



Administrative Appeals Tribunal Regulation 2015

Select Legislative Instrument No. 94, 2015

made under the

Administrative Appeals Tribunal Act 1975 and the Tribunals Amalgamation Act 2015

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About this compilation

This compilation

This is a compilation of the *Administrative Appeals Tribunal Regulation 2015* that shows the text of the law as amended and in force on 1 March 2019 (the **compilation date**).

The notes at the end of this compilation (the **endnotes**) include information about amending laws and the amendment history of provisions of the compiled law.

Uncommenced amendments

The effect of uncommenced amendments is not shown in the text of the compiled law. Any uncommenced amendments affecting the law are accessible on the Legislation Register (www.legislation.gov.au). The details of amendments made up to, but not commenced at, the compilation date are underlined in the endnotes. For more information on any uncommenced amendments, see the series page on the Legislation Register for the compiled law.

Application, saving and transitional provisions for provisions and amendments

If the operation of a provision or amendment of the compiled law is affected by an application, saving or transitional provision that is not included in this compilation, details are included in the endnotes.

Editorial changes

For more information about any editorial changes made in this compilation, see the endnotes.

Modifications

If the compiled law is modified by another law, the compiled law operates as modified but the modification does not amend the text of the law. Accordingly, this compilation does not show the text of the compiled law as modified. For more information on any modifications, see the series page on the Legislation Register for the compiled law.

Self-repealing provisions

If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

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Part 1—Preliminary

1 Name

This is the *Administrative Appeals Tribunal Regulation 2015*.

3 Authority

This instrument is made under the *Administrative Appeals Tribunal Act 1975* and the *Tribunals Amalgamation Act 2015*.

5 Definitions

Note: A number of expressions used in this instrument are defined in the Act, including the following:

- (a) Commonwealth agency;
- (b) enactment;
- (c) proceeding;
- (d) State;
- (e) Tribunal.

In this instrument:

Act means the *Administrative Appeals Tribunal Act 1975*.

address for documents, for a person:

- (a) means an address where documents for a proceeding may be posted to or left for the person (and which may also include a DX address, a fax number, an email address or another electronic address); and
- (b) includes an address the person is taken to have provided under subsection 29(1A) of the Act.

approved form means a form approved under subsection 7(1).

document, for Part 5, includes a summons.

electronic communication has the same meaning as in the *Electronic Transactions Act 1999*.

government agency means:

- (a) a Commonwealth agency; or
- (b) a Department of State of the Commonwealth, or of a State; or
- (c) a statutory office-holder established under a law of the Commonwealth, or of a State, or under a Norfolk Island enactment; or
- (d) any other entity established for a public purpose under a law of a State or under a Norfolk Island enactment.

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small business taxation decision means a decision made:

- (a) under a taxation law (within the meaning of the *Income Tax Assessment Act 1997*); and
- (b) in relation to a small business entity (within the meaning of the *Income Tax Assessment Act 1997*).

Part 2—Tribunal

6 Tribunal seal

- (1) The Tribunal is to have a seal.
- (2) The President is to determine the design of the seal.
- (3) The seal must be attached to:
 - (a) a document of a kind directed by the President; and
 - (b) any other document as ordered by the Tribunal.

Note: The President may give directions under section 18B of the Act.

- (4) The seal may be attached to a document by hand, by electronic means or by any other way.

7 Approval of forms

- (1) The President may approve forms (including electronic forms) for the purposes of the following:
 - (a) the Act;
 - (b) this instrument;
 - (c) another enactment that confers powers or functions on the Tribunal.
- (2) However, the President may not approve, under paragraph (1)(c), a form dealing with a matter to the extent that:
 - (a) a form dealing with the matter has been prescribed or approved for the purposes of the other enactment; or
 - (b) the other enactment otherwise specifies the manner of dealing with the matter.

8 Veterans' Appeals Division

The Veterans' Appeals Division is prescribed for paragraph 17A(g) of the Act.

8A Small Business Taxation Division

The Small Business Taxation Division is prescribed for the purposes of paragraph 17A(g) of the Act.

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Part 3—Applications for review

9 Tribunal review of Norfolk Island enactment decisions

- (1) This section is made for subsection 25(2) of the Act.
- (2) A person may apply to the Tribunal for review of a decision:
 - (a) made in the exercise of powers conferred by a Norfolk Island enactment;
and
 - (b) mentioned in an item of the table in subsection (3).
- (3) For paragraph 25(3)(a) of the Act, the person specified is the person who made the decision.

Norfolk Island enactment decisions	
Item	Decision
1	A decision under subsection 10(2) of the <i>Absentee Landowners Levy Act 1976</i>
2	A decision under section 8 of the <i>Animals (Importation) Act 1983</i>
3	A decision under any of the following provisions of the <i>Apiaries Act 1935</i> : <ol style="list-style-type: none">(a) paragraph 3A(1)(c) or (2)(a);(b) subsection 4(2);(c) subsection 12(6)
4	A decision under any of the following provisions of the <i>Associations Incorporation Act 2005</i> : <ol style="list-style-type: none">(a) section 11;(b) subsection 29(4);(c) section 37;(d) section 50
5	A decision under section 3, 4 or 5 of the <i>Birds Protection Act 1913</i>
6	Any of the following decisions under the <i>Bookmakers and Betting Exchange Act 1998</i> : <ol style="list-style-type: none">(a) a decision under section 8;(b) a decision under subsection 11(1) or (2);(c) a decision under subsection 12(1) or (2);(d) a decision under subsection 13(1) or (2);(e) a decision under section 34;(f) a decision mentioned in subsection 44(1) or (2)
7	A decision under section 6, 7 or 8 of the <i>Brands and Marks Act 1949</i>
8	A decision mentioned in any of the following provisions of the <i>Building Act 2002</i> : <ol style="list-style-type: none">(a) subsection 43(1);(b) paragraph 43(2)(a);(c) paragraph 43(2)(b)
9	A decision under section 7 or 19 of the <i>Business Names Act 1976</i>
10	A decision under the <i>Business Transactions (Administration) Act 2006</i>

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Norfolk Island enactment decisions	
Item	Decision
11	A decision under subsection 9(2) of the <i>Business Transactions (Levy Imposition) Act 2006</i>
12	A decision mentioned in subsection 58(2) or (3) of the <i>Companies Act 1985</i>
13	Any of the following decisions under the <i>Crown Lands Act 1996</i> : (a) a decision under subsection 14(1); (b) a decision related to a request made under subsection 26(1); (c) a decision under section 28
14	A decision under any of the following provisions of the <i>Customs Act 1913</i> : (a) subsection 2A(1); (b) section 4AA, 4ABA, 4AC, 4AAC, 4ACB or 4AD; (c) section 5CA; (d) section 8A, 8B, 8D or 8F
15	A decision under any of the following provisions of the <i>Electricity (Licensing and Registration) Act 1985</i> : (a) subsection 9(4); (b) section 13 or 14
16	Any of the following decisions under the <i>Environment Act 1990</i> : (a) a decision to reject a claim made under section 91; (b) a decision under subsection 128(1)
17	A decision under section 8 or subsection 14(2) of the <i>Financial Institutions Levy Act 1985</i>
18	A decision under section 6 or 7 of the <i>Fuel Levy Act 1987</i>
19	A decision under section 7 or 11 of the <i>Goods and Services Tax Act 2007</i>
20	A decision under subsection 4(2) of the <i>Healthcare Levy Act 1990</i>
21	A decision under section 5 of the <i>Land Administration Fees Act 1996</i>
22	A decision under any of the following provisions of the <i>Land Titles Act 1996</i> : (a) paragraph 138(1)(a), (b) or (c); (b) paragraph 146(2)(f)
23	A decision under subsection 79(1) of the <i>Land Valuation Act 2012</i>
24	A decision under the <i>Liquor Act 2005</i> in relation to any of the following: (a) an application for the disqualification of a licensee or licensed premises; (b) an application for the appointment of a nominee of a licensee; (c) an application for any of the following actions to be taken in relation to a licence or permit: (i) grant; (ii) variation; (iii) relocation; (iv) transfer; (v) renewal; (vi) surrender; (vii) suspension; (viii) cancellation
25	A decision under section 7, 11 or 18 of the <i>Lotteries and Fundraising Act 1987</i>

Part 3 Applications for review

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Norfolk Island enactment decisions

Item	Decision
26	A decision under section 7 of the <i>Medical Practitioners Registration Act 1983</i>
27	A decision under any of the following provisions of the <i>Migratory Birds Act 1980</i> : (a) subsection 4(3), 7(2), 9(3) or 15(1); (b) paragraph 15(2)(a)
28	A decision under the <i>Norfolk Island Broadcasting Authority Act 2001</i> other than a decision made under subsection 10(6) of that Act
29	A decision under section 2A or 3A of the <i>Norfolk Island National Park and Norfolk Island Botanic Garden Act 1984</i>
30	A decision mentioned in paragraph 78(1)(a), (b) or (c) of the <i>Planning Act 2002</i>
31	Any of the following decisions under the <i>Public Health Act 1996</i> : (a) a decision under Part 2 to issue, or include requirements in, a public health notice; (b) a decision under Part 4 to take any of the following actions in relation to a public health licence: (i) refuse to grant; (ii) refuse to issue; (iii) cancel; (iv) include conditions
32	A decision mentioned in paragraph 31(a), (b), (c) or (d) of the <i>Public Reserves Act 1997</i>
33	A refusal to give a certificate under section 15 of the <i>Roads Act 2002</i>
34	A decision under section 33 of the <i>Social Services Act 1980</i>
35	A refusal to give a written notice under section 11 of the <i>Subdivision Act 2002</i>
36	A refusal to give an authorisation under subsection 13(1) of the <i>Telecommunications Act 1992</i>
37	A decision under section 7 or 17 of the <i>Tourist Accommodation Act 1984</i>
38	A decision under section 4 of the <i>Tourist Accommodation (Ownership) Act 1989</i>
39	Any of the following decisions under the <i>Trees Act 1997</i> : (a) a decision under section 9 to: (i) refuse to grant a permit; or (ii) endorse conditions on a permit; (b) a decision under section 12 to refuse to register a plantation; (c) a decision under section 17 to refuse to grant a timber licence; (d) a decision under section 18 to endorse conditions on a timber licence

10 Time to oppose application to extend time for making application for review

For subsection 29(10) of the Act, the prescribed time to give a notice opposing an application for an extension of time is 14 days.

Part 4—Summons

11 Form of summons

A summons referred to in section 40A of the Act must be in the approved form.

12 Giving a summons

- (1) This section is made for paragraph 61(1)(a) of the Act.
- (2) A summons referred to in section 40A of the Act is taken to be given to a person (the *named person*) named in the summons if the summons is given to the named person:
 - (a) in a way mentioned in section 17; or
 - (b) in a way agreed between the named person and the person giving the summons; or
 - (c) in any other way, if the person giving the summons receives, from the named person, a written acknowledgement that the named person has been given the summons.

13 Fees and allowances in relation to compliance with summons

- (1) For subsection 67(1) of the Act, this section prescribes fees and allowances payable to a person in relation to compliance with the following summonses:
 - (a) a summons referred to in section 40A of the Act;
 - (b) a summons referred to in paragraph 363(3)(a) of the *Migration Act 1958*;
 - (c) a summons referred to in paragraph 427(3)(a) of the *Migration Act 1958*.
- (2) Fees or allowances are not payable to a person who is a party to the proceeding, unless the Tribunal orders otherwise.

Fees and allowances for appearance

- (3) The fee payable to a person who is summoned to appear before the Tribunal to give evidence is:
 - (a) if the person is remunerated in his or her occupation by wages, salary or fees—the amount of wages, salary or fees that are not paid to the person because the person attends the Tribunal; or
 - (b) in any other case—a reasonable amount for each day on which the person attends the Tribunal.
- (4) The allowances payable to a person who is summoned to appear before the Tribunal to give evidence are:
 - (a) a reasonable amount for travel between the person's usual place of employment or residence and the place where the person attends the Tribunal; and

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(b) if the person is required to be absent overnight from the person's usual place of residence—a reasonable amount for meals and accommodation.

- (5) However, a person is not entitled to an allowance for travel, meals or accommodation if the person is given the equivalent in kind (such as access to pre-paid travel, meals or accommodation).

Allowances for production of things

- (6) For a summons referred to in section 40A of the Act, the allowances payable for a person who is summoned to produce something are the person's reasonable expenses of producing the thing.

Tribunal may determine fees and allowances if amount not agreed

- (7) If a person was summoned at the request of a party to the proceeding, the person may apply to the Tribunal for a determination of the amount of fees or allowances payable under subsection (3), (4) or (6) in relation to compliance with the summons, if the person and the payer cannot agree on the amount.
- (8) A person is not excused from complying with a summons only because the person thinks that an amount paid to the person under this section is not sufficient.

14 Who must pay fees and allowances

General

- (1) The fees and allowances payable to a person in relation to compliance with a summons under section 40A of the Act must be paid by:
- (a) if the person was summoned at the request of a party to the proceeding—that party; or
 - (b) otherwise—the Commonwealth.
- (2) The Tribunal may order that the fees and allowances of a person referred in in paragraph (1)(a) be paid, in whole or in part, by the Commonwealth.

Migration and Refugee Division

- (3) The fees and allowances payable to a person in relation to compliance with a summons referred to in paragraph 363(3)(a) or 427(3)(a) of the *Migration Act 1958* must be paid by:
- (a) if the applicant notified the Tribunal under subsection 361(2) or 426(2) of the *Migration Act 1958* that he or she wants the Tribunal to obtain evidence from the person—the applicant; or
 - (b) otherwise—the Commonwealth.

15 When fees and allowances are payable

A person who is summoned must be paid:

- (a) their fees as soon as practicable after the person has attended the Tribunal in accordance with the summons; and
- (b) their allowances:
 - (i) when the person is given the summons; or
 - (ii) within a reasonable time before the day the person is required to attend the Tribunal in accordance with the summons.

Part 5—Giving documents

16 Address for documents

- (1) An applicant for review of a decision must give the Tribunal an address for documents when making the application.

Note: If the applicant does not do so, any address shown in the application or an address for documents later notified to the Tribunal is taken, under subsection 29(1A) of the Act, to be the applicant's address for documents.

- (2) Each other party to the proceeding (unless the proceeding is in the Social Services and Child Support Division) must give the Tribunal an address for documents within 28 days after being given notice of the application.
- (3) A person who is not a party to the proceeding may give the Tribunal an address for documents.
- (4) If a person wishes to change their address for documents, the person must tell the Tribunal about the change.
- (5) This section does not apply in relation to a decision that is reviewable in the Migration and Refugee Division.

17 Giving documents to a person

- (1) For subsection 68(2) of the Act, this section prescribes the manner in which a document is to be given to a person for the purposes of a proceeding before the Tribunal.

Note: This section does not apply to the extent to which the Act or another enactment specifies how a document is to be given to a person for the purposes of a proceeding before the Tribunal (see subsection 68(3) of the Act).

- (2) A document is to be given to the person:
 - (a) if the Tribunal has ordered that the document be given in a specified manner—in accordance with the order; or
 - (b) in accordance with subsections (3) to (7) as applicable.

Giving documents to a person with address for documents

- (3) If a person has an address for documents, a document may be given to the person by:
 - (a) leaving the document in a sealed envelope addressed to the person at that address; or
 - (b) sending the document by pre-paid post addressed to the person at that address; or
 - (c) sending the document to a DX address, fax number, email address or other electronic address included in the person's address for documents.

Giving documents to individuals

- (4) A document may be given to an individual by:
- (a) handing the document to the individual; or
 - (b) putting the document down in the person's presence and telling the individual the general nature of the document; or
 - (c) sending the document by pre-paid post addressed to the individual to the last known address of the place of residence or business of the individual; or
 - (d) leaving the document in a sealed envelope addressed to the individual at the last known address of the place of residence or business of the individual.

Giving documents to corporations

- (5) A document may be given to a corporation:
- (a) by leaving the document in a sealed envelope addressed to the corporation at the head office, a registered office or a principal office of the corporation; or
 - (b) by sending the document by pre-paid post addressed to the corporation to the head office, a registered office or a principal office of the corporation; or
 - (c) if the corporation is a company within the meaning of section 9 of the *Corporations Act 2001*—in any way allowed by section 109X of that Act; or
 - (d) in any other way that is allowed under:
 - (i) a law of the Commonwealth or of the State in which the document is to be given; or
 - (ii) a Norfolk Island enactment if the document is to be given in Norfolk Island.

Giving documents to government agencies

- (6) A document may be given to a government agency by:
- (a) sending the document by pre-paid post addressed to the agency; or
 - (b) leaving the document in a sealed envelope addressed to the agency at an office of the agency.

Giving documents to unincorporated associations

- (7) A document may be given to a person representing an unincorporated association by:
- (a) sending the document by pre-paid post addressed to the association; or
 - (b) leaving the document in a sealed envelope addressed to the association:
 - (i) at the association's principal place of business or principal office; and
 - (ii) with a person who is apparently an officer of, or in the service of, the association.

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18 Time an electronic communication is taken to be given to a person

For the purposes of paragraph 17(3)(c), a document given to a person by means of an electronic communication is taken to have been given on the day the electronic communication was dispatched.

Note: See section 29 of the *Acts Interpretation Act 1901* for the time at which a document given by post is taken to have been given.

Part 6—Fees

19 Scope of operation of this Part

This Part does not apply in relation to a decision that is reviewable in the Migration and Refugee Division.

20 Fees

Standard application fee

- (1) The fee of \$920 is prescribed in respect of:
 - (a) an application for review of a decision (other than an application referred to in subsection (1A) or (2) or section 22); 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*.

Note: The fee is indexed under section 27.

Lower application fee for small business taxation decisions

- (1A) The fee of \$500 is prescribed in respect of an application for review of a small business taxation decision (other than an application referred to in subsection (2)).

Lower application fee for certain other taxation decisions

- (2) The fee of \$91 is prescribed in respect of an application for review of a decision:
 - (a) that is a reviewable objection decision under Part IVC of the *Taxation Administration Act 1953* and either:
 - (i) the application states that the amount that the applicant considers to be the amount of tax in dispute is less than \$5,000; or
 - (ii) after the application is made, but before the start of the hearing of the application, the applicant notifies the Tribunal in writing that the amount that the applicant considers to be the amount of tax in dispute is less than \$5,000; or
 - (b) that is a reviewable objection decision under Part IVC of the *Taxation Administration Act 1953* which relates to an application made by the applicant under section 340-5 of Schedule 1 to that Act; or
 - (c) that is a decision refusing a request for an extension of time within which to make a taxation objection under section 14ZX of the *Taxation Administration Act 1953*.

Note: The fee is indexed under section 27.

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Fee in concessional circumstances

- (3) However, the fee of \$100 is prescribed instead of the amount referred to in subsection (1), (1A) or (2) if:
- (a) the amount of the fee prescribed under subsection (1), (1A) or (2) is more than \$100; and
 - (b) the circumstances in section 21 exist.

Note: The fees prescribed under subsections (1) and (2) are indexed under section 27.

21 Concessional circumstances

For paragraphs 20(3)(b) and 25(1)(d), the circumstances are the following:

- (a) the applicant has been granted legal aid, under a legal aid scheme or service established under Commonwealth or State law or approved by the Attorney-General, for the matter to which the fee relates;
- (b) the applicant is the holder of a concession card within the meaning of the *Social Security Act 1991*;
- (c) the applicant is the holder of any other card issued by the Commonwealth that certifies entitlement to Commonwealth health concessions;
- (d) the applicant is an inmate of a prison or is otherwise lawfully detained in a public institution;
- (e) the applicant is a child under the age of 18 years;
- (f) the applicant is in receipt of a youth allowance, or an austudy payment, within the meaning of the *Social Security Act 1991*;
- (g) the applicant is in receipt of benefits under the Commonwealth student assistance scheme known as the ABSTUDY Scheme;
- (h) the Registrar makes an order that, having regard to the applicant's income, expenses, liabilities and assets, the Registrar considers that the payment of an amount would cause, or has caused, financial hardship to the applicant.

22 Decisions for which application fee is not payable

No fee is prescribed in respect of an application for review of a decision mentioned in the following table.

Decisions for which application fee is not payable	
Item	Decision
1	A decision under paragraph 21(h) or section 23
2	A decision under each of the following provisions of the <i>Aged Care Act 1997</i> that has been reconsidered under section 85-4 or 85-5 of that Act: <ul style="list-style-type: none">(a) subsection 22-1(2);(b) subsection 22-2(1);(c) subsection 22-2(3);(d) subsection 22-2(4);(e) paragraph 22-5(2)(b);

Decisions for which application fee is not payable	
Item	Decision
	(f) subsection 22-5(3); (g) subsection 23-4(1)
3	A decision under the family assistance law within the meaning of the <i>A New Tax System (Family Assistance) (Administration) Act 1999</i> (whether the application is for AAT first review or AAT second review of the decision)
4	A decision referred to in section 89 of the <i>Child Support (Registration and Collection) Act 1988</i> where the application is for AAT first review of the decision
5	A decision under a determination under section 58B of the <i>Defence Act 1903</i>
6	A decision of the Commonwealth Superannuation Corporation reviewable under section 99 of the <i>Defence Force Retirement and Death Benefits Act 1973</i>
7	A decision under the <i>Defence Service Homes Act 1918</i>
8	A decision under Part III of the <i>Disability Services Act 1986</i>
9	A decision reviewable under the <i>Freedom of Information Act 1982</i> , being a decision made in relation to a document that relates to a decision specified in items 2 to 21
10	A decision under the <i>Military Rehabilitation and Compensation Act 2004</i> (including a decision under the Motor Vehicle Compensation Scheme determined under section 212 of that Act)
11	A decision under the <i>National Disability Insurance Scheme Act 2013</i>
12	A decision under the <i>Paid Parental Leave Act 2010</i> where the application is for AAT first review of the decision
13	A decision under the <i>Papua New Guinea (Staffing Assistance) Act 1973</i>
14	A decision under the <i>Safety, Rehabilitation and Compensation Act 1988</i>
14A	A decision under the <i>Safety, Rehabilitation and Compensation (Defence-related Claims) Act 1988</i>
15	A decision under the <i>Seafarers Rehabilitation and Compensation Act 1992</i>
16	A decision under the social security law within the meaning of the <i>Social Security Act 1991</i> (whether the application is for AAT first review or AAT second review of the decision)
17	A decision under section 33 of the <i>Social Services Act 1980</i> of Norfolk Island
18	A decision under the <i>Student Assistance Act 1973</i> other than a decision under Division 6 of Part 4A of that Act (whether the application is for AAT first review or AAT second review of the decision)
19	A decision under the <i>Superannuation Act 1976</i>
20	A decision under the <i>Veterans' Entitlements Act 1986</i>
21	A decision under a legislative instrument under the <i>Veterans' Entitlements Act 1986</i>

23 Multiple applications

- (1) The Registrar may order that only one prescribed fee is payable in respect of 2 or more applications if:
- (a) apart from this subsection, the same prescribed fee would be payable in respect of each of the applications; and
 - (b) the applications relate to the same applicant; and

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- (c) in the opinion of the Registrar, the applications may be conveniently heard before the Tribunal at the same time.
- (2) The Registrar may order that only one prescribed fee is payable in respect of 2 or more applications if:
 - (a) apart from this subsection, a different prescribed fee would be payable in respect of at least one of the applications; and
 - (b) the applications relate to the same applicant; and
 - (c) in the opinion of the Registrar, the applications may be conveniently heard before the Tribunal at the same time.
- (3) The prescribed fee specified in an order made under subsection (2) must be:
 - (a) unless paragraph (b) applies—equal to the highest prescribed fee that would, apart from subsection (2), be payable in respect of any of the applications; or
 - (b) if one of the applications is for review of a small business taxation decision—equal to the prescribed fee that would be payable in respect of an application for review of a small business taxation decision to which subsection 20(2) did not apply.

24 Consequence if application not accompanied by prescribed fee

- (1) If an application is not accompanied by the prescribed fee, the Tribunal is not required to deal with the application unless, and until, the fee is paid.
- (2) For the purposes of paragraph 69C(1)(b) of the Act, the time by which the fee must be paid is the end of the 6 weeks starting on the day the application is lodged.

Note: The Tribunal may dismiss the application under that section if the fee is not paid by that time.

25 Consequences if the Tribunal considers that the amount in dispute is not less than \$5,000

- (1) If:
 - (a) an applicant paid the fee mentioned in subsection 20(2) on the basis that the applicant considers that the amount of tax in dispute is less than \$5,000; and
 - (b) the Tribunal considers that the amount of tax in dispute is not less than \$5,000;then the Tribunal may make an order declaring that the prescribed fee in respect of the application is:
 - (c) the fee prescribed by subsection 20(1); or
 - (ca) if the Tribunal considers that subsection 20(1A) applies in relation to the application—the fee prescribed by that subsection; or
 - (d) if the circumstances in section 21 exist—the fee prescribed by subsection 20(3).

- (2) The amount payable by the applicant is reduced by the amount of the fee already paid.

Consequence if fee not paid

- (3) The Tribunal is not required to deal with the application unless, and until, the fee is paid.
- (4) For the purposes of paragraph 69C(1)(b) of the Act, the time by which the fee must be paid is the end of the 6 weeks starting on the day the order is made.

Note: The Tribunal may dismiss the application under that section if the fee is not paid by that time.

25A Consequences if the Tribunal considers that an applicant is not a small business entity

- (1) If:
- (a) an applicant paid the fee mentioned in subsection 20(1A) on the basis that a decision related to a small business entity; and
 - (b) the Tribunal considers that the decision did not relate to a small business entity;

then the Tribunal may make an order declaring that the prescribed fee in respect of the application is:

- (c) the fee prescribed by subsection 20(1); or
 - (d) if the Tribunal considers that subsection 20(2) applies in relation to the application—the fee prescribed by that subsection; or
 - (e) if the circumstances in section 21 exist—the fee prescribed by subsection 20(3).
- (2) If the applicant paid less than the fee declared by the Tribunal, the amount payable by the applicant is reduced by the amount paid.

Note: For refunds of excess amounts, see item 4 of the table in section 26.

Consequence if fee not paid

- (3) The Tribunal is not required to deal with the application unless, and until, the fee is paid.
- (4) For the purposes of paragraph 69C(1)(b) of the Act, the time by which the fee must be paid is the end of the 6 weeks starting on the day the order is made.

Note: The Tribunal may dismiss the application under that section if the fee is not paid by that time.

26 Refunds

If a person paid a fee in the circumstances referred to in an item in the following table, the person is entitled to the **refund amount** specified in that item.

Part 6 Fees

Section 27

Refund amounts			
Item	Fee	Circumstance	Refund amount
1	the person paid a fee referred to in this Part	the fee was not payable	the amount paid
2	the person paid a fee referred to in this Part	the person is not entitled to apply for review by the Tribunal	the amount paid
3	the person paid a fee referred to in this Part	the decision to which the application relates is not subject to review by the Tribunal	the amount paid
4	the person paid a fee referred to in this Part	the person was liable to pay a lower fee	the difference between: (a) the fee paid; and (b) the lower fee
5	the person paid fees in respect of more than one application	the Registrar makes an order under section 23 that only one fee is payable	the difference between: (a) the total amount of the fees paid; and (b) the fee payable
6	the person paid a fee referred to in subsection 20(1) or (1A) in respect of an application	the Registrar certifies that a proceeding in respect of the application has terminated in a manner favourable to the applicant	the difference between: (a) the fee paid; and (b) \$100
7	the person paid a fee referred to in subsection 20(1) or (1A) in respect of 2 or more applications under section 23	the Registrar certifies that a proceeding in respect of at least one of those applications has terminated in a manner favourable to the applicant	the difference between: (a) the fee paid; and (b) \$100
8	the person paid a fee referred to in subsection 20(2) of an amount greater than \$100 in respect of an application	the Registrar certifies that a proceeding in respect of the application has terminated in a manner favourable to the applicant	the difference between: (a) the fee paid; and (b) \$100
9	the person paid a fee referred to in subsection 20(2) of an amount greater than \$100 in respect of 2 or more applications under section 23	the Registrar certifies that a proceeding in respect of at least one of those applications has terminated in a manner favourable to the applicant	the difference between: (a) the fee paid; and (b) \$100

27 Annual increase in fees

- (1) On 1 July 2019 and each 1 July following that day (an *indexation day*), the dollar amounts mentioned in subsections 20(1) and (2) (a *fee provision*) are each replaced by an amount worked out using the following formula:

$$\frac{\text{Indexation factor for the indexation day}}{\text{Index number for the base quarter}} \times \text{Dollar amount in fee provision immediately before the indexation day}$$

- (2) The ***indexation factor*** for an indexation day is the number worked out using the following formula:

$$\frac{\text{Index number for the reference quarter}}{\text{Index number for the base quarter}}$$

where:

base quarter means the March quarter ending 1 year before the reference quarter ends.

index number, for a quarter, means the All Groups Consumer Price Index number (being the weighted average of the 8 capital cities) published by the Australian Statistician for that quarter.

March quarter means a period of 3 months ending on 31 March.

reference quarter means the March quarter immediately before the indexation day.

- (3) An indexation factor is to be calculated to 3 decimal places (rounding up if the fourth decimal place is 5 or more).
- (4) Amounts worked out under subsection (1) are to be rounded to the nearest whole dollar (rounding 50 cents upwards).
- (5) An indexation factor that is less than 1 is to be increased to 1.
- (6) Calculations under subsection (2):
- (a) are to be made using only the index numbers published in terms of the most recently published index reference period; and
 - (b) are to be made disregarding index numbers that are published in substitution for previously published index numbers (except where the substituted numbers are published to take account of changes in the index reference period).

28 Review by Tribunal—certain fee payment decisions

- (1) A person may apply to the Tribunal for review of any of the following decisions by the Registrar in respect of a prescribed fee:
- (a) a decision not to make an order under paragraph 21(h);
 - (b) a decision not to order that only one fee is payable under section 23.
- (2) If the 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

Section 28

- (c) containing a statement to the effect that, subject to the Act, application may be made to the Tribunal for review of the decision.
- (3) A notice under subsection (2) must be given within 28 days after the day the decision is made.
- (4) Failure to include in a notice under subsection (2) a statement of the kind mentioned in paragraph (2)(c) does not affect the validity of the decision.

Part 7—Miscellaneous

29 Maximum number of Council members

The number prescribed for subparagraph 49(1)(d)(ii) of the Act is 11.

Part 8—Transitional provisions

30 Refunds for pre 1 November 2010 applications

Regulations 19 and 19AA of the *Administrative Appeals Tribunal Regulations 1976* continue to apply for the purposes of working out a refund amount for an application lodged before 1 November 2010, despite the repeal of those regulations by this instrument.

31 Oath or affirmation of office

A person taken to hold office as a member of the Tribunal for a term of appointment under item 5 of Schedule 9 to the *Tribunals Amalgamation Act 2015* is taken to have complied with section 10B of the Act for the purposes of that term.

32 Changes to Tribunal Divisions

For the purposes of the operation of an enactment on or after 1 July 2015, a reference to a decision made or other thing done by or in relation to a Division of the Tribunal referred to in column 2 of the table in item 15BC of Schedule 9 to the *Tribunals Amalgamation Act 2015* is taken to include a reference to the Division referred to in column 1 of the table.

33 Application provision in relation to the *Court and Tribunal Legislation Amendment (Fees and Juror Remuneration) Regulations 2018*

Despite the amendments of section 20 made by Schedule 1 to the *Court and Tribunal Legislation Amendment (Fees and Juror Remuneration) Regulations 2018*, that section, as in force immediately before the commencement of that Schedule, continues to apply in relation to an application made before 1 July 2018.

Endnotes

Endnote 1—About the endnotes

The endnotes provide information about this compilation and the compiled law.

The following endnotes are included in every compilation:

Endnote 1—About the endnotes

Endnote 2—Abbreviation key

Endnote 3—Legislation history

Endnote 4—Amendment history

Abbreviation key—Endnote 2

The abbreviation key sets out abbreviations that may be used in the endnotes.

Legislation history and amendment history—Endnotes 3 and 4

Amending laws are annotated in the legislation history and amendment history.

The legislation history in endnote 3 provides information about each law that has amended (or will amend) the compiled law. The information includes commencement details for amending laws and details of any application, saving or transitional provisions that are not included in this compilation.

The amendment history in endnote 4 provides information about amendments at the provision (generally section or equivalent) level. It also includes information about any provision of the compiled law that has been repealed in accordance with a provision of the law.

Editorial changes

The *Legislation Act 2003* authorises First Parliamentary Counsel to make editorial and presentational changes to a compiled law in preparing a compilation of the law for registration. The changes must not change the effect of the law. Editorial changes take effect from the compilation registration date.

If the compilation includes editorial changes, the endnotes include a brief outline of the changes in general terms. Full details of any changes can be obtained from the Office of Parliamentary Counsel.

Misdescribed amendments

A misdescribed amendment is an amendment that does not accurately describe the amendment to be made. If, despite the misdescription, the amendment can be given effect as intended, the amendment is incorporated into the compiled law and the abbreviation “(md)” added to the details of the amendment included in the amendment history.

If a misdescribed amendment cannot be given effect as intended, the abbreviation “(md not incorp)” is added to the details of the amendment included in the amendment history.

Endnotes

Endnote 2—Abbreviation key

Endnote 2—Abbreviation key

ad = added or inserted	o = order(s)
am = amended	Ord = Ordinance
amdt = amendment	orig = original
c = clause(s)	par = paragraph(s)/subparagraph(s) /sub-subparagraph(s)
C[x] = Compilation No. x	pres = present
Ch = Chapter(s)	prev = previous
def = definition(s)	(prev...) = previously
Dict = Dictionary	Pt = Part(s)
disallowed = disallowed by Parliament	r = regulation(s)/rule(s)
Div = Division(s)	reloc = relocated
ed = editorial change	renum = renumbered
exp = expires/expired or ceases/ceased to have effect	rep = repealed
F = Federal Register of Legislation	rs = repealed and substituted
gaz = gazette	s = section(s)/subsection(s)
LA = <i>Legislation Act 2003</i>	Sch = Schedule(s)
LIA = <i>Legislative Instruments Act 2003</i>	Sdiv = Subdivision(s)
(md) = misdescribed amendment can be given effect	SLI = Select Legislative Instrument
(md not incorp) = misdescribed amendment cannot be given effect	SR = Statutory Rules
mod = modified/modification	Sub-Ch = Sub-Chapter(s)
No. = Number(s)	SubPt = Subpart(s)
	<u>underlining</u> = whole or part not commenced or to be commenced

Endnote 3—Legislation history

Endnote 3—Legislation history

Name	Registration	Commencement	Application, saving and transitional provisions
Administrative Appeals Tribunal Regulation 2015 (SLI No. 94, 2015)	26 June 2015 (F2015L00959)	1 July 2015 (s 2(1) item 1)	
Safety, Rehabilitation and Compensation Legislation (Defence Force) Consequential Amendment Regulations 2018	20 Apr 2018 (F2018L00502)	Sch 1 (item 1): 21 Apr 2018 (s 2(1) item 2) Sch 1 (item 2): 12 Oct 2017 (s 2(1) item 3)	—
Court and Tribunal Legislation Amendment (Fees and Juror Remuneration) Regulations 2018	21 June 2018 (F2018L00819)	Sch 1 (items 1–10): 1 July 2018 (s 2(1) item 1)	—
Administrative Appeals Tribunal Amendment (Small Business Taxation Division) Regulations 2019	25 Feb 2019 (F2019L00183)	Sch 1 (items 1–11): 1 Mar 2019 (s 2(1) item 2) Sch 1 (items 12–15): <u>2 July 2019</u> (s 2(1) item 3)	—

Endnotes

Endnote 4—Amendment history

Endnote 4—Amendment history

Provision affected	How affected
Part 1	
s 2.....	rep LA s 48D
s 4.....	rep LA s 48C
s 5.....	am F2019L00183
Part 2	
s 8A.....	ad F2019L00183
Part 6	
s 20.....	am F2018L00819; F2019L00183 (<u>Sch 1 item 12</u>)
s 22.....	am F2018L00502
s 23.....	am F2019L00183
	ed C4
s 25.....	am F2018L00819; F2019L00183
s 25A.....	ad F2019L00183
s 26.....	am F2019L00183
s 27.....	am F2018L00819; <u>F2019L00183</u>
Part 8	
s 33.....	ad F2018L00819
Schedule 1.....	rep LA s 48C

Endnote 5—Editorial changes

In preparing this compilation for registration, the following kinds of editorial change(s) were made under the *Legislation Act 2003*.

Paragraph 23(3)(b)**Kind of editorial change**

Update to a cross-reference

Details of editorial change

Schedule 1 item 8 of the *Administrative Appeals Tribunal Amendment (Small Business Taxation Division) Regulations 2019* instructs to omit and substitute text within subsection 23(3).

In the newly inserted paragraph 23(3)(b) there is a reference to a “small business decision”. This is an incorrect cross-reference to the definition of “*small business taxation decision*” inserted into section 5 by Schedule 1 item 1 of the *Administrative Appeals Tribunal Amendment (Small Business Taxation Division) Regulations 2019*.

This compilation was editorially changed to update the cross-reference by inserting “taxation” between “small business” and “decision” in paragraph 23(3)(b).