



AUSTRALIAN CAPITAL TERRITORY

Magistrates Court Act 1930

DETERMINATION OF FEES AND CHARGES APPLICABLE IN THE LOWER COURTS AND TRIBUNALS AND EXPLANATORY NOTES

INSTRUMENT NO. 195 of 2000

1. This determination comes into operation on 1 July 2000.
2. Under subsection 248A(1) of the *Magistrates Court Act 1930* I **REVOKE** Determinations No. 148 and 149 of 1999.
3. Under subsection 248A(1) of the *Magistrates Court Act 1930*, I **DETERMINE** the fees set out in the Schedule to this Determination to be the fees payable under section 248B of that Act in the following courts and tribunals:
 - the magistrates court
 - the coroners court
 - the administrative appeals tribunal;
 - the credit tribunal;
 - the discrimination tribunal;
 - the residential tenancies tribunal;
 - the tenancy tribunal.
4. The payment of the fee may be deferred in accordance with the Schedule.
5. Explanatory notes (including the previous years fee) are included in the Schedule in italic text. General explanatory notes are included at the end of the Schedule in italic text. Headings in the Schedule, explanatory notes in italic text in the Schedule and general explanatory notes in italic text in the Schedule do not form part of the determination. (For example, the following twelve words, if included in the Schedule, would not form part of the determination: [*Explanatory note: explanatory notes and general explanatory notes are in italic text*]).

Dated: 19th June 2000

GARY HUMPHRIES
Attorney-General

SCHEDULE - FEES AND CHARGES TO BE PAID

Item	Matter in respect of which a fee or charge is payable	Amount Payable
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PART A: Commencement of Proceedings in a lower court or tribunal

1.	<p>On laying an information for an offence (section 26 of the Magistrates Court Act 1930).</p> <p><i>[Explanatory note: An information may be laid before a Magistrate under section 26 where a person has committed, or is suspected of having committed, certain offences. Last financial year the fee was the same.]</i></p>	\$50
2.	<p>On institution of proceedings under the Magistrates Court (Civil Jurisdiction) Act 1982:</p> <p>(i) where the amount in dispute is more than \$10,000;</p> <p>(ii) where the amount in dispute is \$10,000 or less or for a determination under the Common Boundaries Act 1981;</p> <p>(iii) where the amount in dispute is \$2,000 or less (if under Part XXII of the Act).</p> <p><i>[Explanatory note: This item sets the fees for instituting a proceeding before the Magistrates Court (including small claims proceedings commenced under Part XXII of the Magistrates Court (Civil Jurisdiction) Act 1982). Last financial year the fees were, respectively, \$300, \$85, \$35.]</i></p>	<p>\$310</p> <p>\$90</p> <p>\$35</p>
3.	<p>On lodging an application for the review of a decision with the Administrative Appeals Tribunal under:</p> <p>(i) section 12 of the Housing Assistance Act 1987;</p> <p>(ii) the Rates and Land Rent (Relief) Act 1970;</p> <p>(iii) 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);</p> <p>(iv) the Land (Planning and Environment) Act 1991</p> <p>(v) any other enactment other than the review of a decision</p> <p><i>[Explanatory note: This item determines the fee payable on the lodging with the Administrative Appeals Tribunal of an application for the review of a decision. Last financial year the fees were Nil, Nil, Nil, \$130 and \$190 respectively.]</i></p>	<p>Nil</p> <p>Nil</p> <p>Nil</p> <p>\$135</p> <p>\$195</p>
4.	<p>On referral of a dispute to the Registrar of the Tenancy Tribunal (section 12 of the Tenancy Tribunal Act 1994).</p> <p><i>[Explanatory note: Under the Tenancy Tribunal Act 1994, disputes are referred to the Registrar. This item determines the fee payable in respect of a referral of a dispute to the Registrar of the Tenancy Tribunal. Last financial year the fee was \$115.]</i></p>	\$120

SCHEDULE - FEES AND CHARGES TO BE PAID

Item	Matter in respect of which a fee or charge is payable	Amount Payable
5.	<p>On lodging of an application with the Credit Tribunal.</p> <p><i>[Explanatory note: This item determines the fee payable on the lodging an application with the Credit Tribunal. Last financial year the fee was \$190.]</i></p>	\$195
6.	<p>On lodging an application with the Residential Tenancies Tribunal:</p> <p>(i) where the amount in dispute is more than \$1000 or for a termination and possession order pursuant to Part IV of the Residential Tenancy Act 1997 where a bond has been deposited with the Territory in relation to the tenancy;</p> <p>(ii) for a termination and possession order pursuant to Part IV of the Residential Tenancy Act 1997 where a bond has not been deposited with the Territory in relation to the tenancy;</p> <p>(iii) for endorsement of a tenancy agreement by the Tribunal under s10 of the Residential Tenancies Act 1997</p> <p>(iv) where the amount in dispute is \$1000 or less or in any other case.</p> <p>Where the application involves more than one of the above matters, the fee payable is the higher of the fees.</p> <p><i>[Explanatory note: The determination sets out the amount of various fees in the Residential Tenancy Tribunal. The application fee for a termination and possession order is higher in respect of a property where no bond has been provided. As the scheme is funded by interest from bond revenue and the retention of fees, the imposition of a higher fee in respect of such a class partially addresses a funding inequity that might otherwise exist. Note that a fee was not previously set in relation to application for endorsement by the Tribunal under s10 of the Residential Tenancies Act 1997 (see item (iii) above) because the former fee setting power did not extend to applications which did not involve a dispute for the purposes of s73 of that Act. Note that no fee is set by this determination but that if a fee is set in a future year, pursuant to item 22, only one fee would be payable in relation to a series of applications made at the same time and raising the same issue, say, by the lessor and all the tenants in a co-operative for an endorsement. Last financial year the fees were \$85, \$160, Nil and \$45 respectively.]</i></p>	<p>\$90</p> <p>\$170</p> <p>Nil</p> <p>\$45</p>
7.	<p>On lodging for enforcement a judgment obtained in another court.</p> <p><i>[Explanatory note: Last financial year the fee was the same.]</i></p>	\$50

SCHEDULE - FEES AND CHARGES TO BE PAID

Item	Matter in respect of which a fee or charge is payable	Amount Payable
8.	<p>On an application for the review of an order, direction or other act of the Registrar of the Magistrates Court other than the review of an order, direction or other act of the Registrar in relation to proceedings under Part XXII of the Magistrates Court (Civil Jurisdiction) Act 1982.</p> <p><i>[Explanatory note: This fee applies when the Magistrates Court, on application from a party to proceedings, reviews an order, direction or other act of the Registrar of that Court. No fee is payable for a review of an order, direction or other act of the Registrar in relation to small claims proceedings under Part XXII of the Magistrates Court (Civil Jurisdiction) Act 1982 or a Tribunal. Last financial year the fee was \$85.]</i></p>	\$90
9.	<p>On filing for taxation a bill of costs as between party and party that, as filed, exceeds \$2,000 (other than under Part XXII of the Magistrates Court (Civil Jurisdiction) Act 1982).</p> <p><i>[Explanatory note: This item determines the fee payable for a party/party taxation. No fee is payable in respect of small claims proceedings under Part XXII of the Magistrates Court (Civil Jurisdiction) Act 1982. Last financial year the fee was \$230.]</i></p>	\$235

PART B: Cross-claims

10.	<p>For a cross-claim or counter-claim under the Magistrates Court (Civil Jurisdiction) Act 1982:</p> <p style="padding-left: 40px;">(i) where the amount is more than \$10,000;</p> <p style="padding-left: 40px;">(ii) where the amount is \$10,000 or less;</p> <p style="padding-left: 40px;">(iii) Where the amount in dispute is \$2,000 or less (if under Part XXII of the Act).</p> <p><i>[Explanatory note: Last financial year the fees were \$300, \$85 and \$35 respectively.]</i></p>	<p>\$310</p> <p>\$90</p> <p>\$35</p>
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PART C: Default

11.	<p>For the purposes of paragraph 150(1)(a) of the Magistrates Court Act 1930.</p> <p><i>[Explanatory note: Section 150 provides that where a person defaults in payment of a fine to which a penalty notice relates the person is liable to pay to the Territory, in addition to the amount of the fine that remains unpaid, the administrative fee determined. See also section 248E concerning the recovery of fees in criminal proceedings. Last financial year the fee was the same.]</i></p>	\$60
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SCHEDULE - FEES AND CHARGES TO BE PAID

Item	Matter in respect of which a fee or charge is payable	Amount Payable
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PART D: Certificates, copies, inspections and transcripts

12.	<p>Provision of a document or a copy of a document under subsection 143(1) of the Magistrates Court Act 1930 or paragraphs 144(1)(a), (c) or (d) of the Magistrates Court Act 1930 where the request for the document or copy requires the preparation of the document.</p> <p><i>[Explanatory note: Where an information has been dismissed against a defendant, section 143 of the Magistrates Court Act provides for the Court to give a defendant, on application, a certificate to that effect signed by the adjudicating Magistrate or the Registrar. This item determines the fee payable for provision of the certificate. Likewise section 144 of the Magistrates Court Act allows the Registrar, on application by a person, to give to that person a copy of an information, minute or memorandum of conviction or order, etc. This item determines the fee payable for the provision of the copy where it is first necessary to draw up the document to which the application relates. See also the following item. Last financial year the fee was the same.]</i></p>	\$25
13.	<p>Provision of a transcript of proceedings where the request for the transcript requires the preparation of the document.</p> <p><i>[Explanatory note: Last financial year the fee was \$8.25 per page. The fees have been extensively revised based on the cost of producing urgent transcripts. Note copies are provided under the following item.]</i></p>	<p>\$8.95 (per page for next day)</p> <p>\$8.50 (per page within 2-3 days)</p> <p>\$8.25 (per page within 3-5 days)</p> <p>\$7.80 (per page after 5 days)</p>
14.	<p>Provision of a copy of a document where a copy or a certified copy can be provided by photocopying another document already in existence and, where necessary, certifying the photocopy:</p> <p>(i) in respect of the application for a copy;</p> <p>(ii) for each page of copy provided.</p> <p><i>[Explanatory note: This item determines the fees payable for the provision of a copy of a document, where all that is required in order to provide the copy is to photocopy an existing document eg, such as a transcript, certificate or a certified copy of a judgement or order or a document filed in proceedings). Last financial year the fee was the same.]</i></p>	<p>\$2</p> <p>\$1</p>

SCHEDULE - FEES AND CHARGES TO BE PAID

Item	Matter in respect of which a fee or charge is payable	Amount Payable
15.	<p>For an inspection under section 495 of the Magistrates Court (Civil Jurisdiction) Act 1982 of:</p> <ul style="list-style-type: none"> (i) a record of the Magistrates Court that contains particulars of a judgment that has been entered under section 43 of the Magistrates Court (Civil Jurisdiction) Act 1982; (ii) a record of the Magistrates Court that contains particulars of the setting aside of such a judgment under section 221 of the Magistrates Court (Civil Jurisdiction) Act 1982; (iii) a record of the Magistrates Court that contains particulars of a Default Judgment within the meaning of Part XXII of the Magistrates Court (Civil Jurisdiction) Act 1982 or a Restoration Order under section 443 of that Act setting aside such a judgment; or (iv) any other record of the Magistrates Court by a person, not being a party to those proceedings, provided that the Registrar is satisfied that the applicant has a good reason for carrying out such search. <p><i>[Explanatory note: Any person may inspect a record of the Magistrates Court, including in relation to small claims proceedings under Part XXII of the Magistrates Court (Civil Jurisdiction) Act 1982, containing particulars of judgments entered in default or special claims or where such judgment has been set aside. This item sets the fee for inspection on a per item or hourly basis. Last financial year the fees were \$15 and \$100 per hour.]</i></p>	<p>For (i), (ii), (iii) or (iv): \$15 per item or \$105 per hour of search time carried out by registry staff on behalf of the applicant</p>
16.	<p>For the supply of a duplicate audio tape recording of a proceeding or of part of a proceeding or of a matter incidental to a proceeding.</p> <p><i>[Explanatory note: Last financial year the fee was the same. Note that tapes are 90 minutes long.]</i></p>	<p>\$35 (per cassette)</p>
17.	<p>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.</p> <p><i>[Explanatory note: Last financial year the fee was the \$45.]</i></p>	<p>\$45 (per tape)</p>
18.	<p>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.</p> <p><i>[Explanatory note: Last financial year the fee was the same for a computer disk. This year the provision of this information by CD-Rom is also included.]</i></p>	<p>\$15 (per disk) \$25.00 (per CD-Rom)</p>
19.	<p>For each page of copy of a document or documents copied by a person, other than an officer of the Magistrates Court, using a Court photocopier</p> <p><i>[Explanatory note: Last financial year the fee was the same.]</i></p>	<p>\$0.20</p>

SCHEDULE - FEES AND CHARGES TO BE PAID

Item	Matter in respect of which a fee or charge is payable	Amount Payable
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PART E: Service, execution and examinations

20.	<p>For serving, and for each attempt to serve, by post, originating process under section 24 of the Magistrates Court (Civil Jurisdiction) Act 1982. (This item does not apply to the service of an application under Part XXII of the Magistrates Court (Civil Jurisdiction) Act 1982.)</p> <p><i>[Explanatory note: Under subsection 24(1) of the Magistrates Court (Civil Jurisdiction) Act 1982, a plaintiff in proceedings may apply for postal service of an originating process. The Registrar may serve the process by post on the defendant. This item determines a fee for the purposes of that provision. The fee does not apply to small claims proceedings under Part XXII of the Magistrates Court (Civil Jurisdiction) Act 1982 as section 24 does not apply to proceedings under that Part - see subsection 395(2). Last financial year the fee was the same.]</i></p>	\$15
21.	<p>For up to 3 attempts to serve at the same address, otherwise than by post, an originating process, a summons, a notice or other civil process, whether or not the service is successful. (This item does not apply to the service of an application under Part XXII of the Magistrates Court (Civil Jurisdiction) Act 1982.)</p> <p><i>[Explanatory note: Where the Magistrates Court arranges service of an originating process, etc, for a plaintiff, other than by post, the fee set out above is payable for that service. The fee covers up to three attempts at service at the same address. No fee is payable in relation to small claims proceedings under Part XXII of the Magistrates Court (Civil Jurisdiction) Act 1982. Last financial year the fee was the same.]</i></p>	\$60
22.	<p>For up to 3 attempts to execute process at the same address, whether or not the execution is successful:</p> <ul style="list-style-type: none"> (i) other than the execution of process in relation to proceedings under Part XXII of the Magistrates Court (Civil Jurisdiction) Act 1982; (ii) in relation to proceedings under Part XXII of the Magistrates Court (Civil Jurisdiction) Act 1982. <p><i>[Explanatory note: This item relates to the enforcement of the Court's judgements. Section 371 of the Magistrates Court (Civil Jurisdiction) Act 1982 provides for the costs actually incurred in effecting a sale of seized goods and chattels, when executing a warrant of execution, to be deducted from the sale price. The fees in this item relate to the administrative expenses of officers of the Court involved in the execution and are additional to those contemplated by section 371. The fee for execution of process covers up to three attempts at execution at the same address. Last financial year the fees were \$195 and \$60 respectively.]</i></p>	\$200 \$60

SCHEDULE - FEES AND CHARGES TO BE PAID

Item	Matter in respect of which a fee or charge is payable	Amount Payable
23.	<p>Subject to the paragraph below, for the issue of a summons under subsection 187(1) or 444(1) of the Magistrates Court (Civil Jurisdiction) Act 1982, under section 40 of the Administrative Appeals Tribunal Act 1989 or under section 27 or section 43 of the Tenancy Tribunal Act 1994:</p> <p style="padding-left: 40px;">(i) to give evidence;</p> <p style="padding-left: 40px;">(ii) for production and to give evidence;</p> <p style="padding-left: 40px;">(iii) for production.</p> <p>No fee is payable under this item if no fee for filing a document in the proceeding is payable.</p> <p><i>[Explanatory note: This item relates to the fees for the issue of summonses to give evidence and produce documents or things in proceedings under the Magistrates Court (Civil Jurisdiction) Act 1982. No fee is payable if no fee for the filing of a document in the proceeding is payable. Last financial year the fees were the same.]</i></p>	<p>\$15</p> <p>\$25</p> <p>\$25</p>
24.	<p>For the court undertaking the oral examination of a debtor.</p> <p><i>[Explanatory note: Last financial year the fee was the same.]</i></p>	\$50

PART F: Miscellaneous

25.	<p>No fee for filing a document or fee for the service or execution of process is payable by any person in relation to proceedings under the Birth (Equality of Status) Act 1988.</p> <p><i>[Explanatory note: This exemption is the same as previously applied.]</i></p>
26.	<p>The Registrar of a court or tribunal may defer liability for the payment of a fee or charge for the performance of a function or the provision of a facility or service, in whole or in part, for a period not in excess of 14 days if, in the Registrar's opinion, payment cannot be made at the time of the request for the function, facility or service, but payment could be made within 14 days after the making of the request.</p> <p><i>[Explanatory note: This power remains similar to that in previous determinations. Note that general exemptions from the payment of fees are set out in subsection 248C(2) of the Magistrates Court Act 1930. A copy of subsection 248C(2) is included in the general explanatory notes at the end of this determination.]</i></p>
27.	<p>In relation to an application made to a Tribunal, a single application fee is payable in respect of 2 or more applications which relate to the same applicant (or where one of the applicants is the same) and which, in the opinion of the Registrar, may be conveniently heard together by the Tribunal. Where an application fee in respect of each or some of those applications has been paid, the Registrar may refund all but the first of those application fees.</p> <p><i>[Explanatory note: This provision, which previously applied to the Administrative Appeals Tribunal, now applies beneficially to all tribunal applicants.]</i></p>

General Explanatory Notes

Note that the fee schedule has been substantially reorganised from previous years to accommodate lower courts and tribunals within the one instrument. The opportunity has been taken to group like items and remove a number of duplicative items.

The power to determine fees

The power to make fees for the lower courts and tribunals (and matters incidental to this) was substantially amended by the Justice and Community Safety Legislation Amendment Act 2000. This Act, which commenced on 1 July 2000, replaced fee-making powers in a number of Acts that formerly dealt with the magistrates court, the coroners court and ACT tribunals.

Part 13A of the Magistrates Court Act 1930 now provides uniform provisions for the determination of fees (s248A). It also deals with the payment of fees (s248B), the remission, refund, deferral, waiver and exemption of fees (s248C), the recovery of fees in non-criminal proceedings (s248D), the recovery of fees in criminal proceedings (s248E) and the review of decisions (s248F).

Subsection 248A(1) of the Magistrates Court Act 1930 provides that the Minister may, in writing, determine fees for the:

- (a) the coroner's court;
- (b) the magistrates court.
- (c) the administrative appeals tribunal;
- (d) the credit tribunal;
- (e) the discrimination tribunal;
- (f) the residential tenancies tribunal;
- (g) the tenancy tribunal.

for any of the following purposes:

- (h) proceedings in the court or tribunal, and matters incidental to such proceedings, including -
 - (i) the service and execution of the process of the court or tribunal; and
 - (ii) the taxation of costs by officers of the court or tribunal;
- (j) facilities and services provided by the court or tribunal, including the service and execution of the process of any court of the Commonwealth, a State or another Territory, or of any court of a foreign country;
- (k) general purposes.

Fees and charges - exemption, remission, refund or deferral

Subsection 248A(2) of the Magistrates Court Act 1930 provides that a determination may provide for matters such as the exemption from liability to pay certain 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. Note that subsection 248C(2) provides for a number of exemptions (this is extracted for ease of access):

248C Remission, refund, deferral, waiver and exemption of fees

- (2) A determined fee is not payable—
 - (a) if the person otherwise liable to pay the fee is—
 - (i) exempt from liability to pay the fee under the determination that determined the fee; or
 - (ii) exempt from paying the fee under subsection 93 (1) of the Legal Aid Act 1977; or
 - (iii) legally assisted under a scheme or service provided or approved by the Attorney-General; or
 - (b) if the registrar of the court or tribunal waives payment by a person of the fee in whole or part because the registrar considers that payment of the fee would impose hardship on the person—to the extent of the waiver; or
 - (c) for the laying of an information—
 - (i) by the director of public prosecutions acting in the performance of an official function under a Territory law; or
 - (ii) by a police officer acting in the performance of an official function under a Territory law; or
 - (iii) for an offence against subsection 255 (1) (which is about contempt in the face of the court).

THIS IS PAGE 9 OF THE SCHEDULE TO INSTRUMENT NO. 195 OF 2000

Overview of increases in fees and charges

Fees have generally been increased by 2.5% and rounded to a five dollar multiple. For this reason, some fees will not increase this year (but may in future years).

Fees imposed in this instrument are exempted from GST by the "A New Tax System (Goods and Services Tax) (Exempt Taxes, Fees and Charges) Determination 2000" made by the Commonwealth Treasurer under Division 81 of the A New Tax System (Goods and Services Tax) Act 1999.

The determination of certain administrative fees at a consistent rate across all lower courts and tribunals will have the effect of providing for fees (such as service and the provisions of copies of documents) in a number of tribunals where fees for such services were not previously specifically determined.

Commencement of Determination

This Determination comes into effect on 1 July 2000 and upon its coming into effect, Determinations No. 148 and 149 of 1999 will cease to have effect.

Revenue/cost implications

The increase in fees and charges will result in about \$50,000 per year in additional revenue.