

Court and Tribunal Fee Waiver Guide

Public Interest Law Clearing House (Vic) Inc

Level 1, 550 Lonsdale Street

Melbourne VIC 3000

P: (03) 9225 6681

F: (03) 9225 6686

E: admin@pilch.org.au

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This guide is current to March 2008. Each entry for a court or tribunal includes a section detailing how the guide can be checked or updated.

Foreword

The Victorian Public Interest Law Clearing House (**PILCH**) is an independent, not-for-profit legal referral service. It seeks to meet the legal needs of community groups and not-for-profit organisations and individuals from disadvantaged and marginalised backgrounds.

PILCH acts as a facilitator or go-between for pro bono legal assistance between the community and the private legal profession. Its main role is to receive, assess and refer requests for pro bono legal assistance. PILCH aims to work creatively to match clients with lawyers willing to give their services without charge.

Access to legal remedies can also sometimes be hindered by the fees charged by courts and tribunals. Legislation and regulations govern the fees which the courts and tribunals charge. In certain types of proceedings fees are not payable. Often, a person's financial or personal circumstances can result in an exemption from the requirement to pay a fee. A court or tribunal may also, in certain situations, be able to waive a fee. Each court and tribunal has different fee procedures in place.

This guide purports to cover the fee waiver and exemption provisions relevant to the major courts and tribunals in Victoria and the Commonwealth. It is current to March 2008. Legislation, regulations and procedures governing the waiver of fees are constantly changing. It is therefore recommended that the relevant court or tribunal and/or their website be consulted prior to making an application for a fee waiver or exemption.

PILCH acknowledges that in preparing this guide, it had the benefit of being able to refer to work done in New South Wales by PILCH on its Court and Fee Waiver Manual.

High Court of Australia

Contact:	Registry (Melbourne)
Address:	Level 17, Law Courts Building 305 William Street Melbourne VIC 3000
Telephone:	(03) 8600 3001
Facsimile:	(03) 8600 3007
Website:	http://www.highcourt.gov.au
Fee Exemption:	Yes. Categories detailed below.
Fee Waiver:	Yes but partial only, for proceedings commenced on or after 1 July 2005. Financial hardship

To update this guide: Visit 'Filing Documents' on the High Court's website and select 'High Court of Australia Fees' http://www.highcourt.gov.au/filing_03.html

Regulations

Regulations as to fees payable in the High Court are set out in the *High Court of Australia (Fees) Regulations 2004*. These regulations were amended by the *High Court of Australia (Fees) Amendment Regulations 2005*. The amendments came into effect on 1 July 2005 and apply to all proceedings commenced on or after 1 July 2005.

Fees Payable in the High Court

Regulations 6 and 7 and Schedule 1 of the *High Court of Australia (Fees) Regulations 2004* set out the filing, hearing and other services fees payable in the High Court.

A list of the High Court's current fees can be located online at

http://www.highcourt.gov.au/filing_03.html.

Fees Not Payable

Regulation 8 of the *High Court of Australia (Fees) Regulations 2004* (as amended for proceeding commenced on or after 1 July 2005 by the *High Court of Australia (Fees) Amendment Regulations 2005*) sets out the circumstances in

which a fee is not payable. Regulation 8 together with any amendments should be checked prior to the payment of fees.

Fee Exemption

Regulation 9 of the *High Court of Australia (Fees) Regulations 2004* sets out the circumstances in which a person is exempt from paying fees.

In general, exemption applies if the person liable to pay the fee:

- has been granted Legal Aid for the proceeding; or
- is in receipt of a Youth Allowance, Austudy or Abstudy; or
- is a child under the age of 18; or
- is an inmate of a prison or otherwise lawfully held in a public institution;
or
- is the holder of a Health Care Card, Pensioner Concession Card, Senior Health Card or any other card issued by Centrelink or the Department of Veterans' Affairs that certifies entitlement to Commonwealth health concessions. (This does not include a dependent of the holder of such a card.)

Partial Fee Waiver – Proceedings commenced on or after 1 July 2005

For proceedings commenced on or after 1 July 2005, Regulation 10 of the *High Court of Australia (Fees) Regulations 2004* as amended by the *High Court of Australia (Fees) Amendment Regulations 2005* provides that a Registrar may waive payment of **two-thirds** of the amount of the fee, if having regard to the income, day-to-day living expenses, liabilities and assets of a person liable to pay a fee, a Registrar is of the opinion that the payment of the fee would cause financial hardship to the person.

Deferral of Payment of a Fee

Regulation 11 of the *High Court of Australia (Fees) Regulations 2004* (as amended by the *High Court of Australia (Fees) Amendment Regulations 2005* for proceedings commenced on or after 1 July 2005), provides that a Registrar may allow for the deferral of the whole or part fee payable if the Registrar is of

the opinion that there is an urgency that overrides the requirement to pay the fee at the time.

Procedure

Parties requesting a waiver must complete an Application for Waiver of Filing Fees & Hearing Fees form. Supporting documentary evidence is also required.

An application for a fee waiver on the basis of financial hardship can only be made by a natural person. Where there is more than one applicant or plaintiff, they must all be entitled to a fee exemption or waiver for the fee to be waived.

The relevant application forms are available on the High Court website at http://www.highcourt.gov.au/filing_03.html.

Review

Under Regulation 15 of the *High Court of Australia (Fees) Regulation 2004* (as amended for proceedings commenced on or after 1 July 2005, by the *High Court of Australia (Fees) Amendment Regulations 2005*), an application may be made to the Administrative Appeals Tribunal for review of a decision not to waive a fee under Regulation 10.

Federal Court of Australia

Contact: Registry (Melbourne)
Address: Commonwealth Law Courts
305 William Street
Melbourne VIC 3000
Telephone: (03) 8600 3333
Facsimile: (03) 8600 3281
Email: vicreg@fedcourt.gov.au
Website: www.fedcourt.gov.au
Fee Exemption: Yes. Categories listed below.
Fee Waiver: Yes. Financial hardship.

To update this guide visit 'Filing, Forms, Fees and Costs' on the Federal Court website at <http://www.fedcourt.gov.au/fff/fff.html>.

Regulations

Regulations as to fees in the Federal Court of Australia are contained in the *Federal Court of Australia Regulations 2004*.

Fees Payable in the Federal Court

Regulations 5 to 7 and Schedule 1 of the *Federal Court of Australia Regulations 2004* set out the filing, setting down and hearing fees payable in the Federal Court. Please note that most fees increase every year in accordance with Schedule 2 of the *Federal Court of Australia Regulations 2004* (regulation 8).

A list of current Federal Court fees can be accessed online at http://www.fedcourt.gov.au/fff/fff_feesandcosts.html.

Fees Not Payable

In certain proceedings in the Federal Court, a fee is not payable. These proceedings are set out in Regulation 11 and Clauses 1(2) to (5) of Schedule 3 of the *Federal Court of Australia Regulations 2004*. The regulation and schedule should be checked prior to paying fees, even if the Registry requests payment. The types of proceeding where fees are not payable include, for

example, an application under section 46PO or 46PP of the *Human Rights and Equal Opportunity Commission Act 1986* or under section 663 of the *Workplace Relations Act 1996* (except filing fees).

The circumstances when specific types of fees such as filing fees, setting down fees and hearing fees are not payable are set out in Regulation 11 and Clauses 2 to 4 of Schedule 3 of the *Federal Court of Australia Regulations 2004*.

Fee Exemption

The circumstances when a person is exempt from paying are set out in Regulation 11 and Clause 1(1)(a) to 1(1)(c) of Schedule 3 of the *Federal Court of Australia Regulations 2004*. In general, exemptions apply if the person or body liable to pay the fee:

- is receiving Legal Aid for the proceeding; or
- is receiving a Youth Allowance, Austudy or Abstudy; or
- aged less than 18 years; or
- is serving a sentence of imprisonment, or otherwise lawfully detained in a public institution; or
- is the holder of a Health Care Card, Pensioner Concession Card, Seniors Health Card, Health Benefit Card or any other card issued by the Department of Family and Community Services, or the Department of Veteran's Affairs, that certifies the holder's entitlement to Commonwealth health concession; or
- has been granted assistance under Part 11 of the Native Title Act 1993.

Fee Waiver

Clause 1(1)(d) of Schedule 3 of the *Federal Court of Australia Regulations 2004* provides that a fee may be waived, if after having regard to the income, day to day living expenses, liabilities and assets of the individual, the Registrar or authorised officer is of the opinion that payment would cause financial hardship to the individual. A similar provision is made in relation to corporations under Clause 1(1)(e) of Schedule 3 of the *Federal Court of Australia Regulations 2004*.

Deferral of Payment of a Fee

Regulation 10 of the *Federal Court of Australia Regulations 2004* enables the payment of certain fees to be deferred if, in the opinion of the Registrar:

- there is an overriding urgency to file a document; or
- if having regard to the financial circumstances of the person liable to pay the fee, it would be oppressive or otherwise unreasonable to require payment of the fee; or in the case of a setting down fee, the date for hearing is more than 6 months after the day on which the proceeding is set down for hearing; or
- the person liable to pay the fee is represented by a practitioner who is acting pro bono.

Procedure

Persons seeking a fee exemption because they fall within one of the categories established in Clauses 1(1)(a) to 1(1)(c) of Schedule 3 must complete an Application by an Individual for Fee Exemption or Waiver. The form and guide to assist in its completion can be located online at

http://www.fedcourt.gov.au/fff/fff_waiver_individual.html.

The same form is used when a waiver of fees on the basis of financial hardship is sought under Clause 1(1)(d). A Statement of Financial Position – Individual must also be filed with the waiver application. The form and a guide to assist in its completion can be located online at

http://www.fedcourt.gov.au/fff/fff_waiver_individual.html.

Corporations seeking a fee waiver on the basis of financial hardship under Clause 1(1)(e) are required to complete an Application by a Corporation for Fee Waiver and Statement of Financial Position of a Corporation Form. The forms and a guide to assist in their completion can be located online at

http://www.fedcourt.gov.au/fff/fff_waiver_corporation.html

An Application for Fee Exemption or Waiver – Continuance of Circumstances must be filed if a fee waiver has already been granted and circumstances have

not changed. This form can be located online at

http://www.fedcourt.gov.au/fff/fff_waiver.html.

If an application to defer payment of fees is able to be made in accordance with Regulation 10, an Application for Deferral of Fees should be filed. This form can be found online at http://www.fedcourt.gov.au/fff/fff_waiver.html.

Review

Under Regulation 16 of the *Federal Court of Australia Regulations 2004*, an application may be made to the Administrative Appeals Tribunal for review of a number of specified decisions of a Registrar as to fees.

Federal Magistrates' Court

Contact: Registry (Melbourne)
Address: Commonwealth Law Courts
305 William Street
Melbourne VIC 3000
Telephone: 1300 352 000
Facsimile: (03) 8600 4445
Email: customer.service@fms.gov.au
Website: <http://www.fmc.gov.au/>
Fee Exemption: Yes. Categories listed below.
Fee Waiver: Yes. Financial hardship.

To update this guide visit 'Fees' on the Federal Magistrates' Court website and select links in the Family Law and General Federal Law section of the Federal Magistrates' Court
<http://www.fmc.gov.au/html/fees.html>

Regulations

Provisions as to fees in the Federal Magistrates' Court are contained in the *Federal Magistrates' Regulations 2000*.

Fees Payable in the Federal Magistrates' Court

Clause 4 and Schedule 1 of the *Federal Magistrates' Regulations 2000* set out the fees payable in the Federal Magistrates' Court.

The current family law and general federal fees payable in the Federal Magistrates' Court can be accessed online at
<http://www.fmc.gov.au/html/fees.html>.

Fees Not Payable

Regulation 7 of the *Federal Magistrates' Regulations 2000* sets out the proceedings in which a fee is not payable in the Federal Magistrates' Court. This list includes a variety of proceedings under the *Family Law Act 1975*, *Child*

Support (Assessment) Act 1989, Child Support (Registration and Collection) Act 1988 and Family Law (Child Abduction Convention) Regulations 1986.

In certain types of matters filing and setting down fees are not payable in the Federal Magistrates' Court. These proceedings are described in Regulations 8A and 8B of the *Federal Magistrates Regulations 2000*.

These regulations should be checked prior to paying fees, even if the Registry requests payment.

Fee Exemption

Regulation 8 of the *Federal Magistrates Regulations 2000* sets out the circumstances in which a person is exempt from payment of fees.

In general, exemption applies if the person liable to pay the fee:

- has been granted Legal Aid for the proceedings; or
 - is in receipt of a Youth Allowance, Austudy or Abstudy; or
 - is a child under the age of 18; or
 - is an inmate of a prison or otherwise lawfully held in a public institution;
- or
- is the holder of a Health Care Card, Health Benefit Card, Pensioner Concession Card, Seniors Health Card or any other card issued by the Department of Family and Community Services of the Department of Veterans' Affairs that certifies entitlement to Commonwealth health concession. (This does not include the dependent of the holder of such a card.).

Fee Waiver

Regulation 9 of the *Federal Magistrates Regulations 2000* provides that a Registrar or authorised officer of the Federal Court may, after having regard to the income, day-to-day living expenses, liabilities and assets of a person liable to pay a fee, waive payment of the fee. The Registrar authorised office must not waive a fee however, unless, in his or her opinion the fee would cause financial hardship to the person liable to pay it.

Deferral of Payment of a Fee

Regulation 10 of the *Federal Magistrates' Regulations 2000*, provides that payment of a fee may be deferred if in the opinion of a Registrar or an authorised officer of the Federal Court, there is an urgency that overrides the requirement of payment of a fee at the time that is payable.

Procedure

Family Law Matters

Persons seeking a fee exemption because they fall within the categories established in Regulation 8 of the *Federal Magistrates Regulations 2000* need to complete an Application – Exemption Form Payment of Court Fees. This form can be accessed online via http://www.fmc.gov.au/html/fees_family.html.

Persons seeking a fee waiver on the grounds of financial hardship should complete an Application for Waiver of Court Fees on the Basis of Financial Hardship. This form can be accessed online via http://www.fmc.gov.au/html/fees_family.html.

The Federal Magistrates' Court, in consultation with other agencies, has drawn up a three part test to assist in assessing whether a fee should be waived on the basis of financial hardship. The guidelines can be found online at http://www.fmc.gov.au/html/fees_family.html.

A Payment of Court Fees – Request for Refund form should be completed when a person has paid a fee and an exemption or waiver is subsequently granted for that fee. This form can be accessed online via http://www.fmc.gov.au/html/fees_family.html.

General Federal Law

Persons seeking a fee exemption because they fall within the categories established in Regulation 8 of the *Federal Magistrates Regulations 2000* need to complete an Application by an Individual for Fee Exemption or Waiver. This

form and a guide to assist in its completion can be accessed online via http://www.fmc.gov.au/html/fees_general.html.

The same form is issued when a waiver of fees on the basis of financial hardship is sought under Regulation 9. A Statement of Financial Position – Individual must also be filed with the waiver application. This form and a guide to assist in its completion can be accessed online via http://www.fmc.gov.au/html/fees_general.html.

Review

Under Regulation 13 of the *Federal Magistrates Regulations 2000* an application may be made to the Administrative Appeals Tribunal for a review of a decision of a Registrar or an authorised officer of the Federal Court not to waive payment of a fee under Regulation 9.

Supreme Court of Victoria

Contact: Prothonotary or Senior Deputy Prothonotary
Address: Old High Court, First Floor
450 Little Bourke Street
Melbourne VIC 3000
(General Registry) Level 2, 436 Lonsdale Street
Melbourne VIC 3000
Telephone: (03) 9603 6031 (General Registry)
(03) 9603 9276 (Prothonotary)
(03) 9603 9280 (Senior Deputy Prothonotary)
Facsimile: (03) 9603 9400 (General Registry)
Email: webmaster@supremecourt.vic.gov.au
Website: <http://www.supremecourt.vic.gov.au>
Fee Exemption: No
Fee Waiver: Yes. Financial hardship.

To update guide visit 'Court Fees' on the Supreme Court website at <http://www.supremecourt.vic.gov.au/wps/wcm/connect/Supreme+Court/Home/Practice+and+Procedure/Court+Fees/>.

Regulations

Fees in the Supreme Court of Victoria are regulated by the *Supreme Court Act 1986* and the *Supreme Court (Fees) Regulations 2001*.

Fees Payable in the Supreme Court

Section 129 of the *Supreme Court Act 1986* and Schedule 2 of the *Supreme Court (Fees) Regulations 2001* contain provisions dealing with fees payable in the Supreme Court. A list of current Supreme Court fees can be found online at <http://www.supremecourt.vic.gov.au/wps/wcm/connect/Supreme+Court/Home/Practice+and+Procedure/Court+Fees/>.

Fees Not Payable

No fees are payable in the Supreme Court for criminal matters.

Fee Exemption

There are no categories of fee exemption in the Supreme Court.

Fee Waiver

Section 129(3) of the *Supreme Court Act 1986* provides that a Prothonotary or Deputy Prothonotary may, after having regard to the income, day to day living expenses, liabilities and assets of a person liable to pay a fee, exercise his/her discretion to waive a prescribed fee if in the Prothonotary/Deputy Prothonotary's opinion the payment of the fee would cause financial hardship. This provision applies only to individuals. A fresh application form is required each time a waiver is sought.

Deferral of Payment of a Fee

There are no formal provisions in either the *Supreme Court (Fees) Regulations 2001* or *Supreme Court Act 1986* which enable payment of a fee in the Supreme Court to be deferred. In some circumstances however it might be possible to obtain an extension of time to pay Notice of Trial fees. As the due to date for the payment of such fees is often the result of an Order of the Listing Master, it is recommended that a call be made to the Registry Contact to discuss whether an extension of time is possible.

Procedure

When applying for a fee waiver, an Application to the Prothonotary to Waive Court Fees together with an Affidavit of Financial Situation must be filed with the Supreme Court. A separate application for each fee sought to be waived is required. The forms are **not** available on the Supreme Court's website but can be obtained directly from the Supreme Court.

An applicant for a fee waiver should have the relevant documents on which the fee would be payable ready at the time that the application is made. Unless the matter is extremely urgent, applicants are advised to make an appointment with the Prothonotary when making an application.

County Court of Victoria

Contact:	Registrar
Address:	250 William Street Melbourne VIC 3000
Telephone:	(03) 8636 6545 (Secretary to the Registrar)
Facsimile:	(03) 8636 6050
Website:	http://www.countycourt.vic.gov.au
Fee Exemption:	Yes. Categories listed below.
Fee Waiver:	Yes. Financial hardship.

To update this guide visit '*County Court Fees, Costs and Charges*' on the County Court website at [http://www.countycourt.vic.gov.au/CA2570A600220F82/Lookup/Costs_and_Fees/\\$file/Costs%20as%20from%2001.01.2007.pdf](http://www.countycourt.vic.gov.au/CA2570A600220F82/Lookup/Costs_and_Fees/$file/Costs%20as%20from%2001.01.2007.pdf).

Regulations

Fees in the County Court are regulated by the *County Court Act 1958* and the *County Court (Court Fees) Order 2001*.

Fees Payable in the County Court

Section 28(1) of the *County Court Act 1958* and Schedule 2 of the *County Court (Court Fees) Order 2001* contain provisions dealing with the fees payable in the County Court. A list of current fees payable in the County Court can be accessed online at

[http://www.countycourt.vic.gov.au/CA2570A600220F82/Lookup/Costs_and_Fees/\\$file/Costs%20as%20from%2001.01.2008.pdf](http://www.countycourt.vic.gov.au/CA2570A600220F82/Lookup/Costs_and_Fees/$file/Costs%20as%20from%2001.01.2008.pdf).

Fees Not Payable

No fees are payable in the County Court for criminal matters.

Fee Exemptions

Section 28A of the *County Court Act 1958* provides a statutory exemption from the payment of court fees in respect of proceedings in the criminal jurisdiction and appellate jurisdiction of the court to:

- members of the police force acting in the execution their duty;
- any person acting for and by the authority of Her Majesty or of the Secretary to the Department of Human Services;
- any municipal council in the discharge of any right or duty imposed by any Act in relation to public health.

Fee Waiver

Section 28(4) of the *County Court Act 1958* provides that the Registrar or Deputy Registrar may, after having regard to the income, day to day living expenses, liabilities and assets of the person liable to pay a fee on a proceeding, waive payment of that fee, if in his or her opinion, the payment of that fee by that person would cause him or her financial hardship.

Deferral of Payment of a Fee

There are no provisions in either the *County Court Act 1958* or the *County Court (Court Fees) Order 2001* which enable the payment of a fee to the County Court to be deferred.

Procedure

When applying for a fee waiver, an Application for Waiver of Payment of a Prescribed Fee together with an Affidavit of Financial Situation in Support of Application of Prescribed Fee must be filed with the County Court. A separate application for each fee sought to be waived is required. . The forms are **not** available on the County Court's website but can be obtained directly from the County Court.

An applicant for a fee waiver should have the relevant documents on which the fee would be payable ready at the time that the application is made.

Magistrates' Court of Victoria

Contact: Civil Registrar
Address: 233 William Street
GPO Box 882G
Melbourne 3001
Telephone: (03) 9628 7777
Facsimile: (03) 9628 7728 (Civil Registry)
Website: <http://www.magistratescourt.vic.gov.au>
Fee Exemption: Yes. Categories listed below.
Fee Waiver: Yes. Civil proceedings only. Financial hardship.

To update current fees visit the Magistrates Court website and search for 'Fees' at www.magistratescourt.vic.gov.au.

Regulations

Fees in the Magistrates' Court are regulated by the *Magistrates' Court Act 1989* and the *Magistrates' Court (Fees, Costs and Charges) Regulations 2001*.

Fees Payable in the Magistrates' Court

Sections 22 and 140 of the *Magistrates Court Act 1989* and Regulation 7 of the *Magistrates' Court (Fees, Costs and Charges) Regulations 2001* contain provisions dealing with fees payable in the Magistrates' Court.

A list of current fees payable for civil proceedings in the Magistrates' Court can be found online at

[http://www.magistratescourt.vic.gov.au/CA256902000FE154/Lookup/Civil_Scale_of_Costs/\\$file/Ready_Reckoner.pdf](http://www.magistratescourt.vic.gov.au/CA256902000FE154/Lookup/Civil_Scale_of_Costs/$file/Ready_Reckoner.pdf).

A list of current fees payable in the Magistrates' Court in relation to criminal matters can be found online at

[http://www.magistratescourt.vic.gov.au/CA256902000FE154/Lookup/Criminal_Scale_of_Costs/\\$file/Criminal_Costs_Sheet.pdf](http://www.magistratescourt.vic.gov.au/CA256902000FE154/Lookup/Criminal_Scale_of_Costs/$file/Criminal_Costs_Sheet.pdf).

Fees Not Payable

Fees are not payable in the Magistrates' Court in respect of:

- any summons initiated for a charge in accordance with section 56(2) of the *Summary Offences Act 1966*; or
- the issuing of any process on behalf of a defendant charged with an indictable offence (pursuant to section 454 of the *Crimes Act 1958*).

Fee Exemption

Regulation 7 of the *Magistrates' Court (Fees, Costs and Charges) Regulations 2001* provides an exemption from payment of fees to:

- police members acting in the course of duty;
- persons acting for or by authority of the Crown (i.e.: State Government Departments, but not Commonwealth Governments);
- persons acting for or by the authority of the Secretary to the Department of Human Services;
- a person acting for or by the authority of the Secretary to the Department of Infrastructure, a municipal council or a person authorised by a municipal council under any Act relating to public health;
- proceedings under the *Maintenance Act 1965*;
- proceedings under the *Crimes (Family Violence) Act 1987*; or
- applications filed by a judgement debtor for an instalment order under section 7 of the *Judgment Debt Recovery Act 1984*.

Fee Waiver

Section 22(2) of the *Magistrates' Court Act 1989* provides that the appropriate registrar may, having regard to the income, day to day living expenses, liabilities and assets of a person liable to pay a prescribed fee in a civil proceeding, waive payment of that fee, if in his or her opinion, the payment of that fee by that person would cause him or her financial hardship.

Procedure

When applying for a fee waiver, an Application for Waiver of Payment of a Prescribed Fee and Affidavit of Financial Circumstances must be filed with the

appropriate registrar at the Magistrates' Court. A separate application for each fee sought to be waived is required. The forms are **not** available on the Magistrates' Court's website but can be obtained directly from the Civil Registry of the Magistrates' Court.

Family Court of Australia

Contact: Registry (Melbourne)
Address: Commonwealth Law Courts
305 William Street
GPO Box 9991
Melbourne VIC 3000
Telephone: 1300 352 000
Facsimile: (03) 8600 3750
Email: melbourne@familycourt.gov.au
Website: www.familycourt.gov.au
Fee Exemption: Yes. Categories detailed below.
Fee Waiver: Yes. Financial hardship.

To update this guide visit 'Forms and Fees' on the Family Court of Australia website at http://www.familycourt.gov.au/presence/connect/www/home/forms_fees/

Regulations

Regulations as to fees in the Family Court are contained in the *Family Law Regulations 1984*.

Fees Payable in the Family Court

Regulations 11 and 16 of the *Family Law Regulations 1984* set out the fees payable in the Family Court of Australia. A list of current Family Court fees is available online at

http://www.familylawcourts.gov.au/wps/wcm/resources/file/eb9611491a3e62a/DLFees_1007w.pdf.

Fees Not Payable

There are no proceedings in the Family Court in which a fee is not payable.

Fee Exemption

Regulations 11(7) and 16(3) of the *Family Law Regulations 1984* do however set out the circumstances in which a person is exempt from paying a fee in the Family Court.

In general, an exemption applies if the person liable to pay the fee is:

- in receipt of a Legal Aid grant for the proceedings; or
- in receipt of a Youth Allowance, Austudy or Abstudy; or
- a child under the age of 18 years; or
- a prison inmate or otherwise lawfully detained in a public institution; or
- the holder of a Health Care Card, Health Benefit Card, Pensioner Concession Card, a Commonwealth Seniors Health Card or any card issued by Centrelink or the Department of Veterans' Affairs that certifies entitlement to Commonwealth health concessions.

Fee Waiver

Regulations 11(7)(e) and 16(3)(c) of the *Family Law Regulations 1984* provide that a registrar, having regard to the income, day to day living expenses, assets and liabilities of a person liable to pay a fee, may waive payment of a fee, because, in his or her opinion, it would cause financial hardship to the person.

Procedure

Persons seeking exemption because they fall within the categories established in Regulations 11(7) and 16(3) of the *Family Law Regulations 1984* need to complete an Application Exemption Form: Payment of court fees. This form can be accessed online at

http://www.familylawcourts.gov.au/wps/wcm/resources/file/eb75394ed7425aa/Waiver_Exemption.doc.

Persons seeking waiver of fees on the basis of financial hardship should complete an Application for Waiver of Court Fees on the Basis of Financial Hardship. This form can be accessed online at

http://www.familylawcourts.gov.au/wps/wcm/resources/file/eb753e4ed7f9e67W/aiver_application.doc.

The Family Court in consultation with other agencies has drawn up a three part test to assist in assessing whether a fee should be waived on the basis of financial hardship. The guidelines can be accessed online at

[http://www.familylawcourts.gov.au/wps/wcm/resources/file/eb83b346354331e/Waiver Guidelines Oct 07.pdf](http://www.familylawcourts.gov.au/wps/wcm/resources/file/eb83b346354331e/Waiver_Guidelines_Oct_07.pdf).

A Payment of Court Fees – Request for Refund form should be completed when a person has paid a fee and an exemption or waiver is subsequently granted for that fee. This form can be accessed online at

[http://www.familylawcourts.gov.au/wps/wcm/resources/file/eb754d4ed8efdee/Waiver Refund.doc](http://www.familylawcourts.gov.au/wps/wcm/resources/file/eb754d4ed8efdee/Waiver_Refund.doc).

Review

Under Regulation 16A of the *Family Court Regulations 1984* an application may be made to the Administrative Appeals Tribunal for a review of a decision of a registrar not to waive payment of a fee under Regulations 11(7)(e) or 16(3)(c).

Australian Administrative Tribunal

Contact:	Registry (Melbourne)
Address:	Level 16, HWT Tower, Southgate 40 City Road Southbank VIC 3006
Telephone:	(03) 9282 8444 (metropolitan area) 1300 366 700 (country areas)
Facsimile:	(03) 9282 8480
Website:	http://www.aat.gov.au
Fee Exemption:	Yes. Categories listed below.
Fee Waiver:	Yes. Financial hardship.

To update this guide visit '*Forms and Fees*' on the Administrative Appeals Tribunal website at <http://www.aat.gov.au/FormsAndFees/Forms.htm>.

Regulations

Provisions dealing with the regulation of fees in the Administrative Appeals Tribunal are contained in the *Administrative Appeals Tribunal Act 1975* and *Administrative Appeals Tribunal Regulations 1976*.

Fees of the Administrative Appeals Tribunal

Regulations 19 to 20 of the *Administrative Appeals Tribunal Regulations 1976* set out the fees payable in the Administrative Appeals Tribunal including application and appeal fees.

The current application fee payable in the Administrative Appeals Tribunal can be accessed online at <http://www.aat.gov.au/FormsAndFees/Fees.htm>

Fees Not Payable

Pursuant to Regulation 19(1) of the *Administrative Appeals Tribunal Regulations 1976*, an application fee is not payable in respect to application for review of a '*prescribed decision*'. A '*prescribed decision*' is defined in

Regulation 19(2) as a decision specified in Schedule 3 or a decision reviewable under section 55 of the *Freedom of Information Act 1982*, being a decision made in relation to a document that relates to a decision specified in Schedule 3. Schedule 3 provides a list of the prescribed decisions for the purposes of Regulation 19. The list includes decisions made under a number of Commonwealth Acts of Parliament, including but not limited to the *Safety, Rehabilitation and Compensation Act 1988, Veterans' Entitlements Act 1986, Defence Act 1903, Disability Services Act 1986, National Health Act 1953* and *Social Security Act 1991*. This Schedule should be checked prior to lodging and application with the Administrative Appeals Tribunal.

Fee Exemption

Regulation 19(6) of the *Administrative Appeals Tribunal 1976* sets out the circumstances in which a person is exempt from the payment of fees.

In general, exemption applies if the person liable to pay the fee:

- has been granted Legal Aid for the matter to which the fee relates; or
- is in receipt of a Youth Allowance, Austudy or Abstudy; or
- is a child under the age of 18 years; or
- is an inmate of a prison or is otherwise lawfully detained in a public institution; or
- is the holder of a Health Care Card, Health Benefit Card, Pensioner Concession Card, a Commonwealth Seniors Health Card or any other card issued by the Department of Family and Community Services of the Department of Veterans' Affairs that certifies entitlement to Commonwealth health concessions.

Fee Waiver

Regulation 19(6)(c) of the *Administrative Appeals Tribunal Regulations 1976* provides that payment of a fee may be waived, if having regard to the income, day to day living expenses, liabilities and assets of the person liable to pay the fee, the Registrar, a District Registrar or Deputy Registrar is of the opinion that payment of the fee would cause financial hardship to the person.

Procedure

An application for waiver of an application fee can be made by completing a Request to Waive Application Fee form. This form is available from the Administrative Appeals Tribunal and is located online at <http://www.aat.gov.au/docs/fee.pdf>. Once the form is completed it should be lodged with the Tribunal.

An application for waiver of an application fee can also be made in a letter. This letter should outline the necessary information about the applicant's financial circumstances. The Tribunal is able to assist persons having difficulty writing a letter.

The Administrative Appeals Tribunal has prepared some notes that should be considered when preparing the request. The notes are located online at <http://www.aat.gov.au/FormsAndFees/RequestToWaive.htm>.

If an application fee is paid it will be refunded if a Member of the Tribunal makes a final decision in that person's favour.

Review

Under Regulation 20 of the *Administrative Appeals Tribunal Regulations 1976*, an application may be made to the Administrative Appeals Tribunal for a review of a decision of the Registrar, a District Registrar or Deputy Registrar not to waive the payment of a fee under Regulation 19(6)(c)

Victorian Civil and Administrative Tribunal

Contact: Registry
Address: 55 King Street
Melbourne VIC 3000
Telephone: 9628 9700
Facsimile: 9628 9788
Email: vcat@vcat.vic.gov.au
Website: www.vcat.vic.gov.au
Fee Exemption: No.
Fee Waiver: Yes.

To update this guide visit 'Fees-Forms-Brochures' on the Victorian Civil and Administrative Tribunal website at <http://www.vcat.vic.gov.au/CA256DBB0022825D/page/Fees-Forms-Brochures?OpenDocument&1=15-Fees-Forms-Brochures~&2=~&3=~>.

Regulations

Provisions dealing with the regulation of fees in the Victorian Civil and Administrative Tribunal are found in the *Victorian Civil and Administrative Tribunal Act 1998* and *Victorian Civil and Administrative Tribunal (Fees) Regulations 2001*.

Fees Payable in the Victorian Civil and Administrative Appeals Tribunal

Regulation 4 of the *Victorian Civil and Administrative Appeals Tribunal (Fees) Regulations 2001* sets out the fees payable in the Victorian Civil and Administrative Appeals Tribunal. Current application fees payable under the various Acts for each 'list' in the Victorian Civil and Administrative Tribunal can be accessed online at

<http://www.vcat.vic.gov.au/CA256DBB0022825D/page/Fees-Forms-Brochures-Fees?OpenDocument&1=15-Fees-Forms-Brochures~&2=10-Fees~&3=~>.

Fees Not Payable

The Scale of Fees Table contained in Regulation 4 of the *Victorian Civil and Administrative Tribunal (Fees) Regulations 2001* lists a number of Victorian Acts of Parliament in respect of which no fee is payable for the commencement of proceedings at the Victorian Civil and Administrative Appeals Tribunal. The list includes but is not limited to section 129A(1)(a) of the *Adoption Act 1984*, the *Children and Young Persons Act 1989*, *Community Services Act 1970*, *Guardianship and Administration Act 1986*, *Health Records Act 2001* and Part 10 of the *Residential Tenancies Act 1997*.

Fee Exemption

There are no categories of fee exemption in the Victorian Civil and Administrative Tribunal.

Fee Waiver or Reduction

Section 132 of the *Victorian Civil and Administrative Act 1998* provides that the Principal Registrar may in any case waive or, if permitted by the regulations reduce any fee payable under that Act, if he or she considers that the payment of the fee would cause the person responsible for its payment financial hardship or on any other ground prescribed in the regulations. Businesses and associations are not eligible for fee waiver.

The Victorian Civil and Administrative Tribunal has issued general guide as to fee waiver which can be accessed online at [http://www.vcat.vic.gov.au/CA256902000FE154/Lookup/application_forms_miscellaneous/\\$file/fee_waiver_application_form.pdf](http://www.vcat.vic.gov.au/CA256902000FE154/Lookup/application_forms_miscellaneous/$file/fee_waiver_application_form.pdf).

As a general guide, fees may be waived at the Victorian Civil and Administrative Tribunal due to financial hardship if the applicant is a person:

- who has no partner or children, is not in the workforce, his or her after tax income is below \$258 per week and he or she does not have cash assets of \$3,000 or more; or

- who has a partner, neither are in the workforce, has two children, his or her tax income is \$538 per week, and he or she does not have cash assets of \$5,000 or more.

If an applicant for fee waiver's income is above these levels, the Victorian Civil and Administrative Tribunal have indicated that the fee will be payable unless there are exceptional circumstances.

Successful applicants for a fee waiver should be aware that pursuant to 132(2) of the *Victorian Civil and Administrative Tribunal Act 1998* if costs are awarded against a person who has had a fee waived or reduced, the person becomes liable to pay the amount of the fee previously waived or reduced. Section 132(3) further provides that if a person becomes liable to pay a fee because of sub-section (2), that person is not entitled, without leave of the Tribunal, to bring any proceeding or make an application in any existing proceeding until the fee is paid.

Procedure

A person who wishes to have a fee waived will assist the Victorian Civil and Administrative Tribunal if he or she completes the Request for Fee to be Waived and Supporting Statutory Declaration form. This form can be accessed online at

[http://www.vcat.vic.gov.au/CA256902000FE154/Lookup/application_forms_miscellaneous/\\$file/fee_waiver_application_form.pdf](http://www.vcat.vic.gov.au/CA256902000FE154/Lookup/application_forms_miscellaneous/$file/fee_waiver_application_form.pdf).

If there is more than one applicant, each applicant should provide a completed Request for Fee to Be Waived and Supporting Statutory Declaration form.

Once the information is provided, the Principal Registrar of the Victorian Civil and Administrative Tribunal will decide whether to waive the fee and advise the applicant of the decision.

Australian Industrial Relations Commission

Contact: Registry (Melbourne)
Address: Level 4,
11 Exhibition Street
Melbourne, VIC 3001
Telephone: 03 8661 7777
Facsimile: 03 9655 0401
Email: melbourne@air.gov.au
Website: www.airc.gov.au
Fee Exemption: No.
Fee Waiver: Yes. Serious hardship.

Regulations

Provisions dealing with the regulation of fees for applications for relief in respect to termination of employment in the Australian Industrial Relations Commission are found in the *Workplace Relations Act 1996* and *Workplace Relations Regulations 1996*.

Fees Payable in the Australian Industrial Relations Commission

The *Workplace Relations Act 1996* and *Workplace Relations Regulations 1996* set out the fees payable in the Australian Industrial Relations Commission in relation to an application for relief in respect to termination of employment.

Fees Not Payable

Except for applications for relief in respect to termination of employment, no fees are payable in the Australian Industrial Relations Commission.

Fee Exemption

There are no categories of fee exemption in the Australian Industrial Relations Commission.

Fee Waiver

Under section 170CEAA(7) of the *Workplace Relations Act 1996*, if a Registrar is satisfied that the person lodging an application for relief in respect to termination of employment will suffer serious hardship if the person is required to pay the fee, no fee is payable for lodging the applications.

Procedure

A person lodging an application with the Australian Industrial Relations Commission for relief in respect to termination of employment should complete an Application for Waiver of Unfair/Unlawful Termination Lodgment Fee form. This form can be downloaded from

<http://www.air.gov.au/airweb/rtfforms/WaiverForm.rtf>.

NB: The *Workplace Relations Act 1996* has recently been the subject of significant amendment. For further information as to the impact of the amendments on fees, visit www.airc.gov.au.

Migration Review Tribunal

Contact: Registry (Melbourne)
Address: Level 12
460 Lonsdale Street
Melbourne, VIC 3000
Telephone: 03 8600 5900
Facsimile: 03 8600 5801
Email: enquiries@mrt-rrt.gov.au
Website: <http://www.mrt-rrt.gov.au/>
Fee Exemption: Yes. Categories listed below.
Fee Waiver: Yes. Severe financial hardship.

To update this guide visit the 'Applications' page from the Migration Review Tribunal homepage and select 'Forms' at <http://www.mrt.gov.au/forms.html>.

Regulations

Fees in the Migration Review Tribunal are regulated by the *Migration Regulations 1994*.

Fees of the Migration Review Tribunal

Regulation 4.13 of the *Migration Regulations 1994* sets out the application fees for review of a decision by Migration Review Tribunal.

Currently, an application fee of \$1400 is payable in all cases except when applying for review of a bridging visa decision (including any related decision to require a security) that resulted in a person being placed in immigration detention.

Fees Not Payable

Regulation 4.13(2)(a) of the *Migration Regulations 1984* provides that no fee is payable on an application for review of a primary decision of the kind referred to in subsection 338(4) of the *Migration Act 1958*.

Section 338(4) of the *Migration Act 1958* is concerned with decisions to:

- refuse to grant a bridging visa to a non-citizen who is in immigration detention because of that refusal; and
- cancel a bridging visa held by a non-citizen who is in immigration detention because of that cancellation.

Fee Exemption

Under Regulation 4.13(2)(b) of the *Migration Regulations 1984*, a non citizen who is in immigration detention is exempt from the payment of a fee in respect to an application for review by the Tribunal of a decision to which paragraph 4.02(4)(f) applies.

Regulation 4.02(4) of the *Migration Regulations 1984* contains an extensive list of reviewable decisions. This regulation should be consulted prior to the issue of an application for review by a non citizen who is in immigration detention.

Fee Waiver

Regulation 4.13(4) of the *Migration Regulations 1984* provides that the Registrar or Deputy Registrar, or another authorized officer may determine that the fee on an application for review of a decision should not be paid if he or she is satisfied that payment of the fee has caused, or is likely to cause, severe financial hardship to the review applicant.

Procedure

When applying for a fee waiver, an Application for Fee Waiver must be completed. The completed form, together with documentary evidence should be lodged with the Migration Review Tribunal. The form can be downloaded from <http://www.mrt-rrt.gov.au/docs/forms/mrt/M11AppFeeWaiver.pdf>.

Refugee Review Tribunal

Contact: Registry (Melbourne)
Address: Level 12,
460 Lonsdale Street
Melbourne, VIC 3000
Telephone: 03 8600 5900
Facsimile: 03 8600 5801
Email: enquiries@mrt-rrt.gov.au
Website: <http://www.mrt-rrt.gov.au/>
Fee Exemption: Yes. Successful applicants.
Fee Waiver: Yes. Successful applicants.

To update this guide visit the Refugee Review Tribunal's homepage at www.rrt.gov.au. Also check the *Migration Regulations 1994*.

Regulations

Fees in the Refugee Review Tribunal are regulated by the *Migration Regulations 1994*.

Fees of the Migration Review Tribunal

Regulation 4.31B (1) of the *Migration Regulations 1994* sets out the fee for review by the Refugee Review Tribunal. The fee is payable within 7 days of the time when the notice of the decision of the Refugee Review Tribunal is taken to be received. Regulation 4.31B (4) provides that only one fee is payable for each application even if the application includes more than one person.

Fees Not Payable

See below.

Fee Exemption

Regulation 4.31B (3) of the *Migration Regulations 1994* provides that no fee is payable if the review application is successful

Fee Waiver

Regulation 4.31C of the *Migration Regulations 1994* provides that a fee will be refunded or waived if:

- on review by a court, the decision is remitted for reconsideration by the Refugee Review Tribunal and the remitted application is successful; or
- the Minister substituted for the decision of the Refugee Review Tribunal a decision that is favourable for the applicant.

Procedure

Fee exemption is automatic on the decision of the Refugee Review Tribunal. In order to obtain a fee waiver or refund, contact the Registry.