

Land Titles (Fees) Determination 2019 (No 2)

Disallowable instrument DI2019-156

made under the

Land Titles Act 1925, s 139 (Determination of fees, charges and other amounts)

EXPLANATORY STATEMENT

Section 139 of the *Land Titles Act 1925* (the Act) provides that the Minister may determine fees under the Act (and certain other legislation) that relate to the Registrar-General exercising a function in connection with the register of land.

This instrument revokes the previous determination of fees under section 139 of the Act and sets fees that will apply from 1 July 2019. The instrument provides that those fees are payable to the Territory by the person requesting the particular service.

Fees (apart from Items 130, 131, 132 and 132.1) in the 2019-20 financial year have been increased from fees in the previous financial year by 3.5 per cent on top of the Wage Price Index (WPI) forecast of 2.5 per cent. The additional 3.5 per cent increase is in order to support cost recovery for reforms under the Land Titles Modernisation Program, which will make buying a property simpler and more efficient. Calculations are rounded down to the nearest dollar, with the exception of fees that have remained static for over three years, in which case calculations are rounded up to the nearest dollar.

Fees for Items 130, 131, 132 and 132.1 in the 2019-20 financial year have been increased by the WPI forecast of 2.5 per cent. Calculations are rounded down to the nearest dollar. This gives effect to the Government's policy decision to limit growth in government fees and charges for households to no more than the Wage Price Index in 2019-20 as was announced in the 2019-20 ACT Budget. This approach also aligns with the 2018 Treasury Guidelines for Fees and Charges.

Column 2 of the Schedule includes information about the fee in the 2018-19 financial year to enable a comparison of previous fees with those set by this instrument.

Explanatory notes on certain items in the instrument and the Schedule involving particular changes from the previous instrument follow.

Item 126.1

Item 126.1 is a new line item providing for the fee payable for an application to register a notice of death by a surviving proprietor under section 55 of the Act. This fee is currently charged at \$145. It is currently charged under Item 161 (section 139, application to register any document affecting land, or any other document, whether or not expressly provided for in any Act). It is now included as a separate line item for clarity. The fee is set for the 2019-20 financial year at \$153 in line with the increase to other items in the Schedule generally.

Item 132

Item 132 includes copyright fees payable to Copyright Agency Limited for plan searches. In 2008, following litigation between The Copyright Agency (formerly Copyright Agency Limited) and the NSW Government about Government use of survey plans, the High Court of Australia ruled that Governments have to remunerate rights holders (Surveyors) for the use of their plans. The Copyright Agency is the declared collecting society for owners of copyright in survey plans in respect of government copies under section 183A of the *Copyright Act 1968* (Cth).

Commencing 1 July 2019, the Territory must pay to Copyright Agency the amount of \$1.50 per supply (including electronic production and communication) of a Plan under this item.

Item 132.1

Item 132.1 provides a fee for applications under section 67 of the Act for a copy of information contained in the register for all searches other than plan searches. It has been separated out as a separate line item because the fee for Item 132 (applications under section 67 of the Act for a copy of information contained in the register – plan searches) is being increased by an additional \$1.50 due to the High Court decision concerning copyright for the use of survey plans. Previously, all applications under section 67 of the Act were subject to the same fee. The new line item 132.1 sets the fee for applications for a copy of information contained in the register for all searches other than plan searches at \$23, in line with the increase to other items in the Schedule generally.

Item 133.1

Item 133.1 provides a fee for an application to register a memorandum of transfer by a mortgagee or encumbrancee under section 95 of the Act. This is a new line item. This fee is currently charged at \$386 and is charged under item 133 (section 73, application to register a memorandum of transfer). This is because applications under section 95 of the Act are essentially a subset of applications under section 73 of the Act. Section 95 applications are now included as a separate line item at item 133.1 for clarity. The fee is set for the 2019-20 financial year at \$409, in line with the increase to other items in the Schedule generally, including item 133.