



## Administrative Appeals Tribunal

Migration & Refugee Division

### Migration review process – MR Division

We are a statutory body with the power to review decisions made under the *Migration Act 1958* by the Minister, or by officers who are delegates of the Minister in the Department of Home Affairs.

In conducting a review of a decision about a visa, we will consider the case afresh and have the power to change the decision under review.

The *Migration Act 1958* and the *Migration Regulations 1994* specify the decisions that we can review, who may seek review of a decision, how an application for review must be made, the time limits within which applications for review must be lodged, and the application fee payable.

The rules about who may seek review of a particular decision, the applicable time limit, and whether a fee is payable vary depending on the type of decision and whether a person is in immigration detention. We have no power to make exceptions.

#### Who can apply for review?

The decision letter sent by the department should explain whether the decision can be reviewed by us and who can apply for review.

We can only accept an application for review made by a person who has the right to apply for review. In some cases the only person who can apply for review is the visa applicant or former visa holder. In other cases it can only be the sponsor or a close relative. In some cases the review applicant must be within Australia at the time of decision or at the time the application for review is lodged, or both. We cannot provide advice on individual circumstances; however you may seek advice on these issues from a registered migration agent, an Australian lawyer with a practising certificate or other provider of immigration assistance. For further information please see 'Should I seek assistance with my application?' below.

#### Time limits for making your application for review

The decision letter sent by the department should state the time limit that applies to making an application to us.

If you are intending to apply for review, you should note that we cannot extend time limits or accept applications made outside a time limit. If you are lodging an application by post, you should ensure that you allow enough time for the application to be received before the expiry of the time limit.

#### How do I apply for review?

To apply for review, you must complete and lodge an 'Application for Review' form and pay the application fee (or 50% of the application fee together with an application for fee reduction) within the time limit. See below for information about the application fee.

Applications can be lodged online or by completing a form and lodging it by email, post, fax or in person. Applicants in immigration detention must use form M2 - 'Application for review – Migration (For persons in immigration detention)'. All other applicants must use form M1 - 'Application for review – Migration (for persons **not** in immigration detention and organisations)'. The forms are available from any of our offices listed at the end of this fact sheet and are also available on our website.

Details of our offices (registries) are set out at the end of this document. For further information, please see the 'Method of lodgement' and 'Contacts' sections below.

## **Combined applications for review**

Members of the same family unit can usually combine their applications for review. An application for review of a decision to require a security can also be combined with a related application for review of a decision to refuse to grant a visa. Where applications can be combined, only one application fee is payable and only one application form needs to be used.

## **The application fee**

A fee is payable in all cases except applications for review of bridging visa decisions (including any related decision to require a security) that are made by persons in immigration detention.

In all other cases:

- the application fee is \$3,496
- the fee may be reduced by 50% if we are satisfied that the full payment has caused, or is likely to cause, **severe financial hardship to the review applicant**
- we will refund 50% of the full fee if we make a favourable decision on your case.

A 'Request for fee reduction – MR Division' form (M11) is available from any of the offices listed below and from our website. Supporting documentary evidence, as listed on the form M11, should be lodged with all fee reduction applications.

If you withdraw your application for review, we can only refund an application fee in limited circumstances.

## **Should I seek assistance with my application?**

We aim to ensure that the outcome of reviews does not depend on whether or not a person receives professional advice or assistance. However, you may choose to seek advice and assistance.

Under the Migration Act, only certain people can provide 'immigration assistance'. They include:

- a registered migration agent
- an Australian lawyer with a practising certificate
- a close family member (your spouse, child, parent, brother or sister), or
- a nominator or sponsor if you are a visa applicant.

'Immigration assistance' includes where a person uses, or claims to use, their knowledge or experience in migration procedure to assist you to prepare for, or represent you in, an application at the AAT.

The only people who can ask you to pay a fee for 'immigration assistance' are registered migration agents or Australian lawyers who hold a practising certificate.

You can get more information about finding help with your review from the [Assistance](#) page on our website.

## How do we work?

We are required to provide a review which is accessible, fair, just, economical, informal, quick and proportionate. The general features of a review are:

- The Minister and department are not represented, and the department is required to provide us all documents which are relevant to the case under review.
- You are entitled to have access to, or a copy of, the material before us in relation to your case (although some restrictions may apply).
- You can make written submissions or provide documentary evidence at any stage of the review. Wherever possible, we would prefer if this material is sent electronically.
- If you send documents electronically to us, including our forms, it is not necessary to send the original documents by mail.
- You may nominate a person (your representative) to represent you in the preparation and running of your case. A representative can provide written submissions and documentary evidence and contact us on your behalf. A representative may also accompany and assist you at any meeting or hearing arranged by us. We may invite a representative to comment on matters at a hearing, but a representative cannot make an oral presentation other than in exceptional circumstances. If your representative asks you to pay a fee for 'immigration assistance', you should ensure that they are a registered migration agent or an Australian lawyer with a practising certificate. For further information please see 'Should I seek assistance with my application?' above.
- You may choose to nominate a person (your authorised recipient) to receive correspondence on your behalf. Most applicants who have a representative nominate their representative as their authorised recipient. If you nominate an authorised recipient, all correspondence will be sent to that person and will be taken to have been sent to you. There are two circumstances where we will send a copy of any correspondence to you as well as to your authorised recipient. The first is if the review relates to a decision to refuse or cancel a bridging visa and you are in detention as a result of that decision (referred to as a 'bridging visa (detention)' case). The second is if you have nominated a migration agent as your representative or authorised recipient, and that migration agent's registration has been suspended or cancelled or has lapsed. We will continue to give documents about your review to your representative or authorised recipient until you tell us not to.
- We are required to inform you of certain information that might lead to an adverse decision and to give you an opportunity to comment on or respond to that information.
- If we invite you to provide information or to comment on or respond to information within a time period, you must do so or you risk losing your right to a hearing.
- Except in specific circumstances, we are required to invite you to come to a hearing. You may request that we take evidence from other persons, and you may be accompanied by your representative and/or a friend or support person. We will provide an interpreter if required.

## **What will happen during the review?**

The review process varies from case to case. A typical case may follow these steps:

- We will send you an acknowledgement letter to confirm that the application has been received. We will also inform the department of your application and request the department to provide us with all relevant documents about your case.
- The case is allocated to a Member.
- The Member reviews the documents.
- We invite you to attend a hearing, and/or to provide information or to comment or respond to information.
- In some cases, the Member may announce the decision at the end of the hearing. The Member may decide to send you written reasons for the oral decision, in which case you will be sent the reasons within 14 days after the hearing. Alternatively, the Member may announce the decision and make an oral statement of the reasons for the decision at the hearing. If this occurs, you are entitled to make a written request within 14 days of the hearing for the Member to provide you with a written version of the decision and reasons which were stated at the hearing.
- However, in most cases a decision will not be made at the end of the hearing and when the Member makes a decision, we will send you and the department a written statement of decision and reasons.

As each case is different, it is difficult to say how long it will take for us to make a decision on your case. We give priority to certain cases in accordance with legislation and policy directions issued by the President of the AAT, for example, cases involving persons in immigration detention.

Our website has information on application processing times which can provide you with the current list of priorities and estimated processing times.

Information provided to us may become public during a hearing. Hearings are usually open to the public. If we prepare a written statement of reasons for our decision in your case, it may also be made public and published on the AustLII website ([www.austlii.edu.au](http://www.austlii.edu.au)). For more information about the decisions we publish, see our Publication of Decisions Policy on our website.

## **Do you need further information?**

For further information, please contact us (see below for contact details). Our staff can give you information about our procedures, but they cannot give you advice about the chances of success in a particular case.

All applicants can contact us via email at [mrdivision@aat.gov.au](mailto:mrdivision@aat.gov.au). Alternatively, applicants can telephone our National Telephone Enquiry Number on 1800 228 333. Local and mobile call charges apply. A telephone solution for people who are deaf or have a hearing or speech impendent is available via the National Relay Service at [www.relayservice.gov.au](http://www.relayservice.gov.au).

The Translating and Interpreting Service (TIS) can provide assistance if you require an interpreter. TIS can be contacted on 131 450 from anywhere in Australia.

## What if I want to make a comment or a complaint?

You can help us by telling us what you like about your dealings with us or where you think we can improve. If you wish to provide us with feedback you can tell the officer who is dealing with your case. Alternatively you can complete the online Feedback form available on our website under [Contact us](#), or forward a written complaint marked 'confidential' to us at GPO Box 9955, Sydney NSW 2001.

## Method of lodgement

### Online

Applications for review can be lodged online at <http://www.aat.gov.au/apply-online>.

If applicable, the full fee must be paid at the time of lodgement when lodging online.

### By post or by fax

Administrative Appeals Tribunal  
GPO Box 9955, Sydney NSW 2001  
Fax: (02) 9276 5599

Administrative Appeals Tribunal  
GPO Box 9955, Melbourne VIC 3001  
Fax: (03) 9454 6999

Administrative Appeals Tribunal  
GPO Box 9955, Brisbane QLD 4001  
Fax: (07) 3052 3069

Administrative Appeals Tribunal  
GPO Box 9955, Adelaide SA 5001  
Fax: (08) 8128 8099

Administrative Appeals Tribunal  
GPO Box 9955, Perth WA 6848  
Fax: (08) 6222 7299

### By hand

**Sydney**  
Level 6  
83 Clarence Street  
Sydney NSW 2000

**Melbourne**  
Level 4  
15 William Street  
Melbourne VIC 3000

**Brisbane**  
Level 6  
295 Ann Street  
Brisbane QLD 4000

**Perth**  
Level 13  
111 St Georges Terrace  
Perth WA 6000

**Adelaide**  
Level 2  
1 King William Street  
Adelaide SA 5000

## **Contacts**

Website	<a href="http://www.aat.gov.au">www.aat.gov.au</a>
Email	<a href="mailto:mrdivision@aat.gov.au">mrdivision@aat.gov.au</a>
National telephone enquiry number	1800 228 333
National Relay Service	<a href="http://www.relayservice.gov.au">www.relayservice.gov.au</a>