

# Court Procedures (Fees) Determination 2019

## Disallowable instrument DI 2019-164

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 (the 2019 determination) sets the fees that will apply from 1 July 2019, and repeals the *Court Procedures (Fees) Determination 2018* (the 2018 determination). As well as providing for fee increases in line with annual adjustments to the Wages Price Index (WPI) of 2.5%, rounded down to the nearest dollar or fifty cent for most fees. 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. Explanatory notes in the determination list the fees previously determined to enable comparison.

The determination does not impose any new fees.

## Updates to the instrument

The determination removes transcript fees that are no longer necessary and have not been invoked for a number of years. Parties obtain transcript and audio recording of a proceeding directly from the transcript provider, EPIQ, upon a payment of fee set by EPIQ. The transcript fees removed were:

1. PART B: Certificates, copies, inspections and transcripts
  - a. Item 1012 removing the minimum fee per transcript when the total order does not exceed the minimum fee.
  - b. Item 1013 provision of a transcript of proceedings where the request for the transcript requires the preparation of the document was completely removed and replaced with BLANK and an explanatory statement stating ‘this fee is removed from 1 July 2019, as this service is provided by an external transcript provider.
2. PART E: Registry Fees: Magistrates Court, Supreme Court and Court of Appeal
  - a. Item 1302 provision of a transcript of proceedings in the Magistrates Court or the Supreme Court where the request for the transcript requires the preparation of the document was completely removed and replaced with BLANK and an explanatory statement stating ‘this fee is removed from 1 July 2019, as this service is provided by an external transcript provider.
  - b. Item 1305 removing the minimum fee per transcript when the total order does not exceed the minimum fee.

The ACT Courts and Tribunal will continue to provide a free transcript to a party who:

1. in the view of the Registrar of the relevant court or Tribunal will suffer financial hardship if required to pay for the transcript;
2. is the holder of a current Commonwealth issued:
  - a. Health Care Card;
  - b. Low Income Health Care Card; or
  - c. Pensioner Concession Card
3. is represented by the Aboriginal Legal Service, Canberra Community Law Limited (including Street Law) and Women’s Legal Centre (ACT and Region) Incorporated.

The ACT Courts and Tribunal will also continue to provide free transcripts for ACT Legal Aid where:

1. the transcript relates to a daily transcript of a Supreme Court trial of a person with a grant of legal assistance from Legal Aid;
2. the transcript is for a trial or sentence where there is an appeal to the Supreme Court or Court of Appeal against conviction or sentence in relation to a person with a grant of legal assistance from Legal Aid; and
3. the transcript is of a criminal proceeding against a person, or civil proceeding involving a person, with a grant of legal assistance from Legal Aid ACT, where that transcript has been ordered by the presiding judge or magistrate.

The determination updates Item 1316 for opening the offices of the court to include other closed day to 1316 (a) and 1316 (i). The previous determination provided for opening the offices of a court when the court is not open, such as on public holidays and after 4:30pm on weekdays. A minor update has been made to recognise that this fee must be paid on days when the court is not open, which are not public holidays, such as public service shut down days.

The determination updates Item 1000(ii) by removing the words where no amount is in dispute. The current fee under item 1000 applies to where the amount in dispute is more than \$3,000 but no more than \$15,000, or for a determination under the Common Boundaries Act 1981, or for proceedings under the Unit Titles Act 2001, Unit Titles (Management) Act 2011; or Retirement Villages Act 2012 where no amount is in dispute. Sometimes there are applications under these Acts where there is an amount of money in dispute. The current fees determination doesn't clearly state the fees applicable in these cases. The words "where no amount is in dispute" have been removed to ensure clarity around the applicable fee and the fees will be consistent with other applications under these Acts as the workload doesn't vary due to the amount of money in dispute.

The determination updates the wording in items 1202 and 1104 regarding when court hearing fees are paid. The previous determination required hearing fees to be paid either on filing of the listing questionnaire or if a questionnaire was not required in set timeframes. This meant that the length of the hearing was determined solely by the plaintiff before any listing hearing. The wording now indicates that hearing fees are paid 6 weeks before the hearing date unless otherwise directed by the court.

Item 1207 has had an increase lower than the standard WPI rate of 2.5 per cent to align the increase with prior years indexation amounts.

The instrument repeals the *Court Procedures (Fees) Determination 2018* DI 2018-209.