



## Combating poverty: Removal of penalty fees from concession accounts

Unfair bank penalty fees have been in the spotlight over the last year. Since launching our Fair Fees campaign many banks have acted to give consumers a better deal. However, the Big Four banks have not all moved in the same direction when it comes to Concession Accounts.

The Fair Fees campaign wants Australian banks, especially the Big Four banks, to give Australian pensioners a break. We're part of the way there already with NAB and Westpac already moving to remove penalty fees on their concession accounts. CHOICE and the Consumer Action Law Centre are calling on the Commonwealth Bank and ANZ to scrap penalty fees on their concession accounts.

### What are concession accounts?

Concession accounts, also known as basic bank accounts, offer reduced fee banking to recipients of government benefits. While the terms and eligibility of these accounts varies from bank to bank, the Australian Bankers Association suggests that these concession accounts should have no account keeping fees and include some fee-free transactions.<sup>1</sup>

### What penalty fees apply to concession accounts?

A penalty fee is charged to a bank customer when the customer breaches a requirement of the terms and conditions of their bank account. Any consumer contract may include a term which says that if a party breaches the contract or defaults in some way, that party must pay the other, "innocent" party a sum of money. In banking, a penalty fee may be charged where a transaction account is overdrawn, there are insufficient funds to process a direct debit payment or a customer exceeds their credit card limit or makes a late minimum repayment.

There are no limits on the type or level of penalty fees that can be charged by financial institutions on concession accounts. The table below shows the penalty fees charged by the Big 4 Banks on their respective concession accounts.

Bank (alphabetical order)	Account	Periodic payment dishonour (\$)	Direct debit dishonour (\$)	Overdrawn account (\$)	Cheque dishonour (\$)	Deposited cheque dishonour (\$)
ANZ	Access Basic	10	10	10	10	0
Commonwealth Bank	Pensioner security	35	35	0	35	0
National Australia Bank	Concession card	0	0	0	0	0
Westpac	Basic	0	0	0	0	0

<sup>1</sup> Australian Bankers Association, Fee-free and low cost banking, Fact Sheet, April 2006, updated 13 Oct 2008.

Second-tier banks charge penalty fees on concession accounts in the range from \$8 to \$40. At the bottom of that range with the lowest penalty fees are Bank SA and St George, followed by BankWest and Adelaide Bank with \$10 fees. Suncorp, Bendigo Bank and Bank of Queensland all sit at the top of the range with pensioner penalty fees up to \$40.<sup>2</sup>

## **How are people affected by penalty fees?**

People on low and fixed incomes are the ones hardest hit by unfair bank penalty fees. They are more likely to have low bank balances that put them at a greater risk of incurring penalty fees, and the fee amounts represent a greater proportion of their fortnightly income.

At the recent Senate Inquiry into unfair bank penalty fees, the Inquiry reported that:

‘There was strong anecdotal evidence that in some cases at least the impost of high default fees is marginalising people who are already struggling to feel they belong in Australian society.’<sup>3</sup>

The Committee went on to express its concern at the ‘apparent past indifference of institutions’. These case studies show what a bank’s indifference can mean for people on limited incomes:

### **Penalty fees chew up pensioner’s fortnightly income**

Jim was a 39 year old disability support pensioner living on \$630 per fortnight. Between 4 June 2004 and 27 March 2007 he was charged \$830 in penalty fees by a bank for overdrawing his account on 26 separate occasions. Spread over some years this may not seem like much, but in fact during one week of January 2006 alone approximately 10% of Jim’s fortnightly income was consumed by penalty fees.

### **Excessive fees have an excessive impact**

Lauren lives in Queensland and receives a pension. She has paid hundreds of dollars in penalty fees, including being charged \$90 for being \$25 overdrawn. “I had written a cheque for \$20 but by the time it was processed my account had insufficient funds - so I was charged \$45,” she says. “I also made a \$5 voluntary contribution to my super fund - a second \$45 fee was the result.” “Having one third of my pension payment go on penalty fees this week was a lot,” Lauren says. “And this often happens. I might forget a payment is coming out or think I’ve left enough money in my account, and so I get overdrawn, and get charged \$45 for something as little as being \$5 overdrawn. I am fed up with this and have paid hundreds in fees. I wouldn’t mind a \$10 or \$20 fee, but \$45 is a lot to someone on a limited income.”

### **Penalty fees charged unfairly while waiting for pension to be credited**

Over a two year period Henry, a pensioner, was consistently charged \$30-\$60 dollars every fortnight by his bank when his account became overdrawn for around an hour in the gap between the withdrawal of some of his direct debits and Henry’s pension deposit being credited. For example the bank would charge an account overdrawn fee because a Crisco direct debt was withdrawn at 3 am and the pension was paid in at 4 am.

---

<sup>2</sup> Australian Bankers Association, Exception Fees September 2008, Fact Sheet, November 2007, updated May 2008, updated August 2008, updated September 2008.

<sup>3</sup> The Senate Standing Committee on Economics, *Australian Securities and Investments Commission (Fair Bank and Credit Card Fees) Amendment Bill 2008*, Report, September 2008, page 20.

## Double-sting on fees

Margie told us that, as a pensioner, she had been 'stung a couple of times' by penalty fees. She had been charged a \$50 dishonour fee when her account did not have enough money to cover direct debits, but her bank had now started adding another \$45 fee "honour" fee for reinstating the direct payment later, costing her a total of \$95 for one transaction. Margie was exasperated, asking: 'Is this extortion legal?'

## Punishing customers already in obvious financial hardship

Kate's bank was charging her direct debit dishonour fees consistently over three years, which sometimes left her without enough money to cover her essential expenses each fortnight. The dishonoured direct debits had been set up to repay a payday loan Kate had previously taken out. Kate called her bank and asked at the counter in person for a refund of the fees, without success.

## Why are penalty fees unfair?

CHOICE and Consumer Action believe that most penalty fees currently applied to credit card and transaction accounts are unfair in the way they are imposed or the amount charged.

Bank penalty fees are a problem because:

- most penalty fees are out of all proportion to the costs incurred by banks,
- the amount of penalty fees has risen at an alarming rate over the past 6-7 years,
- market forces do not and cannot work to control the imposition or amount of penalty fees, and
- consumers don't have the opportunity to negotiate fees when opening a bank account.

In addition, bank penalty fees may not be legally enforceable - but there is no efficient practical way for consumers or regulators to challenge those fees. Bank penalty fees have become such a significant problem in some other jurisdictions that regulators have determined there is a need to respond (for example, in the UK). Regulators need to act in Australia, but have failed to do so.

The **Fair Fees** campaign is a joint campaign of CHOICE and Consumer Action and was launched in June 2007. The Fair Fees campaign is designed to empower consumers to fight bank against unfair and potentially unlawful bank penalty fees. The Fair Fees website ([www.fairfees.com.au](http://www.fairfees.com.au)) contains information for consumers about how to seek refunds on penalty fees charged by financial institutions. The site also provides information about penalty fees on standard and concession accounts. Since launching the campaign more than 60,000 consumers have used material on the site to challenge unfair penalty fees.