

APPENDIX 5: TRIBUNAL APPLICATION FEES

This appendix sets out information in relation to fees that are payable to lodge applications with the Tribunal.

Rules relating to the payment and refund of application fees

An application to the Tribunal is not taken to be made unless the prescribed fee is paid: section 29A of the Administrative Appeals Tribunal Act. The rules relating to the payment and refund of fees are set out in regulations 19 and 19AA of the Administrative Appeals Tribunal Regulations.

Subject to a number of exceptions, an application fee is payable for lodging:

- an application for review of a decision
- an application for a decision on whether a person was entitled to be given a statement of reasons for a decision under subsection 28(1) of the Administrative Appeals Tribunal Act, and
- an application for a declaration under subsection 62(2) of the Freedom of Information Act that a statement of reasons for a decision is not adequate.

The standard application fee in 2009–10 was \$682, and the fee to lodge an application in the Small Taxation Claims Tribunal was \$68.

From 1 July 2010 the standard application fee is \$777, and the fee to lodge an application in the Small Taxation Claims Tribunal is \$77.

Circumstances in which an application fee is not payable

Applications for review of certain types of decisions do not attract a fee: regulation 19(1). The relevant decisions are:

- any decision specified in Schedule 3 to the Administrative Appeals Tribunal Regulations, and
- any decision under the Freedom of Information Act concerning a document that relates to a decision specified in Schedule 3 to the Administrative Appeals Tribunal Regulations.

Decisions specified in Schedule 3 include decisions in the areas of family assistance and 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).

Certain types of applicants are exempt from the requirement to pay a fee. An application fee is not payable if the person liable to pay the fee is granted legal aid for the matter to which the application relates: paragraphs 19(6)(a) and 19AA(6)(a) or the person liable to pay the fee is:

- the holder of a health care card, a health benefit card, a pensioner concession card, a Commonwealth seniors health card or any 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, or
- in receipt of youth allowance, Austudy payment or benefits under the ABSTUDY Scheme: paragraphs 19(6)(b) and 19AA(6)(b).

The Tribunal also has a discretion to waive an application fee when it is satisfied that payment of the fee would cause financial hardship to the person: paragraphs 19(6)(c) and 19AA(6)(c).

Refund of application fees

A person who has paid a standard application fee is entitled to a refund of the fee if it was not payable or if the proceedings have terminated in a manner favourable to the applicant. The lower application fee payable for lodging an application that will be dealt with in the Small Taxation Claims Tribunal is refundable only if it was not payable.

Application fees in 2009–10

In 2009–10, the Tribunal received \$519,334 and refunded \$427,236 in application fees.

There were 984 applications (see Table A5.1) for which fees were not paid pursuant to regulations 19(5), 19(6), 19AA(5) and 19AA(6), as described under 'Circumstances in which an application fee is not payable'. The total revenue forgone was \$660,036.

The Tribunal refused 16 applications to waive the application fee on financial hardship grounds under paragraph 19(6)(c).

Five applications for review of a decision not to waive payment of an application fee were made under regulation 20; the five applications were made by a single applicant.

Table A5.1 Applications – no fee paid

Category	Number of applications
One fee paid for two or more applications relating to the same applicant	534
Applicant exempt from paying fee	362
Application fee waived by Tribunal	88
Total	984