

Court Procedures (Fees) Determination 2020 (No 2)

Disallowable instrument DI2020–154

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;
- 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 from 1 August 2020 and repeals the *Court Procedures (Fees) Determination 2020 (No 1) DI2020-13*. It provides for fee increases in line with annual adjustments to the Wages Price Index (WPI) of 2.0%, rounded down to the nearest dollar or fifty cents 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 forecast Wage Price Index in 2020-21. 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.

Updates to the instrument

The determination includes a new, lower, filing fee for fair work small claims made in the ACT Magistrates Court. These fees will commence on the commencement of the *Courts (Fair Work and Work Safety) Legislation Amendment Act 2019, section 13*.

The *Fair Work Act 2009* (Cwlth) (the FW Act) confers jurisdiction on the Magistrates Court to deal with applications relating to some of the civil remedy provisions under the Act, including (for example) underpayment claims and contraventions of the National Employment Standards, modern awards or enterprise agreements.

Fair work small claims are claims that relate to a civil remedy provision that may be heard by the Magistrates Court and may be dealt with under the small claims procedure as mentioned by section 548 of the FW Act. The new fee will apply only to applicable claims where the party filing the claim has indicated that they want the small claims procedure to apply to their matter.

The filing fee for fair work small claims has been set at \$159.50 for a natural person and \$319 for a corporation. The new fee forms part of a suite of initiatives designed to make the Magistrates Court more accessible for people seeking to enforce their rights to wages and entitlements under the FW Act.

The instrument repeals the *Court Procedures (Fees) Determination 2020* DI 2020-13.