



Queensland Public Interest Law Clearing House Inc

**COURT AND TRIBUNAL FEE WAIVER AND
EXEMPTION GUIDE**

January 2006

3rd Edition

Preface

The Queensland Public Interest Law Clearing House (QPILCH) refers requests for legal advice and assistances in public interest matters to member law firms and barristers who provide assistance to clients on a pro bono or reduced fee basis.

In a number of circumstances, clients referred by QPILCH are eligible to have court and tribunal fees waived or exempted.

In order to assist such clients and their legal practitioners, QPILCH has compiled this guide which lists Commonwealth and Queensland courts and tribunals, outlines the circumstances in which fees may be waived or exempted, and the procedure to take advantage of such provisions. Where available, the court or tribunal's website information on fee waiver has been linked, which generally contains the forms required and more detailed information.

It should be noted that this guide is current as at March 2005. However relevant legislation, regulations and procedures governing the waiver of fees are subject to change. The relevant court or tribunal should be contacted to ensure that the application procedures outlined in this document are still current.

In compiling this guide QPILCH would like to acknowledge the work done by PILCH Victoria in creating the original Court and Tribunal Fee Waiver Guide, June 2000.

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Disclaimer

This document provides general information only. While every effort is made to ensure accuracy and to keep it current, agency details, law and procedure outlined herein can change constantly. 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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COMMONWEALTH COURTS AND TRIBUNALS

High Court

Contact - Commonwealth Courts Building
119 North Quay
Brisbane QLD 4000

(07) 3248 1100

<http://www.highcourt.gov.au>

Applicable fees

Applicable fees for the High Court are set out in the *High Court of Australia (Fees) Regulations 2004* (Cth). They are:

- Filing fees and fees for other services (Schedule 1 Part 1)
- Fees for obtaining a document or service (Schedule 1 Part 2)
- Hearing fees (Schedule 1 Part 3)

Current fees (from 1 January 2005) are set out on the [website](#).

Fee waiver and exemption

The circumstances in which a fee is not payable are set out in the *High Court of Australia (Fees) Regulations 2004* (Cth). This was amended by the *High Court of Australia (Fees) Amendment Regulations 2005 (No. 1)* which commenced on 1 July 2005. This guide outlines fee waiver and exemption as amended by the 2005 regulations. Proceedings that were commenced before 1 July 2005 will need to refer to the regulations without the recent amendments.

The relevant provisions are set out in Part 2.

Fees not payable (r 8)

Fees are not payable in the following circumstances:

- Where the fee has been paid by another person;
- In relation to filing fees and fees for other services (Schedule 1 Part 1) and fees for obtaining a document or service (Schedule 1 Part 2), where a Convention to which Australia is a party provides that no fee is to be payable;
- In relation to the hearing fee specified in item 301 or 302 of Schedule 1, where the hearing is of an interlocutory proceeding;
- In relation to the hearing fee specified in item 303 or 304 of Schedule 1, where the sole purpose of the hearing is the delivery of a reserved judgment;
- In relation to filing fees and fees for other services (Schedule 1, Part 1) and hearing fees (Schedule 1, Part 3), where the person is exempt from paying fees under r 9 or payment has been waived under r 10.



Fee Exemption (r 9)

Filing fees and fees for other services (Schedule 1, Part 1) and hearing fees (Schedule 1, Part 3) are not payable if either:

- The person is granted legal aid for the proceeding for which the fee would otherwise be payable; OR
- The person is:
 - (i) The holder of a concession card (a health care card, pensioner concession card, seniors health card or any other card issued by Centrelink or the Department of Veterans' Affairs that certifies entitlement to Commonwealth health concessions);
 - (ii) an inmate of a prison or is otherwise lawfully detained in a public institution; or
 - (iii) a child under the age of 18 years; or
 - (iv) in receipt of a youth allowance or an Austudy payment; or
 - (v) in receipt of ABSTUDY benefits; OR

Waiver of part of fee for financial hardship (r 10)

The Registrar, having regard to the income, day to day living expenses, liabilities and assets of the person liable to pay a filing fee or fee for other services (Schedule 1, Part 1) or hearing fee (Schedule 1, Part 3), may waive payment of two-thirds of the amount of the fee if he or she is of the opinion that payment of the fee would cause **financial hardship** to the person.

Written notice of the Registrar's decision not to waive payment must set out the reasons for the decision and be given within 28 days of the decision (r 15).

Application for review of the Registrar's decision may be made to the Administrative Appeals Tribunal (r 15(2)).

Fee deferral

Filing fees and fees for other services (r 11)

Payment of filing fees and fees for other services (Schedule 1 Part 1) may be deferred if the Registrar is of the opinion that there is an urgency that overrides the requirement to pay the fee at that time.

The fee must be paid within 30 days of deferral.

Fee refund

Hearing fees (r 13)

A person who has paid the whole or part of a hearing fee is entitled to a refund in the circumstances set out in r 13.



In particular, a person is entitled to a refund if:

- The fee was not payable because of
 - r 8(1) - Where the fee has been paid by another person;
 - r 8(3) - In relation to the hearing fee specified in item 301 or 302 of Schedule 1, where the hearing is of an interlocutory proceeding;
 - r 8(4) - In relation to the hearing fee specified in item 303 or 304 of Schedule 1, where the sole purpose of the hearing is the delivery of a reserved judgment;
 - r 8(5) - Where the person is exempt from paying fees under r 9;
- Part of the fee has been waived pursuant to r 10.

Procedure

An application for fee exemption or waiver must be made when the proceedings are initiated in the [appropriate form](#). Proof of entitlement to exemption must accompany the application. For example, if exemption is claimed due to the applicant having been granted legal aid, the letter of confirmation must be provided. The application form clearly sets out what is required.

If applying for a fee waiver on the basis of financial hardship, a "[statement of affairs form](#)" must also be completed. Applicants will need a copy of their latest pay slip and their partner's latest pay slip, if any. The statement attaches an affidavit which must be sworn/affirmed by the applicant and witnessed by an authorised person (that is, the Deputy Registrar, a Justice of the Peace, a Notary public or lawyer)

Federal Court of Australia

Contact - Commonwealth Courts Building
119 North Quay
Brisbane QLD 4000

(07) 3258 1100

<http://www.fedcourt.gov.au>

Applicable fees

Applicable fees for the Federal Court of Australia are set out in Schedule 1 of the *Federal Court of Australia Regulations 2004* (Cth). They are:

- Filing fees and fees for the provision of services
- Setting down fees
- Hearing fees

Current fees (from 1 November 2004) are set out on the [website](#).

Fee waiver and exemption

The circumstances in which a fee is not payable are set out in the *Federal Court of Australia Regulations 2004* (Cth), which came into force (except for Item 4 of Schedule 1) on 1 November 2004. The relevant regulations are:

Regulation 5:	Fees other than setting down fees and hearing fees – liability (including filing fees)
Regulation 6:	Setting down fees – liability to pay
Regulation 7:	Hearing Fees – liability to pay
Regulation 9:	When must fees be paid?
Regulation 10:	Deferral of fees
Regulation 11:	Exemption from liability to pay fee
Schedule 3:	Exemption from fees

Fees in general (Schedule 3, Par 1)

Fees are not payable if either:

- The person is granted legal aid for the proceeding to which the fee relates; OR
- The person has been granted assistance under Part 11 of the *Native Title Act 1993* by a representative body or a person/body to whom a grant has been made for the purposes of enabling them to act as a representative body; OR
- The person is:
 - (i) The holder of a health care card, a pensioner concession card or a Commonwealth seniors health card; or
 - (ii) The holder of any other card issued by the Department of Social Security or the Department of Veterans' Affairs that certifies entitlement to Commonwealth health concessions; or



- (iii) Serving a prison sentence, or is otherwise lawfully detained in a public institution; or
 - (iv) under the age of 18 years; or
 - (v) receiving youth allowance or an Austudy payment; or
 - (vi) receiving ABSTUDY benefits; OR
- The Registrar (or an authorised officer), having regard to the income, day to day living expenses, liabilities and assets of the person, waives payment of the fee because in his or her opinion, it would cause **financial hardship** to the person.

Specific exemptions

Fees are not payable in relation to:

- an application under s 46PO or 46PP of the *Human Rights and Equal Opportunity Commission Act 1986* (except the filing fee for the application, item 2, Schedule 1);
- an application under s 170 of the *Workplace Relations Act 1996* (except the filing fee for the application, item 3, Schedule 1);
- an appeal from the decision in an application under s 46PO or 46PP of the *Human Rights and Equal Opportunity Commission Act 1986* or under s 170 of the *Workplace Relations Act 1996*;
- A proceeding commenced under Div 3 of Part VIA of the *Workplace Relations Act 1996* that is transferred from the Industrial Relations Court;
- An application to set aside a subpoena, where the applicant is not a party to the proceedings in which the subpoena is issued.

Tax appeals

Fees are not payable in relation to certain tax appeals where the Registrar is satisfied that:

- The person lodging the appeal has lodged with the Court another appeal for which the prescribed fee has been paid; and
- The appeals are of the same type; and
- The appeal concerns an issue (other than a procedural issue) that is substantially the same as an issue of concern in the other appeal.

Filing fees (Schedule 3, Par 2)

If fees in general are not payable as set out above, then filing fees are not payable.

In addition, documents relating to the following are exempt from filing fees:

- a proceeding in relation to a criminal matter;
- a matter remitted to the Federal Court by the High Court under section 44 of the *Judiciary Act 1903*;
- a matter remitted to the Federal Court by the High Court under section 354(1) of the *Commonwealth Electoral Act 1918*;
- a case stated, or a question reserved, for the consideration or opinion of the Federal Court;
- a reference to the Federal Court of a question of law by a tribunal or body that may refer questions of law to the Court;
- a proceeding in respect of which an international convention to which Australia is party provides no fee is payable;

- a referral to the Federal Court by the Commissioner of Taxation of an objection decision, under Part IVC of the *Taxation Administration Act 1953*;
- an application to the Court for an extension of time.

Setting down fees (Schedule 3, Par 3)

If fees in general are not payable as set out above, then setting down fees are not payable.

In addition, setting down fees are not payable if:

- the proceeding is of an interlocutory nature only;
- a setting-down fee has been paid for the application or appeal and has not been refunded;
- the proceeding is:
 - a proceeding in relation to a criminal matter
 - a case stated, or a question reserved, for the consideration or opinion of the Federal Court
 - a reference to the Federal Court of a question of law by a tribunal or body that may refer questions of law to the Court
 - a proceeding in respect of which an international convention to which Australia is a party provides no fee is payable;
 - a referral to the Federal Court by the Commissioner of Taxation of an objection decision, under Part IVC of the *Taxation Administration Act 1953*;
 - an application to the Court for an extension of time;
- the proceeding is a matter remitted to the Federal Court by the High Court under section 44 of the *Judiciary Act 1903* and either:
 - was initiated in the High Court before the commencement of the Regulations (1 November 2004);
 - it was remitted by the High Court in its appellate jurisdiction for rehearing by the Federal Court;
- the proceeding is an exercise by the Court of original jurisdiction vested in it by the *Bankruptcy Act 1966*.

Hearing fees (Schedule 3, Par 4)

If fees in general are not payable as set out above, then hearing fees are not payable.

In addition, hearing fees are not payable if:

- the hearing is cancelled before the fee is paid;
- the sole purpose of the hearing is delivery of a reserved judgment;
- a hearing fee has been paid for the application or appeal and has not been refunded;
- the proceeding is:
 - a proceeding in relation to a criminal matter;
 - a case stated, or a question reserved, for the consideration or opinion of the Federal Court;
 - a reference to the Federal Court of a question of law by a tribunal or body that may refer questions of law to the Court;
 - a proceeding in respect of which an international convention to which Australia is a party provides no fee is payable;

- a referral to the Federal Court by the Commissioner of Taxation of an objection decision, under Part IVC of the *Taxation Administration Act 1953*;
 - an application to the Court for an extension of time;
- the proceeding is a matter remitted to the Federal Court by the High Court under section 44 of the *Judiciary Act 1903* and either:
 - was initiated in the High Court before the commencement of the Regulations (1 November 2004);
 - it was remitted by the High Court in its appellate jurisdiction for rehearing by the Federal Court;
- the proceeding is an exercise by the Court of original jurisdiction vested in it by the *Bankruptcy Act 1966*;
- the proceeding commenced on or before 31 March 1992.

Fee deferral

Fees can be deferred if:

- in the opinion of the Registrar:
 - In the case of a filing fee – the need to file the document is so urgent as to override the requirement to pay the filing fee at the time of filing; or
 - Otherwise – it would, having regard to the financial circumstances of the person liable to pay the fee, be oppressive or otherwise unreasonable to require payment within the normal timeframes.
- In the case of a setting down fee – the date of the hearing is more than 6 months after the day on which the proceeding is set down for hearing
- The person liable to pay the fee is represented by a practitioner who is acting pro bono.

If payment is deferred, the fee must be paid within 30 days or other period as specified by the Registrar in writing.

Procedure

An application for a fee waiver needs to be made when proceedings are being initiated.

The following application forms are available from the [website](#):

- For individuals:
 - Application for waiver or exemption
 - Statement of financial position
- For corporations:
 - Application for waiver or exemption
 - Statement of financial position
- Application for fee exemption or waiver - continuation of circumstances (use where the applicant has already been granted a fee exemption or waiver and the applicant's circumstances have not changed)
- Application for deferral of fees

Application for exemption and waiver

Detailed information regarding application for exemption and waiver for an individual or a corporation is provided on the website, including instructions on how to fill out the form.

Proof of entitlement to an exemption must accompany the application. For example, if exemption is claimed due to the applicant having been granted legal aid, the letter of confirmation must be provided. The application form clearly sets out what is required.

When applying for a fee waiver on the basis of financial hardship it is also necessary to complete a "statement of financial position" and provide as much relevant information about the financial situation of the applicant as possible.

If an application for waiver is refused, then written reasons for the decision will be given. An appeal to the Administrative Appeals Tribunal can be made within 28 days.

Application for deferral

When applying for fee deferral on the basis that the need to file the document overrides the requirement to pay the fee at the time of the filing, a statement setting out the reasons is also required.

When applying for a fee deferral on the basis of financial hardship it is also necessary to complete a statement of financial position and provide as much relevant information about the financial situation of the applicant as possible.

When applying for fee deferral on the basis that the person is represented by a practitioner acting pro bono, the statement by the practitioner at the back of the form must be completed.

Federal Magistrates Court

Contact - Federal Court of Australia
Commonwealth Law Courts
Level 6, 119 North Quay
Brisbane, QLD 4000

1300 367 110

<http://www.fmc.gov.au/>

Applicable fees

The applicable fees are set out in Schedule 1 of the *Federal Magistrates Regulations 2000* (Cth). They include:

- Filing fees
- Setting down fees

Current fees are set out on the [website](#).

Fee waiver and exemption

The circumstances in which a fee is not payable are set out in the *Federal Magistrates Regulations 2000* (Cth). The relevant regulations are:

Regulation 7:	Circumstances in which fee not payable
Regulation 8:	Persons exempt from payment of fees
Regulation 8A:	Exemptions from payment of filing fees
Regulation 8B:	Exemptions from payment of setting down fees
Regulation 9:	Waiver of fees

Fees in general (Regulation 8 and 9)

Fees are not payable if either:

- The person is granted legal aid for the proceeding to which the fee relates; OR
- The person is:
 - (i) The holder of a health care card, a pensioner concession card or a seniors health card; or
 - (ii) The holder of any other card issued by the Department of Social Security or the Department of Veterans' Affairs that certifies entitlement to Commonwealth health concessions; or
 - (iii) an inmate of a prison or otherwise lawfully detained in a public institution; or
 - (iv) a child under the age of 18 years; or
 - (v) receiving youth allowance or an Austudy payment; or
 - (vi) receiving ABSTUDY benefits; OR



- A Registrar (or an authorised officer), having regard to the income, day-to-day living expenses, liabilities and assets of the person, waives payment of the fee because in his or her opinion, it would cause **financial hardship** to the person.

Specific exemptions (Regulation 7)

In addition, a fee is not payable for:

- an application for an extension of time within which a proceeding may be commenced;
- a proceeding for which a Convention to which Australia is a party provides that a fee is not payable;
- a proceeding under the *Family Law Act 1975* about any of the issues listed in Regulation 7(d) of the *Federal Magistrates Regulation 2000*.

Filing fees (Regulation 8A)

If fees in general are not payable as set out above, then filing fees are not payable.

In addition, filing fees are not payable if:

- the matter:
 - was remitted by the High Court to the Federal Court under section 44 of the *Judiciary Act 1903*; and
 - was subsequently transferred by the Federal Court to the Federal Magistrates Court under section 32AB of the *Federal Court of Australia Act 1976*; or
- the matter was remitted by the High Court to the Federal Magistrates Court under section 44 of the *Judiciary Act 1903*.

Setting down fees (Regulation 8B)

If fees in general are not payable as set out above, then setting down fees are not payable.

In addition, setting down fees are not payable if:

- the matter:
 - was remitted by the High Court, in the exercise of its appellate jurisdiction, for re-hearing by the Federal Court under section 44 of the *Judiciary Act 1903*; and
 - was subsequently transferred by the Federal Court to the Federal Magistrates Court under section 32AB of the *Federal Court of Australia Act 1976*; or
- the matter was remitted by the High Court, in the exercise of its appellate jurisdiction, for re-hearing by the Federal Magistrates Court under section 44 of the *Judiciary Act 1903*.

Fee deferral (Regulation 10)

A Registrar or an authorised officer may defer payment of a fee if, in his or her opinion, there is an urgency that overrides the requirement of payment of the fee at the time that, but for deferral, it would be payable.

If payment is deferred, the fee must be paid within 30 days of deferral.



Procedure

An application for fee waiver or deferral needs to be made.

The following forms are available from the Federal Magistrates Court [website](#) (they are the same as the Federal Court forms):

- For individuals:
 - Application for waiver or exemption
 - statement of financial position
- For corporations:
 - Application for waiver or exemption
 - statement of financial position

Proof of entitled to the exemption must accompany the application. For example, if exemption is claimed due to the applicant having been granted legal aid, the letter of confirmation must be provided. The application form clearly sets out what is required.

When applying for a fee waiver on the basis of financial hardship it is also necessary to complete a statement of financial position and provide as much relevant information about the financial situation of the applicant as possible. For a corporation, this may be the audited accounts of the corporation.

To apply for fee deferral, contact the Registry.

Family Court of Australia

Contact - Commonwealth Courts Building
119 North Quay
Brisbane Qld

(07) 3248 2200

<http://www.familycourt.gov.au>

Applicable fees

Fees applicable to Family Court proceedings are pursuant to Regulations 21AA and 21AB of the *Family Law Regulations 1984*. They are:

- Fees in respect of proceedings
- Fees in respect of appeals

Fees effective from 1 July 2004 are listed on the [website](#).

Fee waiver and exemption

The circumstances in which a fee is not payable are set out in the *Family Law Regulations 1984*. The relevant regulations are:

- Regulation 11(7): Fees in respect of proceedings
- Regulation 16 (3): Fees in respect of appeals

Fees in respect of both proceedings and appeals

Fees in proceedings and appeals are not payable if either:

- The person liable to pay the fee has been granted legal aid for the matter to which the fee relates; OR
- The person is, at the time the application is filed or a date is fixed for the hearing of the proceedings:
 - (i) The holder of a health care card, a health benefit card, a pensioner concession card or a Commonwealth seniors health card; or
 - (ii) The holder of any other card issued by the Department of Social Security or the Department of Veterans' Affairs that certifies entitlement to Commonwealth health concessions; or
 - (iii) an inmate of a prison or otherwise lawfully detained in a public institution; or
 - (iv) a child under the age of 18 years; or
 - (v) receiving youth allowance or an Austudy payment; or
 - (vi) receiving ABSTUDY benefits; OR
- The Registrar, having regard to the income, day to day living expenses, liabilities and assets of the person liable to pay the fee, waives payment of the fee because, in his or her opinion, it would cause **financial hardship** to the person.



Fees in respect of proceedings only

In the case of fees in respect of proceedings only, fees are not payable if:

- The fee has been paid in respect of the proceedings by a person other than the person liable to pay the fee.
- In relation to a fee payable under Regulation 11(1)(a), (b) or (1A) (dissolution of marriage) — the marriage to which the relevant application relates has been dissolved or annulled under the *Family Law Act*.

Procedure

Application for the waiver or exemption of fees must be made in the following forms:

- [Application](#) for applying for waiver of fees on the grounds of financial hardship;
- [Application](#) for applying for exemption of fees on other grounds.

If the registrar refuses to waive the fee on the grounds of financial hardship, the registrar must within 28 days give the applicant written notice of the decision and the applicant's right to request a statement setting out the findings on material questions of fact and the reasons for the decision.

A registrar's decision not to waive the fee on the grounds of financial hardship may be appealed to the Administrative Appeals Tribunal.

Administrative Appeals Tribunal

Contact - Commonwealth Law Courts
Level 4
119 North Quay
Brisbane QLD 4000

(07) 3361 3000 or 1300 366 700

<http://www.aat.gov.au>

Applicable fees

An application fee of \$606 is payable upon application to the Administrative Appeals Tribunal for the review of a decision. The fee is refunded if the Tribunal finds in favour of the applicant at the completion of the review.

If the applicant elects to have their application dealt with in the Small Taxation Claims Tribunal, the application fee is \$61 and is not refundable.

(These rates are current from 1 January 2005, but are subject to increase under Regulation 19A).

Fee waiver and exemption

The rules relating to fee exemption and waiver are in the *Administrative Appeals Tribunal Regulations 1976*. The relevant regulations are:

Regulations 19:	Prescribed fees - general
Regulation 19AA:	Prescribed fees – Part IIIAA taxation decisions
Regulation 20:	Review by Tribunal

The application fee is not payable where:

- The decision for review is:
 - a decision specified in Schedule 3 of the *Administrative Appeals Tribunal Regulations 1976*
 - a decision reviewable under section 55 of the *Freedom of Information Act 1982*, being a decision made in relation to a document that relates to a decision specified in Schedule 3.
- The decision has been referred to the Tribunal where a fee is payable under that or another enactment on the lodgment of a request to refer the decision to the Tribunal.
- The person liable to pay the fee has been granted legal aid for the matter to which the fee relates.
- The person is:
 - The holder of a health care card, a health benefit card, a pensioner concession card or a Commonwealth seniors health card; or



- The holder of any other card issued by the Department of Social Security or the Department of Veterans' Affairs that certifies entitlement to Commonwealth health concessions; or
 - an inmate of a prison or otherwise lawfully detained in a public institution; or
 - a child under the age of 18 years; or
 - receiving youth allowance or an Austudy payment; or
 - receiving ABSTUDY benefits.
- The Registrar, a District Registrar or a Deputy Registrar, having regard to the income, day to day living expenses, liabilities and assets of the person liable to pay the fee, waives payment of the fee because, in his or her opinion, it would cause **financial hardship** to the person.

Financial Hardship

In determining whether to waive payment of the fee on the ground of financial hardship, the Registrar takes into account:

- how much the applicant and his or her partner earn;
- whether payment of the application fee will affect the applicant's ability to pay the following expenses for him or herself, his or her partner or their children:
 - food and clothes;
 - rent or mortgage payments;
 - health care;
 - education;
 - any other basic needs;
 - or any special needs (for a serious illness or disability);
- whether the applicant owns any assets, including investments, cash on hand for short term expenses and money for special needs;
- whether the applicant has any debts.

Procedure

An application for waiver of an application fee must be made in writing to the Tribunal. The application can be made by using the [available form](#) or by letter.

The application should include as much information about the applicant's financial needs and income as requested by the form.

The Registrar's decision will be made within 3 working days and the applicant notified by letter. (Given that there is a time limit within which an applicant may request review of a decision, the applicant may need to apply for an extension of time within which to lodge the application for review while the Registrar makes his or her decision regarding fees.)

The decision of the Registrar may be appealed within 28 days to a member of the Tribunal. Appeals require payment of a fee. The fee may be refunded if the member of the Tribunal makes a final decision in the applicant's favour, however, the applicant must apply to the Tribunal for a refund of the fee.

QUEENSLAND COURTS AND TRIBUNALS

Supreme Court of Queensland

Contact - Cnr George St and Adelaide St
Brisbane QLD 4000

(07) 3247 4313

<http://www.courts.qld.gov.au>

Applicable fees

The applicable fees are set out in Schedule 1 of the *Uniform Civil Procedure (Fees) Regulation 1999* (Qld).

Fee waiver and exemption

Filing fees

Filing fees may be exempt under Rule 971 of the *Uniform Civil Procedure Rules 1999* (Qld).

The registrar may, by order, exempt an individual from payment of a relevant fee if, having regard to the individual's financial position, it is clearly in the interests of justice to exempt the individual from payment of the fee.

A 'relevant fee' means the fee payable under the *Uniform Civil Procedure (Fees) Regulation 1999*, schedule 1, item 1(1)(a), 1(2)(a) or 1(3)(a) for filing any of the following—

- (a) a claim, including a writ of admiralty;
- (b) any application that is an originating process; or
- (c) any document initiating any appeal, including a case stated.

In having regard to the individual's financial position, the registrar must have regard to the following matters—

- (a) if the individual receives an income-tested pension under the *Social Security Act 1991* (Cth), the type and amount of the pension;
- (b) how much the individual is paying as rent for his or her accommodation;
- (c) whether a spouse or close relative may be willing to give the individual financial help;
- (d) any other matter the registrar considers relevant.

The Registrar may decide the application summarily and without extensive investigation.

Even if the Registrar orders that the individual is exempt from filing fees, the individual will still need to pay the Appeal Costs Fund fee (currently \$18.00 in the Supreme Court and \$14.00 in the District Court).



Procedure

Application for fee exemption or waiver must be made at the time of presentation of the originating process at the Registry.

To apply, the individual must file an [affidavit](#) in the approved form (and, if necessary, [exhibits](#)), which includes all relevant information, that is, information relating to the individual's financial position and in particular:

- o whether the individual receives an income-tested pension under the *Social Security Act 1991* (Cth), and if so, the type and amount of the pension;
- o how much the individual is paying as rent;
- o whether any close relative may be willing to give financial help;
- o any other information relating to the individual's financial position (eg bank statements, statements of assets and liabilities);
- o any other matter the registrar considers relevant.

The individual may be asked for further information.

The Registrar will make the order at the time of presentation of the originating process and a copy of the order will be provided to the applicant.

If dissatisfied with a Registrar's decision on the individual's application, the individual may apply to a judge for a review of the decision. The judge may:

- (a) consider the application with or without a hearing; and
- (b) consider anything the registrar considered; and
- (c) make the order the judge considers appropriate.

District Court of Queensland

Contact - Corner of George & Adelaide St
Brisbane QLD 4000

(07) 3247 4424

www.courts.qld.gov.au

Applicable fees

The applicable fees are set out in Schedule 1 of the *Uniform Civil Procedure (Fees) Regulation 1999* (Qld).

Fee exemption

The same rules apply as for the Supreme Court of Queensland.

Procedure

The same procedure applies as for the Supreme Court of Queensland.



Magistrates Court of Queensland

Contact - 179 North Quay
Brisbane QLD 4000

(07) 3247 4617

www.courts.qld.gov.au

Applicable fees

The applicable fees are set out in Schedule 2 of the *Uniform Civil Procedure (Fees) Regulation 1999* (Qld).

Fee exemption

Fee exemption from the Magistrates Court is handled on a case by case basis but generally a fee exemption will not be granted. Applicants should remember to request reimbursement of filing fees as part of their claim.

Please contact the relevant Magistrates Court Registry for further information.



Mental Health Court

Contact - 18th Floor
Queensland Health Building
147-163 Charlotte Street
Brisbane Qld

(07) 3234 0703

http://www.courts.qld.gov.au/about/role_mhc.asp

Applicable Fees

The *Mental Health Act 2000* (Qld), which establishes the Mental Health Court, provides at Section 419 that the Governor in Council (with the consent of the constituting judge of the Court) may make rules regarding the fees and costs payable in relation to proceedings in the court and the party by or to whom they are to be paid.

There are currently no rules regarding fees and costs in the Mental Health Court.

Small Claims Tribunal

Contact - Brisbane Magistrates Court
363 George Street
Brisbane Q 4000

(07) 3247 4578

<http://www.justice.qld.gov.au/courts/factsht/C07SmallClaims.htm>

Applicable fees

Applicable fees are set out in the Schedule to the *Small Claims Tribunals Regulation 1993* (Qld).

The Tribunal can order that fees be reimbursed, although it cannot order the recovery of other costs.

Fee refund

The Tribunal can order that fees be refunded. Fees cannot be waived at the time of filing.

Filing fees will be refunded:

- to a State-related claimant, that is, the State, a person acting for the State or an entity whose expenditure is wholly payable out of the consolidated fund (Regulation 5A); OR
- for an application under section 150(2) or 188(b) of the *Residential Tenancies Act 1994* (Qld) for recognition of a spouse as tenant or termination of a tenancy because of the other spouse's domestic violence.

Procedure

A claim for a refund of fees must be included in the general claim form and stated at the hearing. The Tribunal can order that fees be reimbursed, however, fees will not be waived at time of filing.



Commercial and Consumer Tribunal

Contact - Commercial and Consumer Tribunal
Level 11, 259 Queen Street
Brisbane QLD 4000

(07) 3247 3333

www.tribunals.qld.gov.au

Applicable fees

The applicable fees are set out at Section 7 and Schedule 2 of the *Commercial and Consumer Tribunal Regulation 2003* (Qld).

Fee waiver

An application fee may be waived by the director under Regulation 8 of the *Commercial and Consumer Tribunal Regulation 2003*.

The applicant must show that his or her income, day-to-day living expenses, liabilities and assets are at such a level that payment of the fee would cause him or her financial hardship.

In deciding whether to waive the application fee, the director may consider whether a party has financial capacity to pay the fee including, for example, by considering the following:

- whether the party holds a health care card or pensioner concession card under the *Social Security Act 1991* (Cth) or a pensioner concession card issued by the Commonwealth Department of Veterans' Affairs;
- whether the party is a non-profit organisation.

Procedure

Application for fee waiver must be made to the director in the [approved form](#).

The form requires inclusion of a certified copy of documentary evidence to support the application (eg, a concession card or a copy of the non-profit organisation's constitution).