

# Dust Diseases Tribunal Regulation 2001

[2001-467]



New South Wales

## Status Information

### Currency of version

Historical version for 29 June 2001 to 30 June 2002 (accessed 28 June 2024 at 5:05)

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### Provisions in force

The provisions displayed in this version of the legislation have all commenced.

### Authorisation

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File last modified 29 June 2001

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# Dust Diseases Tribunal Regulation 2001



New South Wales

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Dust Diseases Tribunal Act 1989*.

BOB DEBUS, M.P., Attorney General

## Part 1 Preliminary

### 1 Name of Regulation

This Regulation is the *Dust Diseases Tribunal Regulation 2001*.

### 2 Definitions

In this Regulation:

**corporation** has the same meaning as in section 57A of the *Corporations Law*.

**initiating process**, in relation to any proceedings, means the document by the filing of which the proceedings are commenced.

### 3 Notes

The explanatory note, table of contents and notes in the text of this Regulation (other than those in Schedule 1) do not form part of this Regulation.

## Part 2 Fees

### 4 Fees chargeable

- (1) The fees to be taken in respect of the business of the Tribunal are the fees set out in Schedule 1.
- (2) However, a reference in that Schedule to a corporation does not include a reference to a corporation that produces evidence, satisfactory to the registrar:
  - (a) that its turnover, in the financial year of the corporation immediately preceding the financial year in which the fees are to be taken, was less than \$200,000, or

- (b) if the corporation has not been in existence for a full financial year—that its turnover in its first financial year is likely to be less than \$200,000.

## 5 Fees not chargeable to the Crown

- (1) No fee is chargeable to the Crown or any other person with respect to any document or service filed or provided:
  - (a) for the Government of New South Wales, or
  - (b) for any New South Wales Government Department, or
  - (c) for any statutory body whose expenditure is paid out of the Consolidated Fund.
- (2) The registrar may require evidence to be furnished for the purpose of deciding whether a statutory body's expenditure is paid out of the Consolidated Fund.
- (3) This clause does not prevent the recovery from any person by the Crown or by any such statutory body of any such fee that, had it been paid, would have been recoverable from that person.

## 6 Pro bono cases

- (1) The taking of a fee for the filing of any initiating process (or a cross-claim) on behalf of a pro bono party to proceedings is to be postponed until judgment has been given in the proceedings.
- (2) The fee is not to be taken at all, or if taken must be remitted, if in relation to the claim (or cross-claim):
  - (a) judgment is against that party, or
  - (b) judgment is in favour of that party, but damages are not awarded (or only nominal damages are awarded) in his or her favour and costs are not awarded in his or her favour.
- (3) The registrar must not refuse to file or issue any document relevant to proceedings merely because, in accordance with this clause, a fee has not been taken for the filing of any initiating process (or cross-claim) on behalf of a pro bono party to those proceedings.
- (4) For the purpose of this clause, a party is a **pro bono party to proceedings** if:
  - (a) he or she is being represented under the pro bono scheme of the Law Society of New South Wales or the pro bono scheme of the New South Wales Bar Association, and
  - (b) a solicitor (in the case of the Law Society's scheme), or a barrister (in the case of the Bar Association's scheme), acting for the party certifies in writing to the

registrar, with whom the initiating process (or cross-claim) is lodged on behalf of the party that the party is being so represented.

## **7 Postponement of fees in certain other cases**

- (1) The taking of any fee in respect of the business of the Tribunal in relation to proceedings involving a pensioner party or legally assisted party is, if the fee is payable by the pensioner party or legally assisted party, to be postponed until judgment has been given in the proceedings.
- (2) The fee is not to be taken at all, or if taken must be remitted, if:
  - (a) judgment in the proceedings is against the pensioner party or legally assisted party, or
  - (b) judgment is in favour of the pensioner party or legally assisted party, but damages are not awarded (or only nominal damages are awarded) in his or her favour and costs are not awarded in his or her favour.
- (3) The registrar must not refuse to file or issue any document relevant to proceedings merely because, in accordance with this clause, a fee in respect of any business of the Tribunal has not been taken on behalf of a pensioner party or legally assisted party to those proceedings.
- (4) For the purposes of this clause:
  - (a) a party to proceedings is a **pensioner party** if he or she is the holder of any card issued by the Commonwealth Government that entitles the holder to Commonwealth health concessions, and
  - (b) a party to proceedings is a **legally assisted party** if he or she is receiving legal assistance through a community legal centre within the meaning of section 48H of the [Legal Profession Act 1987](#).

## **8 Persons by and to whom fees payable**

- (1) Any fee charged under this Regulation for any document or service is payable by the person at whose request the document is filed or the service rendered to the registrar.
- (2) If a document is filed or a service rendered at the request of a person acting as an agent for another person, each of those persons is jointly and severally liable for payment of any such fee.
- (3) A reference in Schedule 1 to a fee payable in the case of a corporation is a reference to a corporation on whose behalf a request is made to file a document or render a service.

## 9 Other provisions relating to fees

- (1) A fee charged under this Regulation becomes payable when the document concerned is filed or the service concerned is rendered.
- (2) However, the registrar, when requested to file a document or render a service:
  - (a) may require any fee for the document or service to be paid before the document is filed or the service rendered, or
  - (b) may, by order in writing, direct that the whole or any part of any such fee be postponed, waived or remitted, subject to such conditions (if any) as the registrar thinks fit to impose.
- (3) The registrar may delegate his or her power under this clause to direct that the whole or any part of any fee be postponed, waived or remitted to any person holding office as, or appointed to act temporarily as, deputy registrar of the Tribunal.
- (4) A reference in subclause (2) to the registrar includes a reference to a person to whom the registrar delegates his or her powers in accordance with this clause.
- (5) This clause is subject to clauses 6 and 7.

## Part 3 Miscellaneous

### 10 Percentage of interest etc payable to Treasurer

The registrar must deduct 2.5% of any amount received by way of interest or dividends on funds that are paid to the Tribunal and invested, in accordance with the [Supreme Court Rules 1970](#) (as applied by the [Dust Diseases Tribunal Rules](#)), and must pay any amount so deducted to the Treasurer for payment into the Consolidated Fund.

## Schedule 1 Fees

(Clause 4)

		\$
1	Filing an initiating process	1,092 (in the case of a corporation) or 546 (in any other case)
2	Filing a cross-claim	1,092 (in the case of a corporation) or 546 (in any other case)
3	Filing notice of motion	254 (in the case of a corporation) or 127 (in any other case)
4	To open or keep open the registry or part of the registry:	

	(a) on a Saturday, Sunday or public holiday (except the day after Easter Monday)	864 (in the case of a corporation) or 432 (in any other case)
	(b) on any other day:	
	(i) before 8.30 am or after 4.30 pm	864 (in the case of a corporation) or 432 (in any other case)
	(ii) between 8.30 and 9 am or 4 and 4.30 pm	90 (in the case of a corporation) or 45 (in any other case)
5	To furnish a copy of the written opinion or reasons for opinion of any member of the Tribunal:	
	(a) for a printed copy	43
	(b) for any other kind of copy	26
	<b>Note—</b>	
	A party to proceedings before the Tribunal is entitled to one copy of the opinion or reasons for opinion in relation to the proceedings without charge.	
6	Making a copy of any document, otherwise than 2 as provided for by item 5 for each page	(with a minimum fee of 10)
7	Supply of duplicate tape recording of sound- recorded evidence, for each cassette	31
8	For each copy of the transcript of any proceedings:	
	(a) for each page, where the matter being transcribed is under 3 months old	6.70 (with a minimum fee for 1 to 8 pages of 58)
	(b) for each page, where the matter being transcribed is 3 months or older	7.70 (with a minimum fee for 1 to 8 pages of 68)
9	To issue a subpoena for production	98 (in the case of a corporation) or 49 (in any other case)
10	To issue a subpoena for production and to give evidence	98 (in the case of a corporation) or 49 (in any other case)
11	To issue a subpoena to give evidence	48 (in the case of a corporation) or 24 (in any other case)
12	The fee for a service not otherwise provided for in this Schedule	52 (in the case of a corporation) or 26 (in any other case)

**Note—**

This fee is chargeable only with the approval of the registrar.