

## **Template of letter to claim back bank charges and fees Victoria**

### **(Delete this page before printing)**

#### **Important**

The template letter is on page two; this page contains information on how this letter is set out and what you need to do.

This is a template letter provided for your personal use. You will need to add your own personal details and make the appropriate changes to the letter, to suit your personal circumstances.

When you have made all the changes required print out this letter and read it through before sending it to the bank. (Always check through any formal correspondence before sending and when receiving)

Wherever you find **blue text** this is where you must put your own information. All the **red text** is to guide you through the process.

**Remember to take out everything that is in blue or red including the [brackets] before printing out and sending the letter.**

Put your name and address

In this corner and

The date

[Put the name and

The address of your bank here]

Dear Sir/Madam,

Account Name – [Put the name on your account here]

Account Number – [Put your account number here]

I am writing to you in relation to the default charges that have been applied to my account, as above. I believe that these charges are excessive and do not reflect the real cost incurred by you in relation to the management of my account.

The first fee was charged to my account on [insert the date] and the last charge was on [insert the date]. The total amount charged to my account is [insert total of fees and charges]. The fees were described as being for the following [Put in here why the bank stated the fees were being applied to your account. Direct debit dishonour, overdrawn account, charge of paying in a cheque, credit card late payment, other late payment, over your limit fees, cheque dishonour fees etc]

In addition to this I have calculated that these charges have also deprived me of [insert the amount of interest at the current rate] in interest to date.

I request repayment of the fees and charges that have been charged to my account over and above an amount that is reasonable for the process of dealing with these defaults. I will consider any evidence from you that presents information to the contrary.

The clear difference between my position as an individual consumer and the bargaining power of [put the name of your bank here] is clear. I have had no opportunity to negotiate the terms of my account contract with you, nor would I be able to change any of the terms imposing fees and charges. Given these circumstances it would be unconscionable for you to enforce the fees.

In light of the above, the default fees you have charged to my account are therefore 'penalties', in accordance with the legal principles set out in cases such as Dunlop Pneumatic Tyre Co Ltd and o'Dea v Allstates Leasing System (WA) Pty Ltd. This makes them therefore void, meaning that they could not be enforced against me in court. As they are void and unenforceable, they should not have been charged to my account and should be repaid.

Furthermore, it is likely that by enforcing the terms of my account contract with these excessive fees on my account, you are engaging in unconscionable conduct within the meaning of section 51AB of the Trade Practices Act 1974 (Cth), in particular because of my lack of bargaining power

relative to you and the fact that the terms imposing these fees are not reasonably necessary for the protection of your legitimate interests.

In addition the terms of my account contract imposing these fees is deemed unfair within the meaning of section 32W of the Fair Trading Act 1999 (VIC) in that contrary to the requirements of good faith and in all the circumstances, these terms cause a significant imbalance in our rights and obligations under the account contract, to my detriment as the consumer in this relationship. This renders the terms void, meaning that they could not be enforced against me in a court of law.

Therefore I request that you refund the total amount of these fees being [\[insert the amount of the fees\]](#) to my account. I await your response within the next 21 days from the date of this letter. If I do not hear I may take further action to recover these fees and without further notice to you.

Yours sincerely,

[\[Sign your name here\]](#)

[\[Insert your typed Name here\]](#)