

ACT OF GRACE PAYMENTS



FACTSHEET

What is an act of grace payment and who may authorise one?

Section 130 of the Financial Management Act 1996 (FMA) allows the ACT Treasurer to make payments that would not otherwise be authorised by law.

Act of grace payments are discretionary. This means there is no situation which creates an automatic entitlement to an act of grace payment.

When are act of grace payments made?

They may be made by the Treasurer, or a delegate, when it is considered appropriate to do so because of special circumstances.

The act of grace mechanism is generally an avenue of last resort. It is not used where there are other viable avenues available to provide redress.

The Financial Management Act 1996 does not set out specific circumstances where a payment must be approved.

What are special circumstances?

The decision-maker will assess the nature of special circumstances and the appropriateness of making a payment of a relevant amount, including whether the Territory has any moral obligation in relation to the particular matter. 'Special circumstances' and 'relevant amount' are not defined in the FMA and are for the decision-maker to assess and decide on. Individual circumstances are relevant in considering whether the application of a Territory law or policy has produced a moral obligation and/or an inequitable result in a particular case.

In deciding whether special circumstances exist, the decision maker may consider whether any of the following give rise to circumstances that are uncommon, exceptional or extraordinary in some way:

1. the direct role of ACT Government in causing an unintended and inequitable result to a person such that it considers it has a moral responsibility to address the circumstances of the individual;
2. ACT legislation or policy has had an unintended, anomalous, inequitable or otherwise unacceptable impact on the individual or organisation's circumstances, and those circumstances were:
 - a. specific to the individual or organisation;
 - b. outside the parameters of events for which the individual or organisation was responsible or had the capacity to adequately control; or
 - c. consistent with what could be considered to be the broad intention of the relevant legislation, and not merely the intended effect of the legislation; and
 - d. the matter is not covered by legislation or specific policy, but the ACT intends to introduce such legislation or policy, and it is considered desirable in a particular case to apply the benefits of the relevant policy retrospectively.

The decision-maker may consider any other matter that is rationally connected to the circumstances being considered.

Who can request an act of grace payment?

Any individual, company or other organisation can request an act of grace payment.

If your claim relates to an entity outside of ACT Government, the Treasurer, or delegate, may be limited to considering issues arising from the application of ACT legislation or ACT Government policy and administration issues. If a claim does not relate to the ACT Government, then an act of grace payment will be unlikely.

How do I apply?

You can apply for an act of grace payment by sending a letter or an email to the ACT Treasurer setting out the relevant information.

It is important to include, or attach, all relevant evidence in support of the request. This would include information, where relevant, about:

1. a clear explanation of the incident/situation and how it occurred,
2. what actions on the Government's part contributed to the situation,
3. what actions or factors, relating to yourself, to other relevant individuals or organisations, have contributed to the situation in either a positive or negative way,
4. why you suggest the situation warrants being considered a special circumstance,

5. what other avenues have been explored (including legal and financial), and with what outcomes,
6. why you consider a payment would be appropriate, and the value of the payment being sought,
7. evidence, including:
 - a. how has the value of the payment being sought been estimated,
 - b. documentary evidence of the circumstances, for example, correspondence, agreements and other documents establishing the circumstances and any loss (e.g. medical certificates and statements),
 - c. details of court or Tribunal findings, and
 - d. what reviews have been undertaken or may be underway,
8. previous correspondence with Government,
9. yourself (name, date of birth, place of residence) and how you can be readily contacted (via email, phone and post), and
10. other information that is likely to be relevant.

There is no prescribed format for the making of a request for an act of grace payment.

Treasurer's contact details

Title	Phone	Email	Location
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