

Australian Capital Territory

Emergencies (Fees) Determination 2022

Disallowable instrument DI2022–104

made under the

Emergencies Act 2004, section 201 (Determination of Fees)

EXPLANATORY STATEMENT

Section 201 of the *Emergencies Act 2004* allows the Minister to determine fees for the purposes of that Act.

This determination sets the relevant fees for services provided by an emergency service, including the ACT Ambulance Service and the ACT Fire and Rescue Service.

The new determination sets the fees that will apply beginning on 1 July 2022 and repeals the *Emergencies (Fees) Determination 2021* DI 2021-113. 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 in which case have been rounded up to the nearest dollar. This approach also 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 does not impose new fees.

The determination does not remove any former fees.

This determination is a disallowable instrument and must be presented to the Legislative Assembly within 6 sitting days after its notification day pursuant to section 64 of the *Legislation Act 2001*.

Updates to the instrument

Clause 5, Fee exemptions, had three changes:

1. wording updates to part (b) to remove the words “*valid relevant*”; “*which includes an entitlement to free ambulance services*”; and include “*issued*” to provide clarity to all who are currently entitled;
2. wording updates to part (f) to remove “*following*” and add the words “*at the scene of*” for clarity; and

3. addition of fee exemption part (j) to include “Ambulance NSW” in the list of emergency services that can request an assessment of an individual.

Regulatory Impact Statement (RIS)

A RIS is not required for this fee determination due to section 36(1)(k) of the *Legislation Act 2001*, which states that a RIS need not be prepared for an amendment of a fee consistent with announced government policy. The emergency services fees continued by this instrument are consistent with the Government’s policies for partial or full cost recovery for certain services provided by the ACT’s emergency services.

Fees paid under the fees determination are included as revenue for the ACT Emergency Services Agency and are used to fund the provision of emergency services to the ACT community. The fees are increased annually in line with inflation, based on changes in the Wage Price index, to reflect increases in the cost of delivering these services.

Human Rights

The Standing Committee on Justice and Community Safety (Legislative Scrutiny Role) terms of reference require consideration of human rights impacts, among other matters. In this case, no human rights are impacted.

Outline of provisions

Clause 1 sets out the formal title of the determination.

Clause 2 provides for the determination to commence on 1 July 2022.

Clause 3 explains that Column 2, Schedule 1 sets out the services for which fees are determined, while the amount payable for each service is listed in Column 3 of that Schedule. Column 1 contains the item numbers for each of the fees. It should be noted that the numbering for these items does not start at 1, contains gaps, and is not always consecutive. These numbering anomalies reflect the item numbers that were allocated in earlier years’ determinations. These item numbers are programmed into the billing system that issues invoices to clients. Amending that system takes some time, and it was not possible to implement new item numbers in time for the proposed commencement of the new fee determination. Over time, it is intended to update the numbering system to a more logical and sequential system and make corresponding changes to the billing system.

Clause 4 explains how the determined fees should be paid, including who is liable to pay and who receives the payment.

Clause 4 (1) explains that fees for the fire services in items 255 to 274 in schedule 1 are payable by the person who requested those services. These items do not impose fees for attendance at fire-related emergencies.

Clause 4 (2) provides that certain fees relating to automatic fire alarms system (set out in items 279 to 287 of schedule 1) are payable by the automatic fire alarm system provider.

Clause 4 (3) provides that the fees in items 289 and 291, which relate to unintended alarm fees, are payable by the occupier of the building where the unintended fire alarm happened.

Clause 4 (4) provides that the fees in items 294 to 298, which relate to services provided by ACT Ambulance Service (including emergency medical treatment and non-emergency medical treatment and transfer) and the aeromedical retrieval service, are payable by the person receiving the service. It should be noted that section 201 (2) of the *Emergencies Act 2004* provides that a fee determined for a service provided to a person by an emergency service is payable by the person even if the person did not ask for, or consent to, the provision of the service.

Clause 4 (5) provides that certain fire service fees are payable only in a lump sum, unless otherwise agreed by the Chief Officer, ACT Fire and Rescue Service.

Clause 5 sets out the fee exemptions that apply to certain emergency and non-emergency treatment and patient transfer fees.

In summary, exemptions apply to: ACT school students who become ill or injured at school or on school excursions; holders of certain concessions cards that include an entitlement to ambulance services; persons arrested or in police custody; entitled persons under the *Children and Young People Act 2008*; ambulance services provides in relation to people performing good Samaritan acts, or people involved in motor vehicle crashes; ambulance services provided to people who die or could not be resuscitated in the care of ACT Ambulance Service officers; victims of family or domestic violence and victims of sexual assault; and individuals who are assessed by ambulance personnel at the request of other emergency services if ambulance transport does not occur.

Clause 6 sets out the situations in which certain fees may be waived.

Clause 6 (1) provides for the waiver of fees for items 289 and 291 (unintended fire alarm fees) where the Chief Officer ACT Fire and Rescue Service could not have been prevented by reasonable maintenance or was otherwise outside the reasonable control of the owner of the building.

Clause 6 (2) provides for the waiver of emergency ambulance fees, non-emergency patient transport fees and aero-medical retrieval fees where the Chief Officer ACT Ambulance Service is satisfied that exceptional personal or other circumstances apply to the person to whom the services were provided. These circumstances are set out in schedule 2.

Clause 7 contains definitions of key terms used in the fee determination. These include: alarm system; exceptional personal or other circumstances; fire; relevant concession card; road, road related area and motor vehicle; unintended alarm.

Clause 8 revokes the 2021 fee determination (DI2021-113).

Schedule 1 sets out the fees that are payable for specified services. As previously explained, the numbering used in column 1 is an historical artefact that has been included in this schedule because it is currently used by the billing system. It is proposed to amend the numbering system in the future and update the billing system accordingly.

Schedule 2 explains when the Chief Officer ACT Ambulance Service may be satisfied that exceptional personal or other circumstances exist for the purpose of waiving a fee that

would otherwise be payable under the fee determination. These circumstances have been drafted on the basis of current ACT Ambulance Service waiver policies. They are included in the fee determination to make them more accessible to ACT Ambulance Service clients and enhance transparency in decision making in relation to waiver applications.