25	
	10	Assignees of credit providers, lessors, mortgagees and beneficiaries of a guarantee		
Divis	sion 4—Other d	lefinitions	27	
	12	When a business is carried on in this jurisdiction	27	
	13	Meaning of misleading		
	14	Meaning of <i>person</i> —generally includes a partnership	27	
	15	Meaning of <i>person</i> —generally includes multiple trustees		
	15A	Meaning of associate		
	15B	Meaning of mortgage broker		
	15C	Meaning of mortgage intermediary		
	16	Qualified privilege	31	
	16A	Meaning of control	32	
	16B	Meaning of Registrar	33	
Part 1-3-	—Application	of this Act and the Transitional Act	34	
Division 1—Introduction				
	17	Guide to this Part	34	

National Consumer Credit Protection Act 2009

. . . .

Compilation No. 35

Compilation date: 22/06/2022

Registered: 04/07/2022

Division 2—Constitution	al basis and application of this Act and	
the Transitio	onal Act	35
18	Constitutional basis for this Act and the Transitional Act	35
19	Meaning of referring State	
20	Meaning of referred credit matter	
21	General application of this Act and the Transitional Act	
22	When Acts bind Crown	42
Division 3—Interaction b	petween the Commonwealth credit	
	nd State and Territory laws	43
23	Concurrent operation intended	43
24	When Commonwealth credit legislation does not apply	
25	Avoiding direct inconsistency between Commonwealth and State and Territory laws	
26	Regulations to deal with interaction between laws	
-	be licensed to engage in credit	48
activities		48
Division 1—Introduction	1	48
27	Guide to this Part	
Division 2—Engaging in	credit activities without a licence	49
28	Application of this Division	49
29	Prohibition on engaging in credit activities without a licence	49
-	bitions relating to the requirement to be	
licensed 30	Duckihisiana an halding aut and advertising as	51
31	Prohibitions on holding out and advertising etc  Prohibition on conducting business with	
32	unlicensed persons	
<u>-</u>	Prohibition on charging a fee etc	32
Part 2-2—Australian credi	t licences	54
Division 1—Introduction	ı	54
34	Guide to this Part	54

National Consumer Credit Protection Act 2009

Compilation No. 35 Compilation date: 22/06/2022 Registered: 04/07/2022

ii

Division 2—Australian c	redit licences	55
35	Australian credit licences	55
Division 3—How to get a	nn Australian credit licence	56
36	Applying for a licence	5e
37	When a licence may be granted—applicants other than ADIs	
37A	Fit and proper person test	58
37B	Fit and proper person test—matters to which ASIC must have regard	59
38	When a licence may be granted—ADIs	60
39	Regulations may prescribe streamlined process for other applicants	61
40	Licences must not be granted to certain applicants	61
41	Applicant must be given hearing before refusal of licence	62
42	Notice of grant or refusal of licence and date of effect	62
43	Australian credit licence numbers	62
44	Basis on which licence is granted	63
Division 4—Conditions	on an Australian credit licence	64
45	The conditions on the licence	64
46	Licence conditions—special procedures for APRA-regulated bodies	
46A	ASIC may request information etc. in relation to an application for conditions to be varied	66
<b>Division 5—Obligations</b>	of licensees	69
Subdivision A—Gener	ral obligations	69
47	General conduct obligations of licensees	69
48	Requirements for compensation arrangements	
Subdivision B—Provi	ding information and assistance to ASIC	74
49	Obligation to provide a statement or obtain an audit report if directed by ASIC	74
50	Obligation to give ASIC information required by the regulations	
50A	What are reportable situations?	7
50B	Obligation to lodge a report—reportable situations in relation to the licensee	80
50C	Obligation to lodge a report—reportable situations in relation to other licensees	81

National Consumer Credit Protection Act 2009

iii

Compilation No. 35 Compilation date: 22/06/2022 Registered: 04/07/2022