

## AUSTRALIAN CAPITAL TERRITORY

*Administrative Appeals Tribunal Act 1989*  
*Consumer Credit (Administration) Act 1996*  
*Residential Tenancies Act 1997*  
*Tenancy Tribunal Act 1994*

### DETERMINATION OF FEES AND CHARGES

#### INSTRUMENT NO. 149 OF 1999

#### EXPLANATORY STATEMENT

##### **Administrative Appeals Tribunal**

Subsection 59A(1) of the *Administrative Appeals Tribunal Act 1989* 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 *Administrative Appeals Tribunal 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.

##### **Credit Tribunal**

Subsection 140(1) of the *Consumer Credit (Administration) Act 1996* provides that the Minister may, by notice published in the *Gazette*, determine fees for the purposes of the Act.

##### **Residential Tenancy Tribunal**

Subsection 135(1) of the *Residential Tenancies Act 1997* provides that the Minister may, by notice published in the *Gazette*, determine fees for the purpose of section 73 of the Act.

Subsection 135(2) of the *Residential Tenancies Act* provides that the determination may specify the rate at which a determined fee is to be calculated, the time at which, and the manner in which, the fee is payable to the Territory, the exemption of persons, or classes of persons, from liability to pay all or part of a determined fee, the deferral of liability by the Minister for the payment of all or part of a determined fee, or the remission or refund by the Minister of all or part of a determined fee, in particular circumstances.

## **Tenancy Tribunal**

Subsection 78(1) of the *Tenancy Tribunal Act 1994* provides that the Minister may, by notice in writing published in the *Gazette*, determine fees and charges for any of the following purposes:

- (a) referral of disputes to the Registrar;
- (b) proceedings in the Tribunal, and matters incidental to such proceedings, including the service of the process of the Tribunal;
- (c) facilities and services provided by the Registrar or the Tribunal;
- (d) the general purposes of the Act and the Code.

Subsection 78(2) of the *Tenancy Tribunal Act* provides that a determination made under subsection 78(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, for convenience, covers the four tribunals listed above.

### **Commencement of Determination**

This Determination comes into effect on 1 July 1999 and upon its coming into effect Determinations No. 81 and No. 97 of 1998 will cease to have effect.

### **Overview of increases in fees and charges**

Fees have generally been increased by 2.5% and rounded up to the nearest five dollar multiple. Fees have been introduced for the Credit Tribunal as extensive work is occasioned by applications.

### **Revenue/cost implications**

The increases in fees and charges will result in a minor increase in additional revenue.

### **Details**

These are set out in the attachment.

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The previous fee for each item is set out in brackets immediately after that item.

## **SCHEDULE 1**

### **Application fees and exemptions in the Administrative Appeals Tribunal**

Item 1 determines the fee payable on the lodging with the Administrative Appeals Tribunal of an application for the review of a decision. The application fee in respect of an application for the review of a decision under the *Land (Planning and Environment) Act 1991* is \$130 (\$124) while the general application fee for the Tribunal is \$190 (\$181).

Item 1 also specifies the exemptions from payment of the filing fee.

### **Refund of Administrative Appeals Tribunal application fee**

Section 59D of the Act permits the Registrar of the Administrative Appeals Tribunal 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(b) of the instrument of determination permits a refund, as appropriate, to be made when an order is made after the application fees have been paid.

### **Referral fee in the Tenancy Tribunal**

Under the *Tenancy Tribunal Act 1994*, disputes are required to be referred to the Registrar. Item 2 determines the fee payable in respect of a referral of a dispute to the Registrar of the Tenancy Tribunal to be \$115 (\$109).

### **Application fee in the Credit Tribunal**

Under the *Consumer Credit (Administration) Act 1996* a fee of \$190 is payable on the lodging of an application with the Credit Tribunal. The Registrar may exercise a discretion to exempt the applicant from the payment of the fee where the Registrar considers that it would impose hardship on the applicant.

### **Residential Tenancy Tribunal**

The determination sets out the amount of various fees.

The application fee for a termination and possession order is set at \$165 rather than \$85 in respect of a property where no bond has been provided. As the Tribunal 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 which might otherwise exist.

Where the payment of the fee might otherwise impose hardship on the applicant, the Minister may defer a fee (where payment can be made within 14 days) or exempt a person from paying a fee.

The determination allows the remission or refund of a fee where the Tribunal makes an order in favor of the applicant.

## **SCHEDULE 2**

These fees apply to both the Administrative Appeals Tribunal and the Tenancy Tribunal.

**Fees for copies of documents.**

Items 1 and 2 relate to the fees to be paid for the provision of copies of documents to persons. The fees are -

- 1 for each request for a copy or copies of a document or documents (regardless of the number of documents to which the request relates): \$2.00 (\$2.00);

This item does not apply to a request for the supply of a transcript or a copy thereof of all or part of a proceeding.

- 2 for each page of copy provided in accordance with a request referred to above: \$1.00 (\$1.00).

Item 1 does not apply to a request for the supply of a transcript or a copy of all or part of a proceeding or a matter incidental to a proceeding.

**Fees for copies of transcripts**

Item 3 of Schedule 2 relates to fees to be paid for the supply of a copy of a transcript of a proceeding or a part of a proceeding or of a matter incidental to a proceeding. These are -

- 4(a) for each page of a transcript (including preparation of the transcript): \$8.25 (\$8.25);

- 4(b) for each page of a copy of the transcript: \$1.00 (\$1.00).

**Fees for the supply of an audio or video tape or a computer disk**

Items 4, 5 and 6 relate to fees to be paid to the Administrative Appeals Tribunal or the Tenancy Tribunal for the supply of an audio or video tape or of a computer disk. These are -

- 4 for the supply of a duplicate tape recording of a proceeding or of part of a proceeding or of a matter incidental to a proceeding - per cassette: \$35.00 (\$32.00);

- 5 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 - per tape: \$45.00 (\$42.00);

- 6 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 - per disk: \$15.00 (\$12.00).

**Fees for the issue of a summon**

Item 7 relates to fees payable for the issue by the Administrative Appeals Tribunal or the Tenancy Tribunal of a summons at the request of a party other than the Territory or a Territory agency. These are -

- (a) To give evidence: \$15.00 (\$13.00);
- (b) for production and to give evidence: \$25.00 (\$24.00);
- (c) for production: \$25.00 (\$24.00).

**Deferral of liability for payment**

Paragraph 59A(2)(d) of the Administrative Appeals Tribunal Act and paragraph 78(2)(d) of the Tenancy Tribunal Act provide 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 of the Administrative Appeals Tribunal and the Registrar of the Tenancy Tribunal 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 in the Administrative Appeals Tribunal but has not brought sufficient funds with him or her. This reflects the existing position in respect of the Administrative Appeals Tribunal but introduces a benefit in respect of the Tenancy Tribunal.

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