

Appendix 4: Tribunal application fees

Section 29A of the AAT Act provides that an application to the Tribunal is not taken to be made unless the prescribed fee is paid. Under regulations 19 and 19AA of the *Administrative Appeals Tribunal Regulations 1976* (the AAT Regulations), an application fee is payable when lodging an application for review of certain decisions and in relation to certain other applications. On 1 July 2004 the standard application fee was increased to \$606. The lower application fee payable when lodging an application for review that will be dealt with in the Small Taxation Claims Tribunal was increased to \$61. These increases were made pursuant to regulation 19A of the AAT Regulations and accorded with movements in the consumer price index.

An application fee is not payable if the decision to be reviewed is one set out in Schedule 3 to the AAT Regulations. Schedule 3 includes decisions relating to social security, veterans' affairs and workers' compensation.

If two or more applications relate to the same applicant and may be conveniently heard before the Tribunal at the same time, the Tribunal may order that only one fee is payable for those applications [regulations 19(5) and 19AA(5)].

Further, a standard or lower application fee is not payable where:

- the person liable to pay the fee is granted legal aid for the matter to which the application relates [regulations 19(6)(a) and 19AA(6)(a)]
- the person liable to pay the fee is:
 - the holder of a health care card, a health benefit card, a pensioner concession card, a seniors health card or other card that certifies entitlement to Commonwealth health concessions
 - an inmate of a prison, in immigration detention or otherwise lawfully detained in a public institution
 - a child under the age of 18 years
 - in receipt of youth allowance or an Austudy payment, or in receipt of benefits under the ABSTUDY scheme [regulations 19(6)(b) and 19AA(6)(b)]
- the Registrar, a District Registrar or a Deputy Registrar, having regard to the income, day-to-day living expenses, liabilities and assets of the person liable to pay the fee, waives the fee on the ground that payment of the fee would cause financial hardship [regulations 19(6)(c) and 19AA(6)(c)].

The number of applications in 2004–05 for which no fee was payable under each of these provisions is set out in Table 4.1.

Table 4.1 Applications where no fee payable

| AAT Regulations | Number of applications |
|-----------------------|------------------------|
| 19(5) & 19AA(5) | 849 |
| 19(6)(a) & 19AA(6)(a) | 2 |
| 19(6)(b) & 19AA(6)(b) | 251 |
| 19(6)(c) & 19AA(6)(c) | 110 |
| Total | 1212 |

In the case of applications for waiver on financial hardship grounds under regulation 19(6)(c), five such applications were refused during the reporting year. One application was refused under regulation 19AA(6)(c).

In 2004–05, application fees paid totalled \$1,093,976.

In relation to fees that were not payable under regulations 19(5), 19(6), 19AA(5) and 19AA(6), the total revenue foregone was \$694,866.

A standard application fee paid under regulation 19(1) is refunded when proceedings end favourably for the applicant. In 2004–05, refunds of application fees amounted to \$370,779. The lower application fee is not refundable in any circumstance.

Regulation 20 provides that an applicant can apply to the Tribunal for review of a decision not to waive payment of a fee. There were no such applications for review lodged in the reporting year.