

## EXPLANATORY STATEMENT

Issued by the authority of the Administrator of the Territory of Christmas Island

*Christmas Island Act 1958*  
*Christmas Island Utilities and Services Ordinance 2016*

### **Christmas Island Utilities and Services (Vehicle Examination Fees) Amendment (2021 Measures No. 1) Determination 2021**

#### *Authority*

Section 6 of the Christmas Island Utilities and Services Ordinance 2016 (the Ordinance) authorises the Administrator of Christmas Island to make provision for the supply and use of utilities and services about, amongst other things, vehicle examinations on Christmas Island. Section 7 of the Ordinance provides that the Administrator may impose a fee for the provision of such utilities and services.

#### *Purpose and Operation*

The Christmas Island Utilities and Services (Vehicle Examination Fees) Amendment (2021 Measures No. 1) Determination 2021 amends the Christmas Island Utilities and Services (Vehicle Examination Fees) Determination 2019 (the Principal Determination).

Vehicle examinations are not specifically mentioned as a “utility or service” in the Ordinance. However the ordinary meaning of “utilities or services” is taken to include vehicle examinations.

Christmas Island is not listed as a regional area for the purposes of fees for vehicle examinations in the Road Traffic (Vehicles) Regulations 2014 (WA)(CI). Fees specified in the regulations for vehicle examinations in non-regional areas apply. The purpose of this Determination is to amend vehicle examination fees that apply for motor vehicle licensing and registration on Christmas Island.

The vehicle examination fees that these fees relate to are actually “examinations” of the sort referred to in Division 8 of Part 2 of the Road Traffic (Vehicles) Regulations 2014 (WA)(CI).

As per current arrangements, the Authorised Inspection Service which conducts vehicle inspections, will not accept or collect vehicle examination fees. Instead customers pay vehicle examination fees directly to the Indian Ocean Territories Administration (Motor Vehicle Registry) Section within the Department of Infrastructure, Transport, Regional Development and Communications.

#### *Impact and effect*

The Determination does not create any additional regulatory impacts for vehicle owners.

The Determination amends vehicle examination fees currently paid by customers for vehicle examinations on Christmas Island.

The Determination brings the vehicle examination fees into alignment with the Western Australian (WA) Department of Transport’s Kimberley region. Previous fees were based on the previous supplier of the service, the Shire of Christmas Islands’ schedule of fees which were not consistent with WA vehicle examination fees. This has resulted in the heavy vehicle inspection initial fee reducing by \$2.50, and a fee increase ranging from \$3.75 to \$56.50 for other fees.

The fees for vehicle examination services on Christmas Island displace any fees that otherwise apply under an applied WA law. These fees are not to be indexed, and are to continue to apply until this instrument is amended or repealed.

### *Basis for Determining Charges*

The Australian Government's objective is to align, as far as practical, conditions and standards in the Indian Ocean Territories, which includes Christmas Island, with those in comparable communities in the rest of Australia. It aims for full cost recovery across the range of operations, however it is acknowledged that for some locations this may not be achievable. Christmas Island is a place where recouped fees are currently less than the cost of providing those services.

It is Australian Government policy that, wherever possible, there should be parity in the cost of the provision of state-type services on Christmas Island with those applied in similar remote Australian mainland locations. The Australian Government contracts the WA Department of Transport to deliver transport services to Christmas Island. This relationship is managed through a Service Delivery Arrangement (SDA) between the WA Department of Transport and the Australian Government. As part of the SDA, the WA Department of Transport provides advice in relation to the cost of providing vehicle examination fees.

Vehicle examination fees for Christmas Island are derived from fees set by the WA Department of Transport for the Kimberly region of WA (as defined by the WA Department of Transport). The Kimberly region was selected as the most comparable region with Christmas Island given the Australian Government Commonwealth Grants Commission report on the Indian Ocean Territories 2007, which lists a number of towns in the Kimberley as 'comparable communities'.

The WA Department of Transport vehicle inspection fee schedules are reviewed annually. Fees are based on an average market rate for mechanical services (hourly rate) multiplied by the time taken to perform an inspection, rates and times were obtained via a survey of mechanic workshops across WA. The amount is then increased by the relevant Regional Price Index (RPI) and an administration fee added. The RPI, developed by the WA Department of Primary Industries and Regional Development, is considered the most appropriate measure available for calculating the cost differentials between Perth and the regions.

### *Regulatory Impact Statement*

The Office of Best Practice Regulation (OBPR) was consulted and considers the proposal is likely to have no more than minor regulatory impacts on business, community organisations or individuals. The OBPR advised that a Regulatory Impact Statement was not required (OBPR ID 25604).

### *Conditions to be satisfied*

The Ordinance does not specify conditions that need to be satisfied before power to make the Determination may be exercised.

### *Consultation*

There was no consultation with residents of Christmas Island because the Determination is administrative in nature and contributes to the ongoing cost of operating this service.

A community bulletin was issued to the community by the Administrator of the Territory of Christmas Island on 24 June 2020 advising that there was to be no increases to vehicle examination fees in the 2020-21 financial year due to the ongoing financial impacts of COVID-19, however that Christmas Island fees would be aligned with the Kimberley region of WA in 2021-22.

Given fee alignment with the Kimberley region of WA, the proposed fee structure is underpinned by the expertise of the WA Department of Transport and the independent scrutiny of the WA Government Executive Council.

The WA Department of Transport update fees for WA regions, including the Kimberley region through periodic amendments to the Road Traffic (Vehicles) Regulations 2014 (WA).

Following registration of the Ordinance on the Federal Register of Legislation, the Christmas Island community will be informed of the charges for vehicle examinations through a community bulletin issued by the Department of Infrastructure, Transport, Regional Development and Communications.

### **Detailed Description of this Determination**

#### **Section 1 – Name**

This section provides that the name of this Determination is the Christmas Island Utilities and Services (Vehicle Examination Fees) Amendment (2021 Measures No. 1) Determination 2021

#### **Section 2 – Commencement**

This section provides that this Determination is to commence on 1 July 2021.

#### **Section 3 – Authority**

This section provides that this Determination is made under paragraph 7(2)(a) of the *Christmas Island Utilities and Services Ordinance 2016*.

#### **Section 4 – Schedules**

This section indicates that instruments specified in a Schedule to this instrument are amended or repealed as set out in the applicable items in the Schedule concerned.

#### **Schedule 1 – Amendments**

##### **Christmas Island Utilities and Services (Vehicle Examination Fees) Amendment (2021 Measures No. 1) Determination 2021**

This Schedule provides the following amendments to the Principal Determination.

Schedule 1(1) repeals table in Subsection 5(1) (table items 1 to 4) and replaces with a new table which has the effect of amending vehicle examination fees payable in Christmas Island.

Item 1	Heavy vehicle	(a) first examination—reduces from \$223 to \$220.50; (b) subsequent examination—increases from \$149 to \$152.75
Item 2	Trailer (without brakes), trailer derivative (without brakes), motor cycle, moped or motor carrier	(a) first examination—increases from \$149 to \$151.60; (b) subsequent examination—increases from \$74 to \$116
Item 3	Vehicle not covered by table item 1 or 2	(a) first examination—increases from \$138 to \$182.25; (b) subsequent examination—increases from \$95 to \$116
Item 4	Any vehicle covered by table item 1, 2 or 3	verifying the vehicle's identity or specifications— increases from \$95 to \$128.75

Schedule 1(2) omits the wording in Subsection 5(2) 'the date this instrument commences' and substitutes with '1 July 2021'.

## **Statement of Compatibility with Human Rights**

*Prepared in Accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011*

This Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

### **Overview of the Determination**

Christmas Island is not listed as a regional area for the purposes of fees for vehicle examinations in the Road Traffic (Vehicles) Regulations 2014 (WA)(CI). The purpose of the Christmas Island Utilities and Services (Vehicle Examination Fees) Determination 2021 is to establish vehicle examination fees that apply for motor vehicle licensing and registration on Christmas Island.

The Australian Government aims for full cost recovery across its range of operations. However, it is acknowledged that for some locations this may not be achievable. Christmas Island is an area where recouped fees are currently less than the cost of providing those services.

It is Australian Government policy that, wherever possible, there should be parity in the cost of provision of state-type services on Christmas Island with those applied in a similar remote Australian mainland location.

The Department of Infrastructure, Transport, Regional Development and Communications will align the vehicle examination fees in Christmas Island with the Kimberley region of WA, which is often referred to as a comparable location. The Commonwealth Grants Commission report on the Indian Ocean Territories 2007, lists a number of towns in the Kimberley region as 'comparable communities'.

### **Human rights implications**

The Determination does not engage the right to an adequate standard of living in Article 11 of the International Covenant on Economic, Social and Cultural Rights because it does not impact on the right requiring Australia to ensure the availability, adequacy and accessibility of food, water and housing for all people in Australia.

Provisions in the regulations to exempt a person with disability or to exempt or refund in exceptional circumstance remain.

### **Conclusion**

The Determination is compatible with human rights because it has no impact on human rights.

**Natasha Griggs, Administrator of Christmas Island**