



AUSTRALIAN CAPITAL TERRITORY

Administrative Appeals Tribunal (Amendment) Act 1994

No. 8 of 1994

An Act to amend the *Administrative Appeals Tribunal Act 1989*

[Notified in ACT Gazette S44: 14 March 1994]

The Legislative Assembly for the Australian Capital Territory enacts as follows:

Short title

1. This Act may be cited as the *Administrative Appeals Tribunal (Amendment) Act 1994*.

Commencement

2. This Act commences on the day on which it is notified in the *Gazette*.

Principal Act

3. In this Act, “Principal Act” means the *Administrative Appeals Tribunal Act 1989*.¹

Witnesses’ fees and allowances

4. Section 59 of the Principal Act is amended—

- (a) by omitting from subsection (2) “allowance” and substituting “allowances due to a witness”; and
- (b) by omitting subsections (4) and (5).

Insertion

5. After section 59 of the Principal Act, the following sections are inserted:

Fees and charges—determination

“59A. (1) 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 this Act and the regulations.

“(2) A determination under subsection (1) may provide for any of the following matters:

- (a) the exemption of persons from liability to pay application fees, in whole or in part;
- (b) exemptions from liability for the payment of application fees, in whole or in part, in particular circumstances;
- (c) the remission or refund of fees or charges by the Registrar, in whole or in part, in particular circumstances;
- (d) the deferral of liability by the Registrar for the payment of fees or charges, in whole or in part, in particular circumstances.

“(3) A determination under subsection (1) is a disallowable instrument for the purposes of section 10 of the *Subordinate Laws Act 1989*.

Fees and charges—payment

“59B. (1) A fee or charge determined under subsection 59A (1) is payable, in advance, in accordance with the determination, subject to this section.

“(2) A fee or charge determined under subsection 59A (1) is payable on notification from the Registrar if it is calculated by reference to expenses actually incurred in performing the function, or in providing the facility or service, for which the fee or charge is payable.

“(3) If a fee or charge determined under subsection 59A (1) and payable in advance is not paid when due, there is no obligation on the Registrar or the

Tribunal to perform the function, or provide the facility or service, for which the fee or charge is payable.

Fees and charges—remission, refund, deferral, waiver, exemption

“59C. (1) A fee or charge determined under subsection 59A (1) may be remitted or refunded, or liability for its payment deferred, in accordance with the determination.

“(2) A fee or charge determined under subsection 59A (1) is not payable—

- (a) if the person otherwise liable to pay the fee or charge is—
 - (i) exempt from paying the fee or charge under subsection 93 (1) of the *Legal Aid Act 1977*;
 - (ii) assisted under section 62; or
 - (iii) legally assisted under a scheme or service provided or approved by the Attorney-General; or
- (b) if the Registrar waives payment of the fee or charge in whole or in part because he or she considers that it would impose hardship on the person liable to pay the fee or charge—to the extent of the waiver.

“(3) An application fee is to be refunded if the application terminates in a manner favourable to the applicant.

Single application fee for multiple applications

“59D. The Registrar may order that a single application fee is payable for 2 or more applications if the applications—

- (a) relate to the same applicant; and
- (b) in the opinion of the Registrar, may be conveniently heard together by the Tribunal.

Fees and charges—review of decisions

“59E. (1) The following decisions of the Registrar are reviewable under this section:

- (a) a decision referred to in paragraph 59A (2) (c) in relation to the remission or refund of a fee or charge (in whole or in part);
- (b) a decision referred to in paragraph 59A (2) (d) in relation to the deferral of liability for the payment of a fee or charge (in whole or in part);

- (c) a decision under paragraph 59C (2) (b) in relation to the waiver of payment of a fee or charge (in whole or in part);
- (d) a decision not to make an order under section 59D in respect of 2 or more applications in relation to the same applicant.

“(2) After making a reviewable decision, the Registrar shall give a written notice of the decision to the eligible person including a statement to the effect that—

- (a) the person may apply to the Registrar for a statement of reasons for the decision; and
- (b) the person may apply to the Tribunal for review of the decision within the review period.

“(3) On written application by the eligible person within 28 days after the person’s receipt of a notice under subsection (2), the Registrar shall give the person a written statement of reasons for the relevant decision.

“(4) On written application by the eligible person within the review period, the Tribunal may review a reviewable decision.

“(5) On a review under subsection (4), the Tribunal may make such order as it considers appropriate.

“(6) No fee or charge is payable in relation to an application for review under subsection (4).

“(7) In this section—

‘eligible person’, in relation to a reviewable decision, means the person who claims to be entitled to the relevant remission, refund, deferral or waiver, or to relief under section 59D, as the case requires;

‘review period’, in relation to a reviewable decision, means—

- (a) the period of 28 days after receipt by the eligible person of notice of the decision under subsection (2); or
- (b) if the eligible person applies under subsection (3) for a statement of reasons for the decision—the period of 28 days after he or she receives the statement of reasons.”.

Saving—existing fees

6. Notwithstanding paragraph 4 (b), a notice under subsection 59 (4) of the Principal Act, being a notice in force immediately before the day on which this Act commences, continues in force by virtue of this section until the first determination under subsection 59A (1) of the Principal Act as amended by this Act comes into effect.

NOTE

1. Reprinted as at 30 June 1991. See also Act No. 118, 1991.

[Presentation speech made in Assembly on 9 December 1993]

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