



Shane Rattenbury MLA
Attorney-General
Minister for Consumer Affairs
Minister for Water, Energy and Emissions Reduction
Minister for Gaming

Member for Kurrajong

Mr Peter Cain MLA
Chair
Standing Committee on Justice and Community Safety
(Legislative Scrutiny Role)
ACT Legislative Assembly
scrutiny@parliament.act.gov.au

Dear Mr Cain

Peter

I write in response to the Standing Committee on Justice and Community Safety comments in Scrutiny Report 14 of 29 March 2022 on the Court Procedures (Fees) Determination 2022. The comments seek an amended explanatory statement for the following reasons:

The Committee prefers that instruments that determine fees indicate (either in the instrument itself or in the Explanatory Statement) the amount of the “old” fee, the amount of the new fee, any percentage increase and also the reason for any increase (eg an adjustment based on the CPI). Given the importance of fees to the administration of the ACT, it assists the Committee (and the Legislative Assembly) if fees determinations expressly identify the magnitude of any fees increases.

The Committee also prefers that fees determinations expressly address the mandatory requirements of subsection 56(5) of the Legislation Act 2001, which provides that a fees determination must provide:

- *by whom the fee is payable; and*
- *to whom the fee is to be paid.*

For this instrument, the explanatory statement contains only the following, in relation to the fees determined:

The new determination updates the fees that applied from 1 July 2021 by including new 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.

ACT Legislative Assembly London Circuit, GPO Box 1020, Canberra ACT 2601

+61 2 6205 0005

rattenbury@act.gov.au

@ShaneRattenbury

shanerattenburymla

shanerattenbury

There is no explanation in relation to the matters that the Committee usually expects to be addressed, in relation to a fees determination.

The fee determination remakes the fees for the ACT Courts and Tribunal to enable inclusion of two new fees in items 1209.3 and 1209.4. Both the explanatory note in the instrument and explanatory statement note that these are new fees. As such, there is no amount for any old fees and no information to be provided on any percentage increase or reason for any increase.

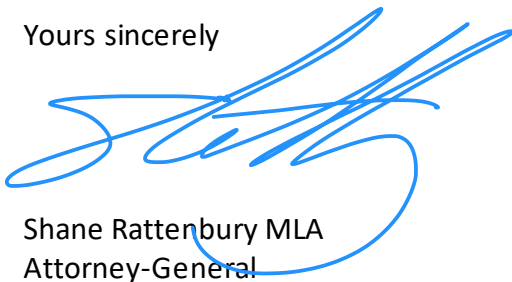
These two new fees give effect to a change in the Court Procedure Rules 2022 made by the Rule-Making Committee requiring all notices of intention to apply for a grant of probate, letters of administration and reseal of a foreign grant be published on the ACT Supreme Court website. This replaces the previous 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.

The fee determination does not make any changes to the previous fees for the ACT Courts and Tribunal and all of those fees include explanatory notes in the instrument itself setting out the fee in the last financial year. The previous explanatory statement also sets out the last percentage increase which was in line with the Wages Price Index.

The fee determination states in item 4 who is required to pay the fees and who they are payable to. Item 4 states that *the fee payable for a matter stated in an item in the schedule, column 2 is payable to the Territory by the person requesting the service.* Please find an Amended Explanatory Statement attached which now includes further information outlined in this letter.

I thank the Committee for its consideration of this instrument and I will table the attached Amended Explanatory Statement in the Assembly.

Yours sincerely



Shane Rattenbury MLA
Attorney-General

3/5/22