

Australian Capital Territory

Court Procedures (Fees) Determination 2020 (No 1)

Disallowable instrument DI2020-13

made under the

Court Procedures Act 2004, s 13 (Determination of fees)

EXPLANATORY STATEMENT

Section 13 of the *Court Procedures Act 2004* (the Act) provides that the Minister may determine fees under the Act for a number of purposes, including—

- proceedings in a court or the ACT Civil and Administrative Tribunal (the ACAT) and matters incidental to the proceedings;
- facilities and services provided by the court or the ACAT; and
- the service and execution of the process of a court of the Commonwealth, a State, another Territory or a foreign country.

A determination may provide for—

- exempting people from liability to pay determined fees, completely or partly, in all or particular circumstances;
- remitting, refunding or waiving, by a registrar of a court or the ACAT, determined fees, completely or partly, in particular circumstances; and
- deferring by a registrar of a court or the ACAT, liability to pay determined fees, completely or partly, in particular circumstances.

The new determination (the 2020 determination) repeals the *Court Procedures (Fees) Determination 2019* (the 2019 determination). As well as providing new fee items for the commencement of the Motor Vehicle Injuries jurisdiction in the ACAT on 1 February 2020. Explanatory notes in the determination list the fees previously determined to enable comparison.

Updates to the instrument

The determination introduces four new fees to support claims under the *Motor Accident Injuries Act 2019* (MAI Act) brought to the ACAT.

The MAI Act replaces the current at-fault compensation scheme operating under the *Road Transport (Third-Party Insurance) Act 2008* with a new hybrid compensation scheme. The new Motor Accident Injuries (MAI) scheme will provide defined benefits for treatment and care as well as income replacement for anyone injured in a motor accident. Quality of Life benefits to cover non-financial loss will also be available. The MAI Act provides the ACAT with a new dispute resolution function under the MAI scheme, which will commence on 1 February 2020.

The new fees introduced by the determination are:

1. New fee item 1002.1 provides a fee for applications for external review of an ACAT reviewable decision under the MAI Act. This fee has been determined based on the average fee paid in relation to civil disputes lodged with ACAT by natural persons (\$270).
2. New fee item 1002.2 and an amendment to current fee item 1008 (Hearing fees) makes clear that no application or hearing fees are charged for death benefit payment applications. The MAI Act requires an insurer to make an application to ACAT for a payment and distribution order after accepting liability for a death benefit application.
3. New fee item 1002.3 introduces a single fee to lodge an application for review of a Significant Occupational Impact report. A Significant Occupational Impact report is a written report, by an independent medical examiner or independent health assessor of an injured person's injury that states whether the person's injury has a significant occupational impact on the injured person's ability to undertake employment and complies with the Significant Occupational Impact assessment guidelines. This fee has also been set based on the average fee paid in relation to civil disputes lodged with ACAT by a natural person.
4. New fee item 1002.4 introduces a single fee to lodge an application to determine a future treatment payment under Chapter 4 of the MAI Act. An application may be lodged by either an insurer or an injured person in circumstances where an agreement to a payment amount cannot be reached by the parties.