

EXPLANATORY STATEMENT

Issued by the authority of the Administrator of the Cocos (Keeling) Islands

Cocos (Keeling) Islands Act 1955
Cocos (Keeling) Islands Utilities and Services Ordinance 2016

Cocos (Keeling) Islands Utilities and Services (Vehicle Examination Fees) Determination 2019

Authority

This instrument is made under paragraph 7(2)(a) of the Cocos (Keeling) Islands Utilities and Services Ordinance 2016.

Purpose and Operation

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

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

Impact and effect

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

The Determination adopts similar motor vehicle inspection fees currently paid by customers for examinations on Christmas Island.

The fees for vehicle examination services on Cocos (Keeling) Islands displace any fees that otherwise apply under an applied Western Australian 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 These fees are not to be indexed, and are to continue to apply until this instrument is amended or repealed.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 Government’s objective is to align, as far as practical, conditions and standards in the Indian Ocean Territories, which includes the Cocos (Keeling) Islands, 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. The Cocos (Keeling) Islands is a place where recouped fees are currently less than the cost of supply.

It is Australian Government policy that, wherever possible, there should be parity in the cost of provision of state-type services on the Cocos (Keeling) Islands with those applied in a similar remote Australian mainland location. The fees are similar to examination fees that apply in the Kimberley region of Western Australia (WA). The Australian Government Commonwealth Grants Commission report on the Indian Ocean Territories 2007, lists a number of towns in the Kimberley as ‘comparable communities’.

Regulatory Impact Statement

The Office of Best Practice Regulation considers the proposal is likely to have no more than minor regulatory impacts on business, community organisations or individuals. In addition, it understands that the matter will not be considered by Cabinet, and so the preparation of a Regulation Impact Statement is 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

The Department of Infrastructure Transport, Cities and Regional Development consulted with the Administrator of the Territory of the Cocos (Keeling) Islands, the WA Department of Transport, the Indian Ocean Territories Administration (Motor Vehicle Registry), and the Office of Best Practice Regulation.

Further consultation was not considered necessary because this Determination amends regulated fees.

Detailed Description of this Determination

Section 1 – Name

This section provides that the name of this Determination is the Cocos (Keeling) Islands Utilities and Services (Vehicle Examination Fees) Determination 2019.

Section 2 – Commencement

This section provides that this Determination is to commence on 8 November 2019.

Section 3 – Authority

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

Section 4 – Definitions

This section defines the types of vehicle that can be inspected:

heavy vehicle has the same meaning as in section 12 of the Road Traffic (Vehicles) Regulations 2014 (WA). For example:

- (a) a vehicle with an MRC exceeding 4 500 kg that is an agricultural vehicle, a car or bus, a goods vehicle, a motor home, a prime mover or a special purpose vehicle; or
- (b) a heavy trailer

moped has the same meaning as in section 3 of the Road Traffic (Vehicles) Regulations 2014 (WA). For example a motor cycle or motor tricycle with an engine cylinder capacity of not over 50 mL and a maximum speed of not over 50 km/h

motor carrier has the same meaning as in section 86 of the Road Traffic (Vehicles) Regulations 2014 (WA). For example:

- (a) motor vehicle that —
 - (i) is designed to travel on 3 wheels; and
 - (ii) has an unladen mass of not more than 1 016 kg; and
 - (iii) is designed with a significant portion of its steering mechanism and other controls similar to those of a motor cycle;
- or
- (b) motorised wheelchair other than a motorised wheelchair that is designed so as not to be capable of a speed exceeding 10 km/h;

motor cycle has the same meaning as in section 3 of the Road Traffic (Vehicles)

Regulations 2014 (WA). For example a motor vehicle, other than a motorised wheelchair or a goods vehicle, that is not equipped with a permanent cab and cab roof and that —

- (a) is designed to travel on 2 wheels, or, with a sidecar attached, 3 wheels; or
- (b) has 3 wheels arranged so that the axis of rotation of 2 wheels lies on the same straight line and each of those 2 wheels is equidistant from the third.

trailer has the same meaning as in section 3 of the Road Traffic (Vehicles) Regulations 2014 (WA).

For example a vehicle without its own motive power that is built to be towed, or is towed, by a motor vehicle, but does not include a motor vehicle that is being towed.

trailer derivative has the same meaning as in section 38 of the Road Traffic (Vehicles)

Regulations 2014 (WA). For example a caravan (trailer type) or plant trailer, in which the body form and the greater part of the mechanical equipment are the same as in a trailer or semi-trailer.

Section 5 – Fees

The table in this section lists the fees for the supply of vehicle examination services that apply from and including the date this instrument commences. Provisions in the regulations to exempt a person with disability or to exempt or refund in exceptional circumstance remain.

Statement of Compatibility with Human Rights

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

Cocos (Keeling) Islands Utilities and Services (Vehicle Examination Fees) Determination 2019

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

The Cocos (Keeling) Islands is not listed as a regional area for the purposes of fees for vehicle examinations in the Road Traffic (Vehicles) Regulations 2014 (WA)(CKI). Fees specified in the regulations for vehicle examinations in non-regional areas apply. The purpose of this Determination is to establish vehicle examination fees that apply for motor vehicle licensing and registration on Cocos (Keeling) Islands that are consistent with vehicle examination fees 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. The Cocos (Keeling) Islands is an area where recouped fees are currently less than the cost of supply.

It is Australian Government policy that, wherever possible, there should be parity in the cost of provision of state-type services on the Cocos (Keeling) Islands with those applied in a similar remote Australian mainland location. The fees are similar to examination fees that apply in the Kimberley region of Western Australia. The Australian Government Commonwealth Grants Commission report on the Indian Ocean Territories 2007, lists a number of towns in the Kimberley 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 as it does not raise any human rights issues.

Natasha Griggs, Administrator of the Cocos (Keeling) Islands