

APPENDIX 5: APPLICATION FEES

The rules governing fees that are payable to lodge applications with the Tribunal are in the Administrative Appeals Tribunal Act and the Administrative Appeals Tribunal Regulations.

Application fees and refunds

The primary rules for the payment and refund of fees are in regulations 19 and 19AA of the Administrative Appeals Tribunal Regulations, and were amended during 2010–11.

An application to the Tribunal is not taken to be made unless the prescribed fee is paid. Subject to a number of exceptions, an application fee is payable for lodging an application:

- for review of a decision
- for a decision on whether a person was entitled to be given a statement of reasons for a decision, and
- for a declaration, under the Freedom of Information Act, that a statement of reasons for a decision is not adequate.

Standard application fees

The standard application fee was \$777.

The fee to lodge an application in the Small Taxation Claims Tribunal was \$77.

One fee payable

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.

Application fee not payable

Applications for review of the following types of decisions do not attract a fee:

- 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.

Schedule 3 decisions include those in the areas of family assistance and social security, veterans' affairs and workers' compensation.

Reduced application fee payable

Before 1 November 2010, certain applicants were exempt from the requirement to pay a fee. An application fee was not payable if the person liable to pay the fee was:

- granted legal aid for the matter to which the application relates
- 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 18 years, or
- in receipt of youth allowance, Austudy payment or benefits under the ABSTUDY Scheme.

From 1 November 2010, applicants pay a \$100 fee instead of the standard application fee if they fall into any of those categories.

Before 1 November 2010, the Tribunal had a discretion to waive an application fee when satisfied that payment of the fee would cause financial hardship to the person. From 1 November 2010, the Tribunal can order that a \$100 fee is payable rather than the standard application fee when satisfied that payment of the full fee would cause financial hardship to the person.

Since 1 November 2010, the \$77 fee payable to lodge an application in the Small Taxation Claims Tribunal must be paid in all circumstances.

Refunds

A person is entitled to a:

- full refund if they have paid an application fee that was not payable, or
- partial refund if they paid the standard application fee but were entitled to pay the \$100 fee.

A person is also entitled to a refund if the person paid the standard application fee and the Tribunal certifies that proceedings terminated favourably for the applicant.

The refund amount is:

- the full application fee if the application was lodged before 1 November 2010, or
- the difference between the application fee paid and \$100 if the application was lodged on or after 1 November 2010.

Application fees in 2010–11

In 2010–11 the Tribunal received \$625,515 and refunded \$302,527 in application fees.

Total revenue forgone was \$618,718 for fees either reduced, in 153 applications, or not paid, in 681 applications (see Tables A5.1, 5.2, 5.3).

The Tribunal refused 10 applications to waive or reduce the application fee on financial hardship grounds: two before 1 November 2010 and eight from 1 November 2010.

There were four applications for review of a decision not to order payment of a reduced fee instead of the full application fee. In two cases the decision was affirmed (unchanged), in one case the decision was overturned, and one case was withdrawn after the end of the reporting period.

Table A5.1 Revenue summary: total, refunded and forgone

Total fee revenue	\$625,515
Total refunded	\$302,527
Total revenue forgone	\$618,718
Applications : fees reduced	153
Applications : fees not paid	681

Table A5.2 No fee or reduced fee paid

Reason	Number of applications affected
<i>Before 1 November 2010</i>	
Applicant exempt from paying standard application fee	114
Applicant exempt from paying STCT fee	3
Application fee waived by Tribunal on hardship grounds	42
Subtotal	159
<i>From 1 November 2010</i>	
Applicant eligible to pay reduced fee	109
Application fee reduced by Tribunal on hardship grounds	44
Subtotal	153
Total	312

Table A5.3 Applications where no fee payable for multiple applications for the same applicant

Category	Number of 'multiple' applications for which fee was not collected
Standard application fee	487
Reduced fee	18
STCT fee	17
Total	522