

Administrative
 F.R.L.I.
 1996B01802
 Australian Government
 Department of Justice
 Canberra



Statutory Rules 1993 No. L¹

641

Administrative Appeals Tribunal Regulations² (Amendment)

I, THE GOVERNOR-GENERAL of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following Regulations under the *Administrative Appeals Tribunal Act 1975*.

Dated L 1993.

27 April

L
 Governor-General BILL HAYDEN

By His Excellency's Command,

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 Attorney-General

D. KERR

1. Amendment

1.1 The Administrative Appeals Tribunal Regulations are amended as set out in these Regulations.

[NOTE: These Regulations commence on gazettal: see *Acts Interpretation Act 1901*, s. 48.]

2. Regulation 6 (Application to be made a party)

2.1 Subregulation 6 (1):

Omit "paragraph 30 (1) (c), substitute "subsection 30 (1A)".

3. Regulation 19 (Prescribed fees)

3.1 Subregulation (1):

Omit the subregulation, substitute:

“(1) Subject to this regulation, a fee of \$300 (in this regulation called an ‘application fee’) is payable for lodging with the Tribunal of:

- (a) an application for review of a decision; or
- (b) an application under subsection 28 (1AC) of the Act; or
- (c) an application under subsection 62 (2) of the *Freedom of Information Act 1982*;

other than an application for review of a prescribed decision.”.

3.2 Add at the end:

“(4) Subject to subregulations (5) and (6), an application fee payable for lodging an application must be paid before lodgment.

“(5) If 2 or more applications:

- (a) relate to the same applicant; and
- (b) may, in the opinion of the Registrar or a Deputy Registrar, be conveniently heard before the Tribunal at the same time;

the Registrar or a Deputy Registrar may order that only 1 fee is payable for those applications.

“(6) An application fee is not payable if:

- (a) the person liable to pay the fee is granted legal aid, under a legal aid scheme or service established under Commonwealth, State or Territory law or approved by the Attorney-General, for the matter to which the application relates; or
- (b) the person liable to pay the fee is:
 - (i) the holder of a pensioner health benefit card, a health benefit card, a pharmaceutical benefits concession card or a health care card; or
 - (ii) an inmate of a prison or is otherwise lawfully detained in a public institution; or
 - (iii) a child under the age of 18 years; or
 - (iv) in receipt of AUSTUDY within the meaning of the AUSTUDY Regulations; or

- (c) the 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 impose financial hardship on the person.

“(7) A person who has paid an application fee is entitled to a refund of the fee if:

- (a) the fee was not payable; or
- (b) the Tribunal certifies that proceedings have terminated in a manner favourable to the applicant.”.

4. Regulation 20 (Refund of prescribed fees)

4.1 Omit the regulation, substitute:

Review by the Tribunal

“20. (1) Application may be made to the Tribunal for review of a decision by the Registrar or a Deputy Registrar not to waive, under paragraph 19 (6) (c), payment of a fee.

“(2) If the Registrar or a Deputy Registrar makes a decision of that kind, a notice must be given to the person liable to pay the fee:

- (a) containing the terms of the decision; and
- (b) giving written reasons for the decision; and
- (c) containing a statement to the effect that, subject to the *Administrative Appeals Tribunal Act 1975*, application may be made to the Administrative Appeals Tribunal for review of the decision.

“(3) A notice under subregulation (2) must be given within 28 days of the date of the decision.

“(4) Failure to include in a notice under subregulation (2) a statement of the kind mentioned in paragraph (2) (c) does not affect the validity of the decision.”.

5. Schedule 3 (Prescribed decisions for the purposes of regulation 19)

5.1 Item 1:

Omit “, the *Student Assistance Act 1973*,”.

5.2 Add at the end:

“11 A decision under the *Student Assistance Act 1973*, other than Division 6 of Part 4A”.

NOTES

1. Notified in the *Commonwealth of Australia Gazette* on 2 1993.
2. Statutory Rules 1976 No. 141 as amended by 1977 No. 146; 1979 No. 274; 1984 No. 383; 1986 Nos. 168 and 232; 1987 Nos. 23 and 181; 1988 No. 25; 1989 No. 157; 1990 No. 284; 1991 No. 233/

4 May/

and 450;
1992 No. 235/