

Australian Capital Territory

Emergencies (Fees) Determination 2018

Disallowable instrument DI2018–135

made under the

Emergencies Act 2004, section 201 (Determination of Fees)

EXPLANATORY STATEMENT

Section 201 of the *Emergencies Act 2004* allows the Minister to determine fees for the purposes of that Act.

This determination sets the relevant fees for services provided by an emergency service, including the ACT Ambulance Service and the ACT Fire and Rescue Service.

The new determination (the 2018 determination) sets the fees that will apply from 1 July 2018, and repeals the *Emergencies (Fees) Determination 2017* (the 2017 determination). As well as providing for fee increases in line with annual adjustments to the Wages Price Index (WPI) of 2.5%, the new determination has been redrafted to comply with current legislative drafting practices. In particular, provisions dealing with exemptions and waivers have been relocated from the schedule to the main body of the instrument, and some definitions have been updated or clarified to improve the readability of the instrument.

The determination does not impose new fees.

Removal of former fees items (275-278, 288, 290, 292 and 293) from the 2018 determination:

- Items 275 to 278 have been removed as they relate to training courses that ACT Fire and Rescue no longer provide. These courses are now delivered by external training providers;
- Items 288, 290 and 292 have been removed and joined up with items 287 (for item 288) and 291 (for items 290 and 292) respectively to avoid redundancy in fees of a similar nature; and
- Item 293 from the previous fee determination was an exemption provision. This item is omitted and the exemption is now located in the main body of the instrument.

This determination is a disallowable instrument and must be presented to the Legislative Assembly within 6 sitting days after its notification day pursuant to section 64 of the *Legislation Act 2001*.

Updates to the instrument

As noted previously, the drafting of the fees determination has been brought into line with current drafting practices.

Clauses 1 and 2 deal with the name and commencement of the determination. The substantive provisions are located in clauses 3 to 6. The provisions relating to the imposition of fees are set out in clause 3; the provisions dealing with the manner of payment are in clause 4; the various exemptions are set out in clause 5, while waivers are dealt with in clause 6. The key definitions are set out in included in clause 7. Clause 8 provides for the repeal of the 2017 fee determination. Schedule 1 sets out the specific fees that are payable in respect of emergency services, and schedule 2 sets out the situations that may be “exceptional personal or other circumstances” for the purpose of the waiver power conferred on the Chief Officer, ACT Ambulance Service under clause 6 (2).

Regulatory Impact Statement (RIS)

A RIS is not required for this fee determination due to section 36 (1) (k) of the *Legislation Act 2001*, which states that a RIS need not be prepared for an amendment of a fee consistent with announced government policy. The emergency services fees continued by this instrument are consistent with the Government’s policies for partial or full cost recovery for certain services provided by the ACT’s emergency services.

Fees paid under the fees determination are included as revenue for the ACT Emergency Services Agency and are used to fund the provision of emergency services to the ACT community. The fees are increased annually in line with inflation, based on changes in the Wage Price index, to reflect increases in the cost of delivering these services.

Human Rights

The Standing Committee on Justice and Community Safety (Legislative Scrutiny Role) terms of reference require consideration of human rights impacts, among other matters. In this case, no human rights are impacted.

Outline of provisions

Clause 1 sets out the formal title of the determination.

Clause 2 provides for the determination to commence on 1 July 2018.

Clause 3 explains that Column 2, Schedule 1 sets out the services for which fees are determined, while the amount payable for each service is listed in Column 3 of that Schedule. Column 1 contains the item numbers for each of the fees. It should be noted that the numbering for these items does not start at 1, contains gaps, and is not always consecutive. These numbering anomalies reflect the item numbers that were allocated in earlier years’ determinations. These item numbers are programmed into the billing system that issues invoices to clients. Amend that system takes some time, and it was not possible to implement new item numbers in time for the proposed commencement of the new fee determination. Over time, it is intended to update the numbering system to a more logical and sequential system and make corresponding changes to the billing system.

Clause 4 explains how the determined fees should be paid, including who is liable to pay and who receives the payment.

Clause 4 (1) explains that fees for the fire services in items 255 to 274 in schedule 1 are payable by the person who requested those services. These items do not impose fees for attendance at fire-related emergencies.

Clause 4 (2) provides that certain fees relating to automatic fire alarms system (set out in items 279 to 287 of schedule 1) are payable by the automatic fire alarm system provider.

Clause 4 (3) provides that the fees in items 289 and 291, which relate to unintended alarm fees, are payable by the occupier of the building where the unintended fire alarm happened.

Clause 4 (4) provides that the fees in items 294 to 298, which relate to services provided by ACT Ambulance Service (including emergency medical treatment and non-emergency medical treatment and transfer) and the aeromedical retrieval service, are payable by the person receiving the service. It should be noted that section 201 (2) of the *Emergencies Act 2004* provides that a fee determined for a service provided to a person by an emergency service is payable by the person even if the person did not ask for, or consent to, the provision of the service.

Clause 4 (5) provides that certain fire service fees are payable only in a lump sum, unless otherwise agreed by the Chief Officer, ACT Fire and Rescue Service.

Clause 5 sets out the fee exemptions that apply to certain emergency and non-emergency treatment and patient transfer fees. Some of these exemptions were previously located in items 293 and 298.2 of the schedule in the 2017 fee determination. They have been relocated to the main part of the instrument to make them more accessible to users of emergency ambulance and non-emergency patient transfer services.

In summary, exemptions apply to: ACT school students who become ill or injured at school or on school excursions; holders of certain concessions cards that include an entitlement to ambulance services; persons arrested or in police custody; entitled persons under the *Children and Young People Act 2008*; ambulance services provides in relation to people performing good Samaritan acts, or people involved in motor vehicle crashes; ambulance services provided to people who die or could not be resuscitated in the care of ACT Ambulance Service officers; and victims of family or domestic violence and victims of sexual assault.

Clause 6 sets out the situations in which certain fees may be waived.

Clause 6 (1) provides for the waiver of fees for items 289 and 291 (unintended fire alarm fees) where the Chief Officer ACT Fire and Rescue Service could not have been prevented by reasonable maintenance or was otherwise outside the reasonable control of the owner of the building.

Clause 6 (2) provides for the waiver of emergency ambulance fees, non-emergency patient transport fees and aero-medical retrieval fees where the Chief Officer ACT Ambulance

Service is satisfied that exceptional personal or other circumstances apply to the person to whom the services were provided. These circumstances are set out in schedule 2.

Clause 7 contains definitions of key terms used in the fee determination. These include: alarm system; exceptional personal or other circumstances; fire; relevant concession card; road, road related area and motor vehicle; unintended alarm.

Clause 8 revokes the 2017 fee determination.

Schedule 1 sets out the fees that are payable for specified services. As previously explained, the numbering used in column 1 is an historical artefact that has been included in this schedule because it is currently used by the billing system. It is proposed to amend the numbering system in the next year and update the billing system accordingly.

Schedule 2 explains when the Chief Officer ACT Ambulance Service may be satisfied that exceptional personal or other circumstances exist for the purpose of waiving a fee that would otherwise be payable under the fee determination. These circumstances have been drafted on the basis of current ACT Ambulance Service waiver policies. They are included in the fee determination to make them more accessible to ACT Ambulance Service clients and enhance transparency in decision making in relation to waiver applications.