

AUSTRALIAN CAPITAL TERRITORY

Administrative Appeals Tribunal Act 1989
Tenancy Tribunal Act 1994

**DETERMINATION OF FEES AND CHARGES APPLICABLE IN THE
ADMINISTRATIVE APPEALS TRIBUNAL AND THE TENANCY TRIBUNAL**

NO. 167 OF 1996

EXPLANATORY STATEMENT

BACKGROUND

POWER TO MAKE FEES AND CHARGES

Administrative Appeals Tribunal

Subsection 59A(1) of the *Administrative Appeals Tribunal Act 1989* provides that the Minister may, by notice in writing published in the *Gazette*, determine fees and charges for any of the following purposes:

- (a) proceedings in the Tribunal, and matters incidental to such proceedings, including the service of the process of the Tribunal;
- (b) facilities and services provided by the Tribunal;
- (c) the general purposes of the Act and the regulations.

Subsection 59A(2) of the *Administrative Appeals Tribunal Act* provides that a determination made under subsection 59A(1) may provide for matters such as the exemption from liability to pay application fees, in whole or in part, and for the remission or refund and the deferral of liability for the payment of fees and charges, in whole or in part, by the Registrar in particular circumstances.

Tenancy Tribunal

Subsection 78(1) of the *Tenancy Tribunal Act 1994* provides that the Minister may, by notice in writing published in the *Gazette*, determine fees and charges for any of the following purposes:

- (a) referral of disputes to the Registrar;
- (b) proceedings in the Tribunal, and matters incidental to such proceedings, including the service of the process of the Tribunal;
- (c) facilities and services provided by the Registrar or the Tribunal;
- (d) the general purposes of the Act and the Code.

Subsection 78(2) of the *Tenancy Tribunal Act* provides that a determination made under subsection 78(1) may provide for matters such as the exemption from

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liability to pay application fees, in whole or in part, and for the remission or refund and the deferral of liability for the payment of fees and charges, in whole or in part, by the Registrar in particular circumstances.

This Determination, for convenience, covers both the Administrative Appeals Tribunal and the Tenancy Tribunal. Previously, fees and charges for the two tribunals were determined separately.

Overview of increases in fees and charges and new fees

The application fee in the Administrative Appeals Tribunal has been increased from \$134 to \$175. The referral fee in the Tenancy Tribunal has increased from \$100 to \$105.

From early July 1996 both Tribunals were located in the new Magistrates Court building and are administered by the Magistrates Court. Accordingly, fees for common services provided by the two bodies have been either introduced and/or brought into line with each other and with those of the Court.

The Administrative Appeals Tribunal has not provided parties with copies of transcripts but persons who sought copies were directed to Auscript. The Magistrates Court undertakes the recording of proceedings and has the transcription done by Auscript. Because of the new administrative arrangements to apply, the fees and charges provisions for transcripts and photocopying in the Magistrates Court determination have been mirrored in this Determination (see items 1, 2, 3 and 4 of Schedule 2). Items 5, 6 and 7 of Schedule 2 are new items and provide a cheaper alternative for a person to obtain a record of the proceedings supplied on a cassette or video tape, where available, or on a computer disk. The charges for these items reflect those introduced into the Magistrates Court. Item 3, Part 1 and item 2, Part 2 of Schedule 1 relating to fees for the issue of a summons are also new items and also reflect those introduced into the Magistrates Court.

Deferral of liability for payment

Paragraph 59A(2)(d) of the Administrative Appeals Tribunal Act and paragraph 78(2)(d) of the Tenancy Tribunal Act provide that a determination may provide for the deferral of liability by the Registrar for the payment of fees and charges, in whole or in part, in particular circumstances. The Determination provides that the Registrar of the Administrative Appeals Tribunal and the Registrar of the Tenancy Tribunal may defer liability for payment for a period not in excess of 14 days if, in the Registrar's opinion, payment cannot be made at the time that a request is made for the performance of a function or the provision of a facility or service but payment could be made within 14 days after the request being made. The Registrar will be able to defer payment, for example, where a person wishes to lodge an application for review in the Administrative Appeals Tribunal but has not brought sufficient funds with him or her. This reflects the existing position in respect of the Administrative Appeals Tribunal but introduces a benefit in respect of the Tenancy Tribunal.

Commencement of Determination

This Determination comes into effect on 29 July 1996 and upon its coming into effect Determination No. 57 of 1995 and Determination No. 6 of 1995 will cease to have effect.

DETAILS OF FEES AND CHARGES

Previous fees, where applicable, are set out in brackets.

SCHEDULE 1 - PART 1

Application fee in the Administrative Appeals Tribunal and exemptions from liability

Item 1 of Part 1 of Schedule 1 determines the fee payable on the lodging with the Administrative Appeals Tribunal of an application for the review of a decision to be \$175.00 (previously \$134.00).

Item 1 also specifies exemptions from the filing fee. The exemptions are in relation to applications for:

- (i) the review of a decision in relation to which, under a program in force under section 12 of the *Housing Assistance Act 1987*, application for review can be made to the Tribunal;
- (ii) the review of a decision under the *Rates and Land Rent (Relief) Act 1970*; and
- (iii) the review of a decision reviewable under section 60 of the *Freedom of Information Act 1989*, being a decision made in relation to a document that relates to a decision specified in subparagraph (i) or (ii) above.

Refund of Administrative Appeals Tribunal application fee.

Section 59D of the Act permits the Registrar of the Administrative Appeals Tribunal to order that only a single application fee is payable for 2 or more applications which relate to the same applicant and which, in the opinion of the Registrar, may be conveniently heard together by the Tribunal. Item 2 of Part 1 of Schedule 1 permits a refund, as appropriate, to be made when an order is made after the application fees have been paid.

Fees for the issue of a summons by the Administrative Appeals Tribunal

Item 3 of Part 1 of Schedule 1 relates to fees payable for the issue by the Administrative Appeals Tribunal of a summons at the request of a party other than the Territory or a Territory agency. These are new fees and are:

- a) to give evidence: \$11.00;
- b) for production and to give evidence: \$22.00;
- c) for production: \$22.00

SCHEDULE 1 - PART 2

Referral fee in the Tenancy Tribunal

Under the *Tenancy Tribunal Act 1994*, disputes are required to be referred to the Registrar. Item 1 of Part 2 of Schedule 1 determines the fee payable in respect of a

referral of a dispute to the Registrar of the Tenancy Tribunal to be \$105.00 (previously \$100.00).

Fees for the issue of a summons by the Tenancy Tribunal or by the Registrar
Item 2 of Part 2 of Schedule 1 relates to fees payable for the issue by the Tenancy Tribunal or by the Registrar of a summons at the request of a party other than the Territory or a Territory agency. These are also new fees and are the same as those above for the issuing of a summons by the Administrative Appeals Tribunal.

SCHEDULE 2

The following fees apply to both the Administrative Appeals Tribunal and the Tenancy Tribunal:

Fees for copies of documents.

Items 1, 2 and 3 of Schedule 2 relate to the fees to be paid for the provision of copies of documents to persons or when persons use a photocopying machine made available to them. The fees are:

- for each request for a copy or copies of a document or documents (regardless of the number of documents to which the request relates). This is a new fee: \$2.00 (Nil)
- for each page of copy provided in accordance with a request referred to above: \$1.00 (\$0.50 in the AAT)
- for each page of copy of a document or documents copied by a person, other than an officer of the Administrative Appeals Tribunal or the Tenancy Tribunal, using a Tribunal photocopier: \$0.20 (\$0.20 in the AAT)

Fees for copies of transcripts

Item 4 of Schedule 2 relates to fees to be paid for the supply of a copy of a transcript of a proceeding or a part of a proceeding or of a matter incidental to a proceeding. These are new fees and are:

- for each page of a transcript (including preparation of the transcript): \$8.25
- for each page of a copy of the transcript: \$1.00

Fees for the supply of an audio or video tape or a computer disk

Items 5, 6 and 7 of Schedule 2 relate to fees to be paid to the Administrative Appeals Tribunal or the Tenancy Tribunal for the supply of an audio or video tape or of a computer disk. These are also new fees and are:

- for the supply of a duplicate tape recording of a proceeding or of part of a proceeding or of a matter incidental to a proceeding - per cassette: \$30.00

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- for the supply of a duplicate video tape recording of a proceeding or of part of a proceeding or of a matter incidental to a proceeding - per tape: \$40.00
- for the supply of a computer disk containing a record of a proceeding or of part of a proceeding or of a matter incidental to a proceeding - per disk: \$10.00

Revenue/cost implications

The increases in the fees will result in about \$3,500 in additional revenue in a full year.

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