

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) Amendment (2023 Measures No. 1) Determination 2023

Authority

Section 6 of the *Cocos (Keeling) Islands Utilities and Services Ordinance 2016* (the Ordinance) authorises the Administrator of the Territory of the Cocos (Keeling) Islands to arrange for the supply and use of utilities and services about, amongst other things, vehicle examinations on the Cocos (Keeling) Islands. Vehicle examinations are not specifically mentioned as a “utility or service” in the Ordinance, however the ordinary meaning of “utilities or services” includes vehicle examinations. 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 *Cocos (Keeling) Islands Utilities and Services (Vehicle Examination Fees) Amendment (2023 Measures No. 1) Determination 2023* amends the *Cocos (Keeling) Islands Utilities and Services (Vehicle Examination Fees) Determination 2019* (the Principal Determination).

The purpose of the amendment is to update the vehicle examination fees that apply for motor vehicle licensing and registration on the Cocos (Keeling) Islands.

Under the *Cocos (Keeling) Islands Act 1955*, Western Australian laws apply to the Cocos (Keeling) Islands. However, the Cocos (Keeling) Islands are not listed as a regional area for the purposes of the Western Australian law providing for vehicle examination fees, being the *Road Traffic (Vehicles) Regulations 2014* (WA)(CKI) (WA Regulations). This means that under the WA Regulations, fees for vehicle inspection in non-regional areas would apply. These are not appropriate for the Cocos (Keeling) Islands.

The Principal Determination and the amendment in this instrument ensure that the fees for vehicle examination are aligned with those charged in the Kimberley Region of Western Australia. This region is the most comparable region to the Cocos (Keeling) Islands, warranting the imposition of the same fees.

The Department of Infrastructure, Transport, Regional Development, Communications and the Arts has recently established an Authorised Inspection Service on the Cocos (Keeling) Islands. The Authorised Inspection Service conducts vehicle examinations. Vehicle examination fees are payable to the Shire of Cocos (Keeling) Islands (Motor Vehicle Registry). The Shire of Cocos (Keeling) Islands is engaged by the Western Australian (WA) Department of Transport to provide motor vehicle registry services on behalf of the Australian Government in the Cocos (Keeling) Islands.

Impact and effect

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

The Determination amends vehicle examination fees currently set for the Cocos (Keeling) Islands.

The Determination brings the vehicle examination fees into alignment with the WA Department of Transport's Kimberley region as set out in the WA Regulations in force on 1 July 2023.

The fees for vehicle examination services on Cocos (Keeling) Islands 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 for Service

The Australian 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 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 the Cocos (Keeling) Islands with those applied in similar remote Australian mainland locations. The Australian Government contracts the WA Department of Transport to deliver transport services to the Cocos (Keeling) Islands. 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 the Cocos (Keeling) Islands 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 the Cocos (Keeling) Islands given the 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. Vehicle inspection fees for the Kimberley region are increasing in 2023 due to a 3.9% increase of the mechanical market rate for vehicle examinations and inspection time increases to meet Department of Transport new requirements.

Regulatory Impact Statement

The Office of Impact Analysis (OIA) was consulted and considers the proposal is likely to have no more than minor regulatory impacts on business, community organisations or individuals. The OIA advised that an Impact Analysis (IA) was not required (ID OBPR22-02355).

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 Cocos (Keeling) Islands 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 Cocos (Keeling) Islands on 24 June 2020 advising that the Indian Ocean Territories would adopt a new fee structure based on vehicle examination fees in the Kimberley region of WA, commencing 1 July 2021. Vehicle examination fees were updated on 1 July 2022, in alignment with fees in the Kimberley region of WA however the community of Cocos (Keeling) Islands were advised on 24 June 2022 that examination fees will not be charged on Cocos (Keeling) Islands until an Authorised Inspection Station (AIS) service provider had been officially appointed. The community of Cocos (Keeling) Islands were advised on 4 April 2023 that an Authorised Vehicle Examiner would be appointed with two AIS workshops, and examination fees would commence being charged on Cocos (Keeling) Islands from 1 May 2023.

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 WA Regulations.

Following registration of the Ordinance on the Federal Register of Legislation, the Cocos (Keeling) Islands community will be informed of the charges for vehicle examination fees through a community bulletin issued by the Department of Infrastructure, Transport, Regional Development, Communications and the Arts.

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) Amendment (2023 Measures No. 1) Determination 2023*.

Section 2 – Commencement

This section provides that this Determination is to commence on 1 July 2023.

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 – Schedules

This section provides 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

Cocos (Keeling) Islands Utilities and Services (Vehicle Examination Fees) Amendment (2023 Measures No. 1) Determination 2023

This Schedule provides the following amendments to the Principle 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 the Cocos (Keeling) Islands.

1	Heavy vehicle	(a) first examination—\$262.70; (b) subsequent examination—\$152.55
2	Trailer without brakes, motor cycle, motor carrier	(a) first examination—\$163.05; (b) subsequent examination—\$128.95
3	Vehicle not covered by table item 1 or 2	(a) first examination—\$205.00; (b) subsequent examination—\$134.20
4	Any vehicle covered by table item 1, 2 or 3	verifying the vehicle's identity or specifications—\$144.70

Schedule 1(2) omits the wording in Subsection 5(2) '1 July 2022' and substitutes with '1 July 2023'.

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

Cocos (Keeling) Islands is not listed as a regional area for the purposes of the Western Australian law providing for vehicle examination fees, being the *Road Traffic (Vehicles) Regulations 2014* (WA)(CKI) (WA Regulations). This means that under the WA Regulations, fees for vehicle inspection in non-regional areas would apply. These are not appropriate for Cocos (Keeling) Islands.

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 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 Cocos (Keeling) Islands with those applied in a similar remote Australian mainland location.

In 2021, the Department of Infrastructure, Transport, Regional Development, Communications and the Arts aligned the vehicle examination fees in the Cocos (Keeling) Islands 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 as 'comparable communities'. The Indian Ocean Territories vehicle examination fees have increased subsequently each year in alignment with the Kimberley region's vehicle examination fees.

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.

Farzian Zainal, Administrator of the Cocos (Keeling) Islands