

Administrative Decisions Tribunal

GUIDELINES FOR THE WAIVER OF FEES

1. Objective

These guidelines are to be used by the registrar when dealing with applications for the waiver of tribunal fees.

2. Principles

The obligation to pay the tribunal's fees is based on the principle that a user of a tribunal should contribute to the cost of the service provided.

The presumption is that all tribunal fees should be paid, although some fees may be waived.

3. Tribunal fees

The *Administrative Decisions Tribunal Regulation 2009* sets fees for proceedings in the Tribunal ('the regulation'). The *Administrative Decisions Tribunal Act 1997* ('the Act') and the regulation sets out who is liable for tribunal fees, when payments are due, and gives the registrar the power to waive fees.

4. Who must pay the fees?

The fees are to be paid by the person requesting the service or requiring the document to be filed.

Administrative Decisions Tribunal Act 1997

5. Exemptions

The Crown is exempt from paying filing and other types of fees.

Administrative Decisions Tribunal Act 1997 – s 145 (2A)

6. When are fees due?

A fee is payable before the service to which the fee relates is provided or at such time and in accordance with such conditions, as the Tribunal may agree with the person paying the fee.

Administrative Decisions Tribunal Regulation 2009 - clause 8 (3)

7. Discretion to waive fees

The registrar may waive any fees payable if satisfied that the payment of the fees would result in undue hardship to the person concerned.

Administrative Decisions Tribunal Regulation 2009 - clause 8 (4)

8. Application procedure

To apply to have their fees waived a person must lodge:

- A signed application for fee waiver form
- Copies of documents to support their claim such as payslips, tax returns, Centrelink documents, medical certificates, bank statements and account details, bills etc.

The application form and the copies of the documents must be verified by statutory declaration.

The registrar may ask for further documents to support the application where necessary.

9. Decision-making procedure

The application should be considered within 2 working days.

When considering the application, the registrar must consider the applicant's financial, social and emotional needs.

Fees can be waived subject to such conditions as the tribunal thinks fit.

The applicant must be notified in writing of the decision and the reasons for the decision.

The tribunal must keep a record of all applications and decisions on those applications.

The decision will be final.

10. Exercising the discretion to waive

Relevant considerations

All applications must be considered on their merits.

The registrar can consider any relevant matter including:

- Any orders or recommendations made by the tribunal or a court e.g. orders in relation to vexatious litigants and recommendations to waive fees
- Whether the payment of the fee will cause the applicant undue financial hardship
- The reason why the service is required
- Any compassionate grounds
- Whether a viable alternative exists for providing the service e.g. the applicant can view the documents or transcripts at the registry.

Applications
generally granted

Applications will generally be granted where the applicant is:

- Dependent on social security payments and lacks sufficient income and capital to either pay a fee or to obtain credit on reasonable terms to pay a fee
- Otherwise indebted to an extent that he or she is incapable of obtaining credit on reasonable terms to pay a fee
- Has been granted legal aid.

Applications
generally refused

Applications will generally be refused if the applicant:

- Has, in the opinion of the registrar, the ability to pay the fee or to obtain credit on reasonable terms to pay the fee
- Is a corporation
- Has made false or misleading statements or omissions in an application or in discussions with tribunal staff in relation to an application
- Has, in the preceding 12 months, been granted a fee waiver and the registrar is not satisfied that special factors exist to warrant another waiver of fees.

An application may also be refused where the fee in question does not relate to an essential step in the proceedings.

11. Delegation

The registrar or deputy registrar of the Tribunal may consider the application for waiver.

Administrative Decisions Tribunal Act 1997 – s 28