

Australian Capital Territory

# Court Procedures (Fees) Determination 2022 (No 2)

Disallowable instrument DI2022–105

made under the

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

## EXPLANATORY STATEMENT

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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;
- deferring by a registrar of a court or the ACAT, liability to pay determined fees, completely or partly, in particular circumstances.

The new determination sets the fees that will apply beginning on 1 July 2022 and repeals the *Court Procedures (Fees) Determination 2022 DI2022-1*. It provides for fee increases in line with annual adjustments to the Wages Price Index (WPI) of 3.25%, rounded down to the nearest dollar for most fees, with the exception of fees that have been consecutively rounded down in previous years by more than \$1.00 which have been rounded up to the nearest dollar. This approach aligns with the 2021 Treasury Guidelines for Fees and Charges.

Explanatory notes in the determination list the fees previously determined to enable comparison.

The determination includes fees in item 1209.3 and 1209.4 for publication of notice of intention to apply for a grant of probate, letters of administration (with or without a will), reseal of a foreign grant, and an amended or republished notice for this purpose. These two fees give effect to a change in the Court Procedure Rules 2022 made by the

Rule-Making Committee requiring all notices of intention to apply for a grant of probate, letters of administration and reseal of a foreign grant be published on the ACT Supreme Court website. This replaces the previous requirement that probate notices be published in a daily newspaper generally circulating in the ACT. An online form is available for applicants and the notices can be easily searched on the Supreme Court website. As these fees commenced on 1 March 2022 no indexation has been applied.

### **Updates to the instrument**

The fee item 1014 has been amended to remove the wording *by an officer of the Tribunal* to allow for a nominal copying charge regardless of who does the copying.

The fee item 1208 has been amended in the explanatory notes to provide additional explanation about the purpose of this fee.

The fee items 1104 and 1202 have been amended to change when hearing fees will be refunded. The amendments incentivise early settlement to increase the likelihood of vacated dates being utilised. The amendments to 1104 encourage early settlement of proceedings regardless of how settlement is achieved and remove reference to mediation and dispute resolution which didn't have a clear definition. The amendments to 1202 incentivise resolution at court-ordered mediation, as well as early resolution of matters more broadly. Both amendments provide for greater notification time.

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