22 March 2021

Ministerial Fees Notices

Following the commencement of the *Legislation (Fees) Act 2019*, the fees and charges setting process has been streamlined with the majority of fees set using disallowable ministerial notices rather than regulations.

## *Legislation (Fees) Act 2019*

Section 5 of the *Legislation (Fees) Act 2019* states the following:

* Subsection 1: A fee notice must be made by notice in the Gazette and must comply with any other requirements set out in the regulations.
* Subsection 3: A fee notice has effect:
* if the fee notice specifies a day on which it is to have effect (not being a day earlier than the day on which the fee notice is published in the Gazette)—from that day
* if the relevant Act authorises a fee notice to have effect from a specified day earlier than the day on which the fee notice is published in the Gazette and the fee notice specifies such a day on which it is to have effect—from that day
* in any other case—from the day on which it is published in the Gazette
* Subsection 4: Sections 10 (other than subsection (1)) and 10A of the *Subordinate Legislation Act 1978* apply in relation to a fee notice (and a reference in those provisions to a regulation will be taken to be a reference to a fee notice).

Pursuant to sub-section 4, the Notice and an accompanying report must be forwarded to the Legislative Review Committee and the Notice must be tabled in both Houses of Parliament.

## Cabinet Approval

Cabinet approval is only required when new fees are being introduced or fees are being increased above the approved indexation rate.

## Fee Notices and Reports to the Legislative Review Committee

These documents are to be drafted by agencies/departments and provided to the relevant Minister’s office in their final form. The notice is required to be signed and dated by the Minister.

See the following attachments:

* [Attachment 1 - ministerial fees notice example.](http://dpc.sa.gov.au/responsibilities/cabinet-and-executive-council/cabinet/what-goes-to-cabinet/fee-notices/Attachment-1-Ministerial-Fees-Notice-Example.pdf)
* [Attachment 2 - ministerial fees notice example.](http://dpc.sa.gov.au/responsibilities/cabinet-and-executive-council/cabinet/what-goes-to-cabinet/fee-notices/Attachment-2-Ministerial-Fees-Notice-Example.pdf)
* [Attachment 3 - report to the Legislative Review Committee - all fee increases apply the approved indexation rate.](http://dpc.sa.gov.au/responsibilities/cabinet-and-executive-council/cabinet/what-goes-to-cabinet/fee-notices/Attachment-3-Legislative-Review-Committee-Report-Template-All-fee-increases-apply-approved-indexation-rate.docx)
* [Attachment 4 - report to the Legislative Review Committee -some fees increased above the approved indexation rate.](http://dpc.sa.gov.au/responsibilities/cabinet-and-executive-council/cabinet/what-goes-to-cabinet/fee-notices/Attachment-4-Legislative-Review-Committee-Report-Template-Some-fees-increased-above-approved-indexation-rate.docx)
* [Attachment 5 - report to the Legislative Review Committee - all fees increased above approved indexation rate.](http://dpc.sa.gov.au/responsibilities/cabinet-and-executive-council/cabinet/what-goes-to-cabinet/fee-notices/Attachment-5-Legislative-Review-Committee-Report-Template-All-fees-increased-above-approved-indexation-rate.docx)

## Gazettal

It is the responsibility of each Ministerial office to ensure that the Ministerial Notice is published in the Government Gazette.

## Legislative Review Committee and Tabling

It is the responsibility of each Ministerial office to ensure the following occurs immediately after the Notice has been published:

* Email the Executive Council staff advising when the Notice was published in the Government Gazette and requesting that the documentation be forwarded to the Legislative Review Committee and the Notice be tabled in both Houses of Parliament.
* Ensure the signed Notice and the report to the Legislative Review Committee are attached to the email sent to the Executive Council staff.
* Upload the Notice into the Tabled Papers Portal. The report is not required to be tabled.

Documents will not be accepted directly from agencies/departments, as per the usual process, these documents must be provided by the responsible Minister’s office.

|  |  |
| --- | --- |
| **For more information:** |  |
| Contact the Executive Council Clerks, Cabinet Coordination, Cabinet Office | [Cabinet Coordination contact list](http://in.dpc.sa.gov.au/docs/Documents/Cabinet-Coordination-Contact-List.pdf) |