

COURT AND TRIBUNAL

Fee Waiver Guide



**Legal Services
Commission**
OF SOUTH AUSTRALIA

FEBRUARY 2016

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Foreword

The fees which are levied by courts and tribunals on the parties who come before them are an important source of government revenue and offset, in small part, the high cost to the community of maintaining its judicial and administrative machinery.

However, those fees present a substantial obstacle to the most financially disadvantaged in our community who seek access to those bodies. For that reason a power to remit the fees in whole or in part is then provided. The Legal Services Commission, the Law Society and JusticeNet SA are to be commended for noticing the need to inform the community of the availability of that relief and how to apply for it. The Court and Tribunal Fee Waiver Guide conveniently assembles that information from across a range of courts and tribunals in one user friendly booklet.

I am sure that the community joins with me in thanking the Legal Services Commission, the Law Society and JusticeNet for their efforts and the commitment of their resources to this project.

The Honourable Christopher Kourakis
Chief Justice of South Australia

Introduction

Court and tribunal fees and charges can make it difficult for many people, particularly those on low income, to access the legal system.

Every court and tribunal operating in South Australia has different fees and procedures that apply. In many cases, a person can obtain an exemption or waiver of fees on the basis of person or financial circumstances. Each court and tribunal has different procedures for obtaining exemption, reductions or waivers of fees and charges.

This guide provides basic information regarding:

- The types of cases exempt from court or tribunal fees;
- The criteria which are applied by the court or tribunal to claims for exemptions from the various fees; and
- How you apply for an exemption or waiver of fees.

The guide covers the major Federal and State courts and tribunals in South Australia.

This second edition has been updated and published by the Legal Services Commission. The first edition was produced by the Law Society of South Australia, Justice Net and the Legal Services Commission. The legislation, regulations and practice directions of courts and tribunals regarding fees, waivers and exemptions can change over time. It is recommended that you contact the relevant court or tribunal and/or their website before making an application for fee waiver exemption.

Acknowledgements

The Legal Services Commission would like to acknowledge the work of the Law Society of South Australia and JusticeNet SA in preparing the first edition of this publication.

We also wish to acknowledge the following people who contributed considerable time to the production of the first edition:

Nadia Ardalich

John Beruldsen

Jenny Corkhill

Rebecca Dannell

Tim Graham

Max Koh

Nicholas Linke

Augustine (Gus) Ochola

Ilya Ozerov

Paula Stirling

Lucy Turonek

William Evans

Disclaimer

This document provides general information only. Every effort has been made to ensure the accuracy of the information in this guide. However, no responsibility is accepted for any loss, damage or injury, financial or otherwise, suffered by any person or organisation acting or relying on this information or anything omitted from it.

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STATE COURTS AND TRIBUNALS

MAGISTRATES COURT

The Magistrates Court has fees payable in civil and criminal matters.

A list of fees payable in the Magistrates Court can be found at:

<http://www.courts.sa.gov.au/ForLawyers/Pages/Magistrates-Court-Fees.aspx>

Criteria for waiver or reduction of fees

The Court may cancel or reduce a fee because of your financial circumstances or for any of 'proper reason'.

How to apply?

- For a civil matter, complete a Form 24 Application for Reduction/Remission of Fee. Attached to this form is a questionnaire which requires you to give details of your income, expenditure, assets and debts.
- For a criminal matter, complete Form 123 Application for Reduction/Remission of Fee and attach and complete the questionnaire from Form 24 as described above.
- Take the relevant form and questionnaire to a Justice of the Peace who will witness your signature and ask you to swear that the information in the form and questionnaire is true and correct.
- Lodge either Form 24 or Form 123 and the questionnaire with the registrar of the Court.
- Forms can be obtained from the Registry or downloaded from the Court website:
<http://www.courts.sa.gov.au/ForLawyers/Pages/Magistrates-Court-Civil-Forms.aspx>
<http://www.courts.sa.gov.au/ForLawyers/Pages/Magistrates-Court-Criminal-Forms.aspx>

What happens next?

The Registrar will tell you whether the fee has been waived or reduced or whether your application has been refused.

The Registrar may impose conditions about how and when any payment should be made.

Further information

Section 50(2) *Magistrates Court Act 1991* (SA)

<http://www.legislation.sa.gov.au/LZ/C/A/MAGISTRATES%20COURT%20ACT%201991.aspx>

Rule 120 *Magistrates Court (Civil) Rules 1992* (SA)

[http://www.legislation.sa.gov.au/LZ/C/R/Magistrates%20Court%20\(Civil\)%20Rules%201992.aspx](http://www.legislation.sa.gov.au/LZ/C/R/Magistrates%20Court%20(Civil)%20Rules%201992.aspx)

Schedules 1 and 2 of *Magistrates Court (Fees) Regulations 2004* (SA)

[http://www.legislation.sa.gov.au/LZ/C/R/Magistrates%20Court%20\(Fees\)%20Regulations%202004.aspx](http://www.legislation.sa.gov.au/LZ/C/R/Magistrates%20Court%20(Fees)%20Regulations%202004.aspx)

Contact

Adelaide Magistrates Court
260 – 280 Victoria Square
Adelaide SA 5000

Telephone: 08 8204 2444

Facsimile: 08 8204 0670

Email: AMCregistry@courts.sa.gov.au

YOUTH COURT

The Youth Court has fees payable in the following areas:

- When you are applying for an adoption order (Under the Adoption Act 1988 (SA));
- When you are seeking an enforcement order (under the expiation of Offences Act 1996 (SA))
- When you are seeking copies of evidence, reasons for judgment or any other court document.

A list of the fees applicable in the Youth Court can be found at:

<http://www.courts.sa.gov.au/ForLawyers/Pages/Youth-Court-Fees.aspx> (and click on the link to fees).

Criteria for waiver or reduction of fees

The Court may cancel or reduce a fee because of your financial circumstances or for any other 'proper reason'.

How to apply?

- Complete a Form 123Y Application for Reduction/Remission of Fee and attach a questionnaire giving details of your income, expenditure, assets and debts.
- You can get the questionnaire in the attachment to Form 25 located at: <http://www.courts.sa.gov.au/ForLawyers/Pages/Magistrates-Court-Civil-Forms.aspx> or directly from the Court Registry.
- Take the Form 123Y and the questionnaire to a Justice of the Peace who will witness your signature and ask you to swear that the information in both the form and questionnaire is true and correct.
- Lodge the form and questionnaire with the registrar of the Court.
- Forms can be obtained from the Registry or downloaded from: <http://www.courts.sa.gov.au/ForLawyers/Pages/Youth-Court-Forms.aspx>.

What happens next?

The Registrar will tell you whether the fee has been waived or reduced or whether your application has been refused.

The Registrar may impose conditions about how and when any payment should be made.

Further information

Section 33 Youth Court Act 1993 (SA)

<http://www.legislation.sa.gov.au/LZ/C/A/YOUTH%20COURT%20ACT%201993.aspx>

Youth Court (Fees) Regulations 2010

[http://www.legislation.sa.gov.au/LZ/C/R/Youth%20Court%20\(Fees\)%20Regulations%202010.aspx](http://www.legislation.sa.gov.au/LZ/C/R/Youth%20Court%20(Fees)%20Regulations%202010.aspx)

Contact:

Youth Court Registry
75 Wright Street
Adelaide SA 5000

Telephone: 08 8204 0331

Facsimile: 08 8204 0333

Email: youthcourt@courts.sa.gov.au

DISTRICT COURT

The District Court has fees payable in the following areas:

- civil matters;
- criminal matters; and
- criminal injuries compensation.

A list of District Court fees can be found at: <http://www.courts.sa.gov.au/ForLawyers/Pages/District-Court---Fees.aspx> (and click on the link to fees).

Criteria for waiver or reduction of fees

The Court may cancel or reduce a fee because of your financial circumstances or for any other 'proper reason'.

How to apply?

- Contact the District Court Registry to request an application form.
- Complete the form setting out the reasons why you cannot afford to pay the court fees and details of your financial circumstances (a summary of your income and expenditure, property and assets).
- Attach information and documents which support the summary of your income, expenditure, property and assets including:

- bank statements from the last two months;
- Centrelink statements and/or payslips for the last four weeks;
- recent tax returns; and
- any other relevant financial information such as outstanding bills.
- If someone else is providing financial assistance to you, such as a spouse or trust fund, you must also supply financial information about that person or entity.
- State the nature of your proposed claim or appeal.
- Lodge the application form with the Registrar of the Court.

If you are seeking a waiver or reduction of fees in relation to an appeal:

- you must apply to have the fee waived before lodging your appeal or applying for an extension of time to appeal;
- you must state what led to the decision in the lower Court and what facts you are relying on to support your appeal; and
- you must attach a copy of the Judge’s reasons for decision or sentencing remarks
- you must attach a copy of proposed grounds of appeal.

What happens next?

The Registrar will tell you whether the fee has been waived or reduced or whether your application has been refused.

If the Registrar is uncertain as to whether to waive or reduce a fee, he or she can refer the application to a Master of the Court who will look at the application and make a decision.

The Registrar may impose conditions about how and when any payment should be made.

If you do not agree with the Registrar’s decision you can seek a review of the decision but you must apply **within 7 days** of receiving the Registrar’s notice of decision.

A Master of the Court will then review that decision and he or she may confirm, vary or reverse the Registrar’s decision.

Further information

A guide for the self represented litigant in the higher courts:

<http://www.courts.sa.gov.au/RepresentYourself/Pages/default.aspx>

Section 53(2) District Court Act 1991 (SA)

<http://www.legislation.sa.gov.au/LZ/C/A/DISTRICT%20COURT%20ACT%201991/CURRENT/1991.70.UN.PDF>

Rules 20 and 104 District Court Civil Rules 2006

<http://www.courts.sa.gov.au/Lists/Court%20Rules/Attachments/1/District%20Court%20Civil%20Rules%202006.pdf>

Contact

The Registrar
District Court of South Australia
Sir Samuel Way Building
241 259 Victoria Square
Adelaide SA 5000

Telephone: 08 8204 0289

Facsimile: 08 8204 0544

Email: district.civil@courts.sa.gov.au

ENVIRONMENT RESOURCES AND DEVELOPMENT COURT

The Environment Resources and Development Court (ERD Court) has fees payable in the following areas:

- civil matters;
- criminal matters; and
- Native Title matters.

A list of the fees in the ERD Court can be found in the schedules to the *Environment Resources and Development Court Regulations 2005* (see the link below).

<http://www.courts.sa.gov.au/ForLawyers/Pages/ERD-Court-Fees.aspx>

Criteria for waiver or reduction of fees

The Court may cancel or reduce a fee because of your financial circumstances or for any other 'proper reason'.

Fees for ERD Court are relatively small and unless you are suffering extreme financial hardship a fee reduction or waiver is unlikely.

How to apply?

- Contact the ERD Court Registry to request an application form.
- Complete the form setting out the reasons why you cannot afford to pay the Court fees and details of your financial circumstances (a summary of your income and expenditure, property and assets).
- Attach information and documents which support the summary of your income, expenditure, property and assets including:
 - bank statements from the last two months;
 - Centrelink statements and/or payslips for the last four weeks;
 - recent tax returns; and
 - any other relevant financial information such as outstanding bills.
- If someone else is providing financial assistance to you, such as a spouse or trust fund,

- you must also supply financial information about that person or entity.
- Lodge the application form with the Registrar of the court.

If you are seeking a waiver or reduction of fees in relation to an appeal:

- you apply to have the fee waived before lodging your appeal or applying for an extension of time to appeal;
- you must state what led to the decision in the lower Court and what facts you are relying on to support your appeal;
- you must attach a copy of the Judge's reasons for the decision or sentencing remarks; and
- you must attach a copy of proposed grounds of appeal.

What happens next?

The Registrar will tell you whether the fee has been waived or reduced or whether your application has been refused.

If the Registrar is uncertain whether to waive or reduce a fee, he or she can refer the application to a Master of the Court who will look at the application and make a decision.

The Registrar may impose conditions about how and when any payment should be made.

If you do not agree with the Registrar's decision you can seek a review of the decision but you must apply **within 7 days** of receiving the Registrar's notice of decision.

A Master of the court will then review that decision and he or she may confirm, vary or reverse the Registrar's decision.

Further information

<http://www.courts.sa.gov.au/ForLawyers/Pages/ERD-Court-Fees.aspx>

Section 45(2) Environment, Resources and Development Court Act 1993 (SA)

<http://www.courts.sa.gov.au/ForLawyers/Practice-Directions/Pages/ERD-Court-Rules.aspx>

Schedules 1 and 2, Environment, Resources and Development Court Regulations 2005 (SA)

<http://www.legislation.sa.gov.au/LZ/C/R/ENVIRONMENT%20RESOURCES%20AND%20DEVELOPMENT%20COURT%20REGULATIONS%202005.aspx>

Contact

The Registrar
ERD Court
Sir Samuel Way Building
241 259 Victoria Square
Adelaide SA 5000

Telephone: 08 8204 0289
Facsimile: + 61 8 8124 9898
Mobile: 0412 914 402 (Emergency A/H)
Email: erdcourt@courts.sa.gov.au

SUPREME COURT

The Supreme Court has fees payable in the following areas:

- civil matters;
- criminal matters (Magistrates Courts appeals only);
- probate matters; and
- land and valuation division matters.

A list of the fees applicable in the Supreme Court can be found at:

<http://www.courts.sa.gov.au/ForLawyers/Pages/Supreme-Court-Fees.aspx> (and click on the link to fees).

Criteria for waiver or reduction of fees

The Court may cancel or reduce a fee because of your financial circumstance or for any other 'proper reason'.

How to apply?

- Contact the Civil Registry to request an application form.
- Complete the form setting out the reasons why you cannot afford to pay the court fees and provide details of your financial circumstances (a summary of your income and expenditure, property and assets).
- Attach information and documents which support the summary of your income, expenditure, property and assets including:
 - bank statements from the last two months;
 - Centrelink statements and/or payslips for the last four weeks;
 - recent tax returns; and
 - any other relevant financial information such as outstanding bills.
- If someone else is providing financial assistance to you, such as a spouse or trust fund, you must also supply financial information about that person or entity.
- State the nature of your proposed claim or appeal.
- Lodge the application form with the Registrar of the court.

If you are seeking a waiver or reduction of fees in relation to an appeal, apply to have the fee waived before either lodging your appeal or applying for an extension of time to appeal.

- you must state what led to the decision in the lower Court and what facts you are relying on to support your appeal;
- you must attach a copy of the Judges reasons or for decision or sentencing remarks; and
- you must attach a copy of the proposed grounds of appeal.

If you are seeking a waiver or reduction of fees in relation to Probate or Land and Valuation Division matters, you must show why it is not possible to pay the fee out of the estate.

What happens next?

The Registrar will tell you whether the fee has been waived or reduced or whether the application has been refused. The Finance Officer will contact you to inform you if the fee has been waived or reduced or whether the application has been refused.

If the Registrar is uncertain whether to waive or reduce a fee, he or she can refer the application to a Master of the Court who will look at the application and make a decision.

The Registrar may impose conditions about how and when any payments should be made.

If you do not agree with the Registrar's decision you can seek a review of the decision, but must apply **within 7 days** of receiving the Registrar's notice of decision.

A Master of the Court will review that decision and he or she may confirm, vary or reverse the Registrar's decision.

Further information

A guide for the self represented litigant in the higher courts:

http://www.courts.sa.gov.au/community/going_to_court/guide_self_rep/Guide_for_SRL.pdf

Section 130(2) Supreme Court Act 1935 (SA)

<http://www.legislation.sa.gov.au/LZ/C/A/SUPREME%20COURT%20ACT%201935/CURRENT/1935.2253.UN.PDF>

Rule 20 and Rule 21, Supreme Court Civil Rules 2006 (SA)

<http://www.courts.sa.gov.au/ForLawyers/Pages/Supreme-Court-Forms.aspx#civil2006>

Schedules 1 and 2 Supreme Court Regulations 2005 (SA)

<http://www.legislation.sa.gov.au/LZ/C/R/SUPREME%20COURT%20REGULATIONS%202005/CURRENT/2005.104.UN.PDF>

Contact

Supreme Court of South Australia Registrar's Office

1 Gouger Street

Adelaide, South Australia, 5000

Telephone: +61 8 8204 0289

Facsimile:+61 8 8115 1357

Supreme Court Civil and Criminal Registry

Lower Ground Floor

Sir Samuel Way Building

241- 259 Victoria Square

Adelaide, South Australia, 5000

Civil Enquiries:

Telephone: + 61 8 8204 0289

Facsimile:+61 8 8115 1357

Email: supreme.registry@courts.sa.gov.au

Criminal enquiries:
Telephone: +61 8 8204 0289
Facsimile: +61 8 8124 4642
Email: criminal.registry@courts.sa.gov.au

INDUSTRIAL RELATIONS TRIBUNALS AND SA EMPLOYMENT TRIBUNAL

The South Australian Industrial Relations jurisdiction includes the following tribunals:

- the South Australian Industrial Relations Court deals with both civil and criminal matters under the *Fair Work Act 1994* and the *Summary Procedure Act SA (1921)*
- the South Australian Industrial Relations Commission has a major role to play in establishing enforceable conditions of employment and in providing for the prevention and resolution of disputes between employers and employees of the State Public Sector, almost all State Government Business Enterprises and Local Government in South Australia under the *Fair Work Act 1994 (SA)*. It also resolves disputes (including suspensions for serious and willful misconduct) under the *Training and Skills Development Act 2009 (SA)*, and reviews certain employment decisions under the *Public Sector Act 2009 (SA)*.
- The South Australian Employment Tribunal, SAET provides timely, fair and independent resolution of workers compensation matters under the *Return to Work Act 2014 (SA)*.

There are no application fees to commence an action. However, the Registrar may set fees for the following:

- obtaining a transcript;
- use of an interpreter;
- copying documents; and
- witness fees.

Criteria for waiver or reduction of fees

The Registrar can decide to waive or reduce the whole or part of a fee.

How to apply?

The Industrial Relations Court, Industrial Relations Commission and the South Australian Employment Tribunal are co-located and use the one Registry. To apply to waive or reduce a fee, contact the Registry.

Further information

Rule 99, *South Australian Employment Tribunal Rules 2015 (SA)*
http://www.saet.sa.gov.au/app/uploads/2015/06/SAET_Rules_2015.pdf

Contact

Industrial Relations Court/Industrial Relations Commission Registry
Levels 6, Riverside Centre
North Terrace
Adelaide SA 5000

Telephone: 08 8207 0999,
Facsimile: 08 8115 1380
Email: IndustrialTribunals@sa.gov.au,

South Australian Employment Tribunal Registry
Level 6 Riverside Centre
North Terrace
Adelaide SA 5000
Postal Address:
PO Box 3636
Rundle Mall SA 5000

Telephone: (08) 8207 0999
Fax: (08) 8115 1380
Email: SAET@sa.gov.au
Email for lodgments: saet@sa.gov.au
Email for conciliation: saetconciliation@sa.gov.au

SOUTH AUSTRALIAN CIVIL AND ADMINISTRATIVE TRIBUNAL

The South Australian Civil and Administrative Tribunal (SACAT) has fees payable in the following areas:

- Application fee
- Request Review of a SACAT decision

SACAT application fees must be paid or waived for an application to be active.

A list of the fees applicable to SACAT can be found at:
<http://www.sacat.sa.gov.au/bringing-a-case/fees-and-charges>

Criteria for waiver or reduction of fees

There are no application fees for cases in these areas:
guardianship, administration, mental health, consent to treatment, advance care directives, except in Reviews of SACAT decisions (internal review) if you are not the person that the order is about.

In addition, some users may not have to pay fees due to their circumstances. Fees are waived if a user can:

(a) Provide one of the following concession cards:

- Pensioner Concession Card
- Health Care Card
- Commonwealth Seniors Health Card
- Department of Veterans Affairs Gold Card
- Student identification card (full-time students only).

(b) Are receiving legal aid

(c) Are under 18 years of age

(d) Are in prison or detention.

If none of the above applies, and you would like to apply to have your application fee waived on the basis of financial hardship, you can contact SACAT to apply.

How to apply?

When you lodge a form to SACAT it will be established whether application fees can be waived.

What happens next?

The Registrar will tell you whether the fee has been waived or reduced or whether your application has been refused.

Further Information

SACAT website: <http://www.sacat.sa.gov.au/>

Info on fee exemptions and waivers: <http://www.sacat.sa.gov.au/bringing-a-case/fees-and-charges/fee-exemptions-and-waivers>

Contact

South Australian Civil and Administrative Tribunal
Level 4, 100 Pirie Street, Adelaide 5000
Level 8, 85 North East Road, Collinswood 5081
GPO Box 2361 Adelaide SA 5001

Telephone: 1800 723 767

Email: sacat@sacat.sa.gov.au

FEDERAL COURTS AND TRIBUNALS

FEDERAL CIRCUIT COURT OF AUSTRALIA

The Federal Magistrates Court has fees payable in the following areas:

- Family Law matters; and
- General Federal Law matters.

A list of the fees and certain matters for which there are no fees payable can be found at:

Family Law matters:

<http://www.federalcircuitcourt.gov.au/wps/wcm/connect/fccweb/forms-and-fees/fees-and-costs/fees-fl>

General Federal Law matters:

<http://www.federalcircuitcourt.gov.au/wps/wcm/connect/fccweb/forms-and-fees/fees-and-costs/fees-gfl>

Criteria for paying court fees: General exemption

You can apply for exemption of paying court fees if you:

- have been granted Legal Aid;
- hold a Health Care Card, Pension Concession Card or Commonwealth Seniors Health Card;
- hold another card issued by the Department of Family and Community Services or the Department of Veterans' Affairs that certifies entitlement to Commonwealth Health Concessions (this does not include the dependent of the holder of such a concession card);
- are an inmate of a prison or are otherwise lawfully detained;
- are a child under the age of 18 years;
- are in receipt of Youth Allowance or Austudy; or
- are receiving benefit under ABSTUDY.

The Registrar may apply the exemption rule on hardship grounds if, having regard to your income, day to day living expenses, liabilities and assets, he or she is satisfied that payment of the full fee would cause you financial hardship.

A financial hardship exemption is only available to an individual and, even if an earlier fee has been exempted, must be considered afresh on each occasion a fee is payable in any proceeding.

If a Registrar or authorised officer decided not to grant exemption from paying a fee on the grounds of financial hardship, s/he must communicate the reasons in writing and the decision is reviewable by the Administrative Appeals Tribunal.

How to apply? (Family Law matters)

To apply for an exemption of fees in a Family Law matter based on eligibility criteria you must complete an **Application for exemption of fees – general (family law)** and attach evidence of your eligibility (such a photocopy of your Health Care Card). A form is available for download from:

<http://www.federalcircuitcourt.gov.au/wps/wcm/connect/fccweb/forms-and-fees/court-forms/form-topics/Family+Law/form-application-exemption-fees-general>

You can also access a form on request from each District Registry.

To apply for an exemption of fees in a Family Law matter based on financial hardship you must complete an **Application for exemption from fees – financial hardship (family law)** and complete the three part test within the application. A form is available for download from:

<http://www.federalcircuitcourt.gov.au/wps/wcm/connect/fccweb/forms-and-fees/court-forms/form-topics/family+law/form-application-exemption-fees-financial>

You can also access a form on request from each District Registry.

To apply for a reduction of fees for an Application of Divorce or Decree of Nullity Application based on eligibility criteria, you must complete an **Application for reduction of payment of divorce or decree of nullity – general** form and attach evidence of your eligibility (such a photocopy of your Health Care Card). A form is available for download from:

<http://www.federalcircuitcourt.gov.au/wps/wcm/connect/fccweb/reports-and-publications/publications/family-law/guidelines-for-reduced-fee-divorce-and-decree-of-nullity-application>

You can also access a form on request from each District Registry.

To apply for a reduction of fees for an Application of Divorce or Decree of Nullity Application based on financial hardship, you must complete an **Application for reduction of payment of divorce or decree of nullity - financial hardship** and complete the three part test within the application. A form is available for download from:

<http://www.federalcircuitcourt.gov.au/wps/wcm/connect/fccweb/forms-and-fees/court-forms/form-topics/Family+Law/form-application-reduction-divorce-decree-of-nullity-financial-hardship>

You can also access a form on request from each District Registry.

Lodge your relevant application form and supporting evidence with the General Federal Law Registry, either in person, by post, fax or electronically using the Court's eLodgment service.

How to apply? (General Federal Law matters)

If you are seeking an exemption on the basis of financial hardship, you must complete an **Application for exemption from paying court fees – general** which is available for download from:

<http://www.fedcourt.gov.au/forms-and-fees/court-fees/exemptions/guide-to-form>

You can also access a form on request from each District Registry.

If you are seeking an exemption on the basis of financial hardship, you must complete an **Application for exemption from paying court fees – financial hardship** which is available for download from: <http://www.fedcourt.gov.au/forms-and-fees/court-fees/exemptions/guide-to-form-financial-hardship>

You can also access a form on request from each District Registry.

Each application form includes an affidavit that must be signed by you in the presence of a qualified witness (such as a Justice of the Peace or a lawyer). The qualified witness will ask you to swear or affirm that the affidavit is true.

Lodge the application and supporting evidence with the General Federal Law Registry, either in person, by post, fax or electronically using the Court's eLodgment service.

To apply to have a fee deferred in a General Federal Law matter you should contact the Court Registry for more information.

What happens next? (General Federal Law and Family Law matters)

If your application is refused, you will be given written reasons for the decision.

If you do not agree with the Registrar's decision, you may apply to the Administrative Appeals Tribunal for a review of the decision. The application to the Tribunal must be made within 28 days of the decision.

If you have applied for a reduced fee due to financial hardship:

The Registrar will tell you (in writing) if your application is successful.

If your application is refused, you will be given written reasons for the decision.

If you do not agree with the Registrar's decision you may apply to the Administrative Appeals Tribunal for a review of the decision. The application to the Tribunal must be made within 28 days of the decision.

You may also be given the option to apply for payment of court fees to be deferred. For approval for a fee to be deferred, you will need to satisfy the court that you meet certain criteria and fill out a

Request for deferral of court fees form. This is available to download from:

<http://www.federalcircuitcourt.gov.au/wps/wcm/connect/fccweb/forms-and-fees/court-forms/form-topics/family+law/form-payment-request-deferral>

If you have applied to defer a fee:

The Registrar will tell you (in writing) if your application to defer a fee is successful.

If your application for deferral is successful, the fee must be paid within 28 days from the date of the deferral, or any other period specified by the Registrar.

If you do not agree with the Registrar's decision you, may apply to the Administrative Appeals Tribunal for a review of the decision. The application to the Tribunal must be made within 28 days of the decision.

Further information

Part 2 Federal Court and Federal Circuit Court Regulation 2012

Federal Circuit Court of Australia website:
<http://www.federalcircuitcourt.gov.au/wps/wcm/connect/fccweb/home/>

Contact

Federal Circuit Court Registry
Roma Mitchell Commonwealth Law Courts Building
3 Angas Street
Adelaide SA 5000

Telephone: 1300 352 000 (family law enquiries)

Telephone: 08 8219 1000 (general federal law enquiries)

Email: enquiries@familylawcourts.gov.au (family law enquiries)

sareg@fedcourt.gov.au (general federal law enquiries)

FEDERAL COURT OF AUSTRALIA

A list of the fees applicable in the Federal Court can be found at:
<http://www.fedcourt.gov.au/forms-and-fees/court-fees/fees>

When Are Court Fees Not Payable?

Some types of proceedings do not attract fees.

Fees are not payable for:

- an appeal from a judgment in relation to an application under section 46PO or 46PP of the Australian Human Rights Commission Act 1986;
- an appeal from a judgment in relation an application made by a person under section 539 of the Fair Work Act 2009 where, either:
- the person has been dismissed from employment in alleged contravention of Part 3-1 of that Act; or
- the person alleges a breach of section 351 of that Act;
- an appeal from a judgment in relation an application made by a person under section 539 of the Fair Work Act 2009 if the person has been dismissed from employment in alleged contravention of section 772 of that Act;
- the trying of an election petition under the Aboriginal and Torres Strait Islander Act 2005;
- an application by a person to set aside a subpoena;
- a proceeding under the Child Support (Registration and Collection) Act 1988 (other than proceedings relating to child support which are by way of appeal from the Administrative Appeals Tribunal or under the Administrative Decisions (Judicial Review) Act 1977);
- an appeal on a question of law from a decision of the Administrative Appeals Tribunal in a child support first review under subsection 44(1) of the Administrative Appeals Tribunal Act 1975;
- a proceeding for which an international convention to which Australian is party provides that no fee is to be payable; and

- an application under section 23 of the International Arbitration Act 1974 for the issue of a subpoena requiring the attendance before or production of documents to an arbitrator (or both).

In addition, filing fees, setting down fees and hearing fees are not payable for:

- a proceeding in relation to a criminal matter;
- a proceeding in relation to a case stated, or a question reserved, for the consideration or opinion of the Federal Court;
- a proceeding in relation to a referral to the Federal Court of a question of law by a tribunal or body that, under a law of the Commonwealth, may refer questions of law to the Court; and
- an application to the Federal Court for an extension of time within which a particular proceeding may be commenced.

Criteria for exemption from paying court fees

You are eligible for an exemption from paying court fees if you:

- have been granted Legal Aid;
- hold a Health Care Card, Pension Concession Card or Commonwealth Seniors Health Card;
- hold another card issued by the Department of Family and Community Services or the Department of Veterans' Affairs that certifies entitlement to Commonwealth Health Concessions (this does not include the dependent of the holder of such a concession card);
- are an inmate of a prison or are otherwise lawfully detained;
- are a child under the age of 18 years;
- are in receipt of Youth Allowance or Austudy or ABSTUDY benefits; or
- have been granted assistance under the *Native Title Act 1993* to bring proceedings in the Federal Court.

Criteria for exemption due to financial hardship

If you are not eligible for general exemption, you may still be eligible for exemption because of your financial circumstances.

The Registrar or an authorised officer may reduce fees if he or she is satisfied that payment of the full fee would cause you financial hardship. The Registrar or authorised officer must consider your income, day to day living expenses, liabilities and assets in order to make their decision to exempt or reduce your court fees.

A financial hardship exemption is only available to an individual and, even if an earlier fee has been exempted, must be considered afresh on each occasion a fee is payable in any proceeding.

Criteria to defer fees

A Registrar or an authorised officer can defer the time for payment of a fee (other than for production of a court file and copying of documents, service or execution of process or seizure and sale of goods), with or without conditions, where:

- in his or her opinion:
- the need to file the document is so urgent that it overrides the requirement to pay the filing fee before the document is filed; or

- considering the financial circumstances of the person liable to pay the fee, it would be oppressive or otherwise unreasonable to require payment of the fee as required by the Federal Court and Federal Circuit Court Regulation 2012;
- the person liable to pay the fee is represented by a lawyer who is not charging the person for work done in relation to the proceeding.

If payment is deferred the fee must be paid:

- within the period approved in writing by the Registrar or authorised officer for the payment of the fee; or
- if no period is approved, within 28 days after the day the payment is deferred.

How to apply for general exemption of court fees?

If you are seeking general exemption, you must complete an Application for Exemption from Paying Court Fees and attach evidence of your eligibility (such a photocopy of your Health Care Card).. This is available to download from: <http://www.fedcourt.gov.au/forms-and-fees/court-fees/exemptions/guide-to-form>

You can also access a form on request from each District Registry.

Lodge the application and supporting evidence with the General Federal Law Registry, either in person, by post, fax or electronically using the Court's eLodgment service.

How to apply for an exemption of court fees on the basis of financial hardship?

If you are seeking an exemption on the basis of financial hardship, you must complete an **Application for Exemption from Paying Court Fees – Financial Hardship** and attach evidence of your income, day to day living expenses, liabilities and assets. This is available to download from: <http://www.federalcourt.gov.au/forms-and-fees/court-fees/exemptions/guide-to-form-financial-hardship>

You can also access a form on request from each District Registry.

The application includes an affidavit that must be signed by you in the presence of a qualified witness (such as a Justice of the Peace or a lawyer). The qualified witness will ask you to swear or affirm that the affidavit is true.

Lodge the application and supporting evidence with the General Federal Law Registry, either in person, by post, fax or electronically using the Court's eLodgment service.

How to apply for a deferral of court fees?

A person seeking deferral of payment of court fees must complete an **Application for Deferral of Payment of Court Fees**. This is available to download from: <http://www.fedcourt.gov.au/forms-and-fees/court-fees/deferral>

You can also access a form on request from each District Registry.

If a lawyer is representing the person in the proceedings without charge, the lawyer must also complete a certification of this on the form or provide a separate certificate.

To assist a person or a corporation seeking deferral of payment of court fees on the basis that immediate payment would be oppressive or otherwise unreasonable, **Statement of Financial Circumstances – Individual** and **Statement of Financial Circumstances – Corporation** forms are also available.

Lodge the application and supporting evidence with the General Federal Law Registry, either in person, by post, fax or electronically using the Court's eLodgment service.

What happens next?

If you have applied for a general exemption:

Once a general exemption is established it continues until the proceeding is finalised, provided that there is no change in circumstances that alters the continued entitlement to that exemption. A body or person granted a general exemption must notify the Court if there is any change in circumstances which could alter that entitlement.

If you have applied for an exemption due to financial hardship:

- the Registrar will tell you (in writing) whether or not your application is successful.
- to obtain an exemption for fee payment due to financial hardship you must make a new application on each occasion that a full fee for filing, setting down and hearing is payable.
- if your application is refused, you will be given written reasons for the decision.
- if you do not agree with the Registrar's decision you may apply to the Administrative Appeals Tribunal for a review of the decision. The application to the Tribunal must be made within 28 days of the decision.

If you have applied to defer a fee:

- the Registrar will tell you (in writing) whether or not your application to defer a fee has been successful;
- if your application for deferral was successful, the fee must be paid within 28 days from the date of the deferral, or any other period specified by the Registrar;
- if you do not agree with the Registrar's decision you may apply to the Administrative Appeals Tribunal for a review of the decision. The application to the Tribunal must be made within 28 days of the Registrar's decision.

Further information

A corporation may also apply to have fees reduced on the grounds of financial hardship. Please contact the Registrar for more information.

Exemption and reduction of fees in the Federal Court:

<http://www.fedcourt.gov.au/forms-and-fees/court-fees/exemptions>

Federal Court and Federal Circuit Court Regulation 2012

Contact

Federal Court Registry

Level 5, Roma Mitchell Commonwealth Law Courts Building
3 Angas Street
Adelaide SA 5000
Postal Address:
GPO Box 1350
Adelaide SA 5001

Telephone: 08 8219 1000

Fax: 08 8219 1001

Email: sareg@fedcourt.gov.au

FAMILY COURT OF AUSTRALIA

(See “Family Law matters” under Federal Circuit Court)

HIGH COURT OF AUSTRALIA

The High Court of Australia has fees payable in the following areas:

- Filing Fees
- Hearing Fees
- Obtaining a document or service

A list of the filing and hearing fees payable in the High Court can be found at:

http://www.hcourt.gov.au/assets/registry/fees/Fee_Table-Filing-HearingJuly14.pdf

Filing and hearing fees for civil law matters are set at higher levels for a corporation or corporation that is a publicly listed company.

A list of the fees for obtaining a document or service from the High Court can be found at:

http://www.hcourt.gov.au/assets/registry/fees/Fee_Table-Registry_ServicesJuly14.pdf

Fees are not payable under the following circumstances:

- where another person has paid the fee
- where a convention to which Australia is party provides that no fee is to be payable
- where the proceeding is an interlocutory proceeding
- if the sole purpose of the hearing is the delivery of a reserved judgment

For further information see Division 2.3 High Court of Australia (Fees) Regulation 2012

https://www.comlaw.gov.au/Details/F2012L02393/Html/Text#_Toc341356816

An exemption or reduction of fees is only applicable for filing and hearing fees. Fees for obtaining a document or service cannot be exempted or reduced.

Criteria for exemption from paying filing and hearing fees

You can apply for exemption of paying filing and hearing fees if you:

- have been granted Legal Aid;
- hold a Health Care Card, Pension Concession Card or Commonwealth Seniors Health Card;
- hold another card issued by the Department of Family and Community Services or the Department of Veterans' Affairs that certifies entitlement to Commonwealth Health Concessions (this does not include the dependent of the holder of such a concession card);
- are an inmate of a prison or are otherwise lawfully detained;
- are a child under the age of 18 years;
- are in receipt of Youth Allowance or Austudy or ABSTUDY benefits; or
- have been granted assistance under Part 11 of the *Native Title Act 1993* to bring proceedings in the High Court.

The exemption from fees only applies to filing and hearing fees and does not apply to any other fees or expenses in relation to the proceedings, including service fees, transcript charges or lawyers' costs and expenses.

Criteria for reduced filing and hearing fees due to financial circumstances

You may be eligible to pay a reduced fee (called the "financial hardship fee") if you can demonstrate to the Registrar that your income, day-to-day living expenses, liabilities and assets are such that payment of the full fee would cause you financial hardship.

For information on how much can be reduced under financial hardship circumstances, visit http://www.hcourt.gov.au/assets/registry/fees/Fee_Table-Filing-HearingJuly14.pdf

Criteria for deferring the payment of filing and hearing fees

The Registrar may defer the payment of a fee if in the registrar's opinion the need to file a document or hear the proceeding is so urgent that it overrides the requirement to pay the fee when the fee would be otherwise be payable.

A deferred fee must be paid within 28 days after the deferral or within another period approved, in writing, by the registrar for the payment of that fee.

Under section 13 of the High Court of Australia (Fees) Regulation 2012, a fee can be deferred only once. The High Court of Australia (Fees) Regulations 2012 can be found on <http://www.hcourt.gov.au/registry/filing-documents/high-court-of-australia-fees>

How to apply for general exemption of court fees?

To apply for exemption from paying fees, complete an **Application for Exemption from Paying Filing and Hearing Fees** and attach evidence of your eligibility. Forms are available from:

http://www.hcourt.gov.au/assets/registry/fees/Fee_Exemption_Form.pdf

You can also access a form on request from the Registry.

Lodge the application and supporting evidence with the High Court Registry.

How to apply for reduced filing and hearing fees due to financial circumstances?

To apply for a financial hardship fee you need to complete an **Application to pay Financial Hardship Fee**. This form is available from:

http://www.hcourt.gov.au/assets/registry/fees/Fin-Hard_Form-Jul13.pdf

You can also access a form on request from the Registry.

The application includes an affidavit that must be signed by you in the presence of a qualified witness (such as a Justice of the Peace or a lawyer). The qualified witness will ask you to swear or affirm that the affidavit is true.

In considering your application the Registrar may ask you to provide additional documentary evidence to support your claims. In that case, your application will be returned to you with instructions in the 'Notice of request for more information' on page 6.

Lodge the application and supporting evidence with the High Court Registry.

How to apply for a deferral of court fees?

Contact the Court Registry if you wish to apply to defer a fee.

What happens next?

The Registrar will tell you (in writing) whether or not your application has been successful.

If your application is refused, the Registrar will provide reasons for the refusal.

If you do not agree with the Registrar's decision you may apply to the Administrative Appeals Tribunal for a review of the decision. The application to the Tribunal must be made within 28 days of the decision.

Further information

Information and forms regarding fees payable in the High Court:

<http://www.hcourt.gov.au/registry/filing-documents/high-court-of-australia-fees>

High Court of Australia (Fees) Regulation 2012

Contact

High Court Registry
Roma Mitchell Commonwealth Law Courts Building
Level 5, 3 Angas Street
Adelaide SA 5000

Telephone: 08 8219 1000
Facsimile: 08 8219 1001
Email: enquiries@hcourt.gov.au

ADMINISTRATIVE APPEALS TRIBUNAL

In many cases, there is no application fee for matters at the Administrative Appeals Tribunal (AAT). You do not have to pay an application fee to review decisions made under legislation listed in section 22 of the *Administrative Appeals Tribunal Regulation 2015*. The most common decisions relating to this are:

- Centrelink decisions - Second review of a decision made by the Social Services & Child Support Division relating to a Centrelink decision about family assistance, social security or student assistance
- Commonwealth workers' compensation decisions - A reviewable decision under the Safety Rehabilitation and Compensation Act 1988 or Seafarers Rehabilitation and Compensation Act 1992
- Freedom Of Information decisions - A decision about a document that relates to a decision that does not attract a fee when applying to the AAT for a review
- Military compensation decisions - A reviewable decision under the Military Rehabilitation and Compensation Act 2004
- NDIS decisions - A reviewable decision under the National Disability Insurance Scheme Act 2013
- Veterans' entitlements decisions - A reviewable decision under the Veterans' Entitlements Act 1986

A lower application fee of \$85 is payable for the review of the following taxation decisions:

- you state in writing that the amount of tax in dispute is less than \$5,000
- the Tax Office has refused your request to be released from paying a tax debt (regardless of the amount involved)
- the Tax Office has refused to extend the time for you to lodge a taxation objection

This fee cannot be reduced further.

For most other applications, the standard application fee is \$861. However, if you meet the concessional requirements, this fee can be reduced to \$100.

There is an application fee for other kinds of cases, such as decisions about visas and taxation decisions. If you are successful, you might be entitled to a partial refund.

For further information go to: <http://www.aat.gov.au/applying-for-a-review/fees>

Criteria for a reduced fee

You are entitled to pay a reduced fee of \$100 in the following circumstances:

- you have been granted legal aid for your application

- you hold a health care card, a pensioner concession card, a Commonwealth seniors health card or any other card issued by the Commonwealth that certifies entitlement to Commonwealth health concessions
- you are in prison or lawfully detained in a public institution
- you are under 18 years of age,
- you are receiving youth allowance, Austudy or ABSTUDY.

Criteria for reduced fees due to financial hardship You may still be eligible to pay reduced fees because of your financial circumstances. The AAT will order that a reduced fee is payable.

How to apply?

If you meet the criteria for a reduced fee, you should inform the Registrar and provide proof of your eligibility as soon as possible. Contact the Registrar about what type of proof you should provide.

To apply to for a reduced fee on the basis of financial circumstances you must complete a **Request for Fee Reduction** form and provide AAT all the information about your financial circumstances asked for in the form.

Forms are available from: <http://www.aat.gov.au/AAT/media/AAT/Files/Forms/AAT-Form-Request-for-fee-reduction-Final-V1-0-29-June-2015.pdf>

A copy of this form is also available from an AAT registry on request.

Send AAT the form with your application for review of a decision. You can send your form by email, post, or fax, or deliver it to a registry.

What happens next?

- The Registrar will tell you (in writing) whether or not your application has been successful.
- If your application is refused, the Registrar will provide reasons for the refusal.
- If you do not agree with the Registrar's decision you may apply to the AAT for a review of the decision. The application must be made within 28 days of the decision.
- If you do not appeal within 28 days or if you do appeal and it is unsuccessful, you must pay the application fee if you want your application for review to be heard by the AAT.

Further information

Administrative Appeals Regulation 2015

<http://www.aat.gov.au/applying-for-a-review/fees#reduced>

Contact

Administrative Appeals Tribunal Registry
 11th Floor, Chesser House
 91 Grenfell Street
 Adelaide SA 5000
 Postal address:
 GPO Box 9955
 Adelaide SA 5001

Telephone: 08 8201 0600
Facsimile: 08 8201 0610
1300 366 700 (country areas)
Email: Adelaide.Registry@aat.gov.au

Social Service & Child Support Division
Level 12, 45 Grenfell St
Adelaide SA 5000
Postal:
GPO 9943
Adelaide SA 5001
Email: sscsdivision@aat.gov.au

FAIR WORK COMMISSION

Employees must pay a filing fee to the Fair Work Commission (FWC) with the following types of applications:

- applications for unfair dismissal remedy
- applications for bullying stop orders
- applications for the Commission to deal with a general protections dispute
- applications for the Commission to deal with an unlawful termination dispute

The current application fee is \$68.60. The fee is indexed and changes on 1 July every year.

Criteria for waiver or reduction of fees

The application fee can be waived because of your financial circumstances.

How to apply?

If you believe paying the FWC fee may cause you serious financial hardship, you should complete an **Application form for waiver of filing fee** and send this to FWC along with your application.

You must complete all the sections of the form to help FWC make an informed decision about waiving your application fee. If you do not complete all sections, your application for a waiver may be refused.

An application for waiver of filing fee should be lodged with the application form to which it relates.

Forms can be obtained from a FWC office or: <https://www.fwc.gov.au/resolving-issues-disputes-and-dismissals/lodge-application#field-content-1-heading>

Lodge the application with a FWC office in person, or by post, fax or email.

What happens next?

FWC considers completed fee waiver applications as a matter of priority. You will be advised verbally of the decision. If verbal advice cannot be given, FWC will advise you of their decision in writing.

If your application is unsuccessful, you must pay the application fee before the matter can proceed.

Further information

Fair Work Commission website: <https://www.fwc.gov.au/>

<https://www.fwc.gov.au/resolving-issues-disputes-and-dismissals/lodge-application>

Contact

Fair Work Commission
Level 6, Riverside Centre, North Terrace
Adelaide SA 5000

Telephone: 08 8308 9863
Facsimile: 08 8308 9864
Out of hours emergency: 0419 563 601
Email: adelaide@fwa.gov.au

MIGRATION AND REFUGEE REVIEW TRIBUNALS

On 1 July 2015, the Migration Review Tribunal (MRT) and Refugee Review Tribunal (RRT) merged with the Administrative Appeals Tribunal (AAT). All applications must now be made to the Migration and Refugee Division of the AAT.

Criteria for waiver or reduction of fees

An application fee of A\$1,673 is payable in all cases, except when applying for review of a bridging visa decision (including any related decision to require a security bond) that resulted in a person being placed in immigration detention.

The fee may be reduced by 50% if the registrar is satisfied that payment of the fee has caused, or is likely to cause you, severe financial hardship.

The registrar or a delegate will make the fee reduction based on the information you provide. They may also refer to other information in the AAT's possession such as statements you have made to the Australian government regarding your income and financial situation.

If you withdraw your application, the Tribunal can only refund your application fee in very limited circumstances. For further information go to: <http://www.aat.gov.au/migration-and-refugee-division/steps-in-a-review/how-much-will-it-cost>

The AAT will refund 50% of the full application fee if you receive a favorable decision on any case. If the AAT decide that an application is invalid, the entire fee paid will be refunded.

How to apply?

To request a fee reduction, you should lodge a **Request for fee reduction** form with supporting evidence attached. This is available to download from: <http://www.aat.gov.au/migration-and-refugee-division/resources/forms>

A copy of this form is also available from AAT registries on request.

If an application is lodged online the full fee must be paid as an online payment at the time the application for review is lodged. Any request for fee reduction will be considered after lodgment. If you are deemed to be eligible for a fee reduction, you will be refunded the appropriate amount.

Send AAT the form with your application for review of a decision. You can send your form by email, post, or fax, or deliver it to a registry.

You can also submit an application online using the AAT online lodgment system. For further information go to: <https://tribunalonline.mrt-rrt.gov.au/>

What happens next?

The registrar will tell you whether or not your application has been successful.

If your request for reduction is not granted, you will need to pay the full application fee (if not already paid) for your application for review to be valid.

Further information

AAT Migration and Refugee Division: <http://www.aat.gov.au/migration-and-refugee-division>

Migration and Refugee Division Factsheets:

<http://www.aat.gov.au/migration-and-refugee-division/resources/factsheets>

FAQs Migration and Refugee Division online applications: <http://www.aat.gov.au/migration-and-refugee-division/faqs-mrd-online-applications>

Migration Act 1958

Migration Regulations 1994

Contact

The office is open Monday to Friday 8:30am to 5:00pm.

Administrative Appeals Tribunal - Migration and Refugee Division
11th Floor Chesser House
91 Grenfell St
Adelaide SA 5000

Postal address:
PO Box 14158
Melbourne VIC 3001

Telephone: 03 8600 5801
Freecall: 1800 228 333
Email: mrdivision@aat.gov.au

NATIONAL NATIVE TITLE TRIBUNAL

Applications to the National Native Title Tribunal are made through the relevant state office of the National Native Title Tribunal.

Fees apply to some Native Title future act applications, namely Future Act Determination Applications and Expedited Procedure Objections.

Information on how to apply and fees payable is available on the NNTT website at <http://www.nntt.gov.au/futureacts/Pages/Future-act-Determination-Applications.aspx> for Future Act Determination Applications and <http://www.nntt.gov.au/futureacts/Pages/Expedited-procedure-objections.aspx> for Expedited Procedure Objections.

Criteria for waiver or reduction of fees

The criteria for the waiver of fees is detailed in the links above.

How to apply?

See the links above.

What happens next?

See what happens next under “Federal Court of Australia” in this guide.

Further information

Native Title (Federal Court) Regulations 1998

Contact

The Tribunal has five offices across Australia – located in Perth, Melbourne, Sydney, Brisbane and Cairns. The President, Members, Native Title Registrar and staff, perform functions and provide services including assistance, from each office.

The Sydney Office serves clients in New South Wales, South Australia and the Australian Capital Territory. Office hours are weekdays from 8.30am - 5.00pm.

Level 16, Law Court Building
Queens Square
Sydney NSW 2000

Postal Address:
GPO Box 9973
Sydney NSW 2001

Telephone: (02) 9227 4000
Freecall: 1800 640 501
Fax: (02) 9227 4030
Email: nswenquiries@nntt.gov.au