

AUSTRALIAN CAPITAL TERRITORY

ADMINISTRATIVE APPEALS TRIBUNAL ACT 1989

DETERMINATION OF FEES AND CHARGES APPLICABLE IN THE ADMINISTRATIVE APPEALS TRIBUNAL

NO. 36 OF 1994

EXPLANATORY STATEMENT

The *Administrative Appeals Tribunal Act 1989* (the Act) was amended by the *Administrative Appeals Tribunal (Amendment) Act 1994* which inserted a general fees and charges determining power - see subsection 59A(1) of the Act. That subsection 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 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.

This Determination comes into effect on 1 July 1994 and upon its coming into effect that part of Determination No. 27 of 1993 which dealt with the application fee will cease to have effect - see section 6 of the *Administrative Appeals Tribunal (Amendment) Act 1994*. Determination No. 27 of 1993 will, in any event, be revoked on and from 1 July 1994 by another determination dealing with witnesses' fees and allowances for expenses.

Application fee and exemption from payment of the fee

Item 1 of the Determination determines the fee payable on the lodging with the Administrative Appeals Tribunal of an application for the review of a decision to be \$129.00 (previously \$125.00). The fee has been increased by 3% (the expected rise in the Consumer Price Index for 1993/94) and rounded up. The Determination picks up the provisions, set out in Determination No. 27 of 1993, relating to exemption from payment of the fee with the exception of that relating to referrals under section 13 of the *Ombudsman Act 1989*. There is no need to exempt such referrals as they are not applications for reviews of decisions as such. The exemptions from payment of the application fee are in respect of applications relating to:

- (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 (i) or (ii) above.

Refund of the application fee.

Section 59D of the Act permits the Registrar 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 permits a refund, as appropriate, to be made when an order is made after the application fees have been paid.

The determination does not pick up the provision in the previous determination relating to refund of the application fee where the proceeding terminates in a manner favourable to the applicant. Refund of that fee is now provided for by subsection 59C(3) of the Act.

Fees for copies of documents.

Items 3 and 4 of the Determination introduce fees to be paid to the Tribunal for the provision of copies of documents to persons or when persons use a Tribunal photocopying machine. The Commonwealth AAT charges a fee of \$0.50 per page for photocopying it does. The fees determined for the ACT Tribunal are:

in respect of requests for copies of documents -
the fee for each page of copy
provided in accordance with a request \$0.50

for each page of copy of a document or
documents copied by a person, other than
an officer of the Tribunal, using a Tribunal
photocopier \$0.20

Deferral of liability for payment

Paragraph 59A(2)(d) of the Act provides 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 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 but has not brought sufficient funds with them.

Revenue/cost implications

The increase in the application fee and introduction of photocopying fees will result in about \$350 in additional revenue in a full year.

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