

Administrative Decisions Tribunal (General) Regulation 1998

[1998-577]



New South Wales

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Administrative Decisions Tribunal (General) Regulation 1998



New South Wales

Part 1 Preliminary

1 Name of Regulation

This Regulation is the *Administrative Decisions Tribunal (General) Regulation 1998*.

2 Commencement

This Regulation commences on 6 October 1998.

3 Definitions

In this Regulation:

original application means an application to the Tribunal for an original decision.

review application means an application to the Tribunal for a review of a reviewable decision.

the Act means the *Administrative Decisions Tribunal Act 1997*.

4 Notes

The explanatory note, table of contents and notes in the text of this Regulation do not form part of this Regulation.

Part 2 Oaths of office

5 Oath to be taken by members of Tribunal

- (1) The members of the Tribunal are to take the following oaths of office before entering into office:
 - (a) in the case of the President—the oath set out in Part 1 of Schedule 1,
 - (b) in the case of a Deputy President—the oath set out in Part 2 of Schedule 1,
 - (c) in the case of a non-presidential judicial member—the oath set out in Part 3 of

Schedule 1,

(d) in the case of a non-judicial member—the oath set out in Part 4 of Schedule 1.

(2) Subclause (1) does not apply to the following members:

- (a) a judicial officer who is taken to have been duly appointed to act as a member of the Tribunal by or under section 14 of the Act,
- (b) a state tribunal member (within the meaning of section 14A of the Act) who is taken to have been duly appointed to act as a member of the Tribunal by or under that section,
- (c) a person who is appointed a member of the Tribunal by operation of Schedule 5 to the Act.

(3) However, nothing in subclause (2) prevents any such member from taking an oath specified in subclause (1) before commencing to exercise his or her functions as a member.

Part 2A Fees for applications and appeals to Tribunal

5A Fees for original applications

(1) For the purposes of section 43 (1) of the Act, the fee prescribed in respect of an original application is:

- (a) if the Act or any other law requires the application to be determined by the Tribunal constituted by 2 or more members—\$100, or
- (b) in any other case—\$50.

(2) Subclause (1) does not apply to the following:

- (a) original applications made under an enactment specified in clause 2 of Part 3 of Schedule 2 to the Act (being applications that are allocated to the Legal Services Division for determination),
- (b) original applications referred to in section 43 (3) of the Act.

Note—

Section 43 (1) of the Act provides that an application cannot be made to the Tribunal unless the fee prescribed by the regulations (if any) in respect of the application has been paid. Section 43 (3) provides that the section does not apply to applications for an original decision made under the [Anti-Discrimination Act 1977](#).

5B Fees for review applications

(1) For the purposes of section 56 (1) of the Act, the fee prescribed in respect of a review application is:

(a) if the Act or any other law requires the application to be determined by the Tribunal constituted by 2 or more members—\$100, or

(b) in any other case—\$50.

(2) Subclause (1) does not apply to the following:

(a) review applications under section 90 (3) of the *Anti-Discrimination Act 1977*,

(b) review applications referred to in section 56 (3) of the Act.

Note—

Section 56 (1) of the Act provides that an application cannot be made to the Tribunal unless the fee prescribed by the regulations (if any) in respect of the application has been paid. Section 56 (3) provides that the section does not apply to applications for a review of a reviewable decision made under the *Community Services (Complaints, Reviews and Monitoring) Act 1993*.

5C Fees for appeals to Appeal Panels

A person lodging an appeal with an Appeal Panel against a decision of the Tribunal must pay a fee of \$200 in respect of the appeal.

5D Fees not payable by Crown

Despite clauses 5A–5C, no fee is payable in respect of any original application or review application or any appeal to an Appeal Panel if the application or appeal is made by or on behalf of:

(a) the Government of New South Wales, or

(b) any New South Wales Government Department, or

(c) any statutory body whose expenditure is paid out of the Consolidated Fund.

5E Waiver of fees

The Registrar may waive the payment of any fee prescribed by this Part in respect of an application to the Tribunal or appeal to an Appeal Panel (either at the time of the lodgment of the application or appeal or otherwise) if the Registrar is satisfied that the payment of the fee would result in undue hardship to the applicant or appellant concerned.

Note—

Section 43 (2) of the Act provides that an application for an original decision in respect of which a fee is waived under the regulations (whether at the time of lodgment or otherwise) is taken to be made at the time the application is lodged with the Tribunal. Section 56 (2) makes similar provision in respect of review applications.

Part 3 Public consultation on rule-making

6 Public consultation under section 98 of the Act

- (1) For the purposes of section 98 (1) of the Act, the manner of public exhibition of a draft rule of the Tribunal specified in this clause is prescribed.
- (2) The Rule Committee must:
 - (a) cause notice to be given in a newspaper circulating generally in New South Wales (or in such other publication or publications determined by the Rule Committee) of the places, dates and times for inspection of the draft rule during the exhibition period, and
 - (b) specify in the notice the exhibition period for the draft rule, and
 - (c) specify in the notice that the period within which submissions about the draft rule may be made to the Rule Committee is the exhibition period or such further period as may be specified in the notice, and
 - (d) publicly exhibit during the exhibition period a copy of the draft rule at the places, on the dates and during the times specified in the notice.
- (3) Copies of the draft rule are to be made available to interested persons by the Rule Committee during the exhibition period, either free of charge or on payment of reasonable copying charges.
- (4) In this clause:

exhibition period means the period specified in a notice published in a newspaper or other publication for the public exhibition of a draft rule, being a period of at least 2 months from the date on which the notice is published.

Part 4 Miscellaneous

6A Reviewable decisions excluded from internal review under section 53 of the Act

For the purposes of section 53 (11) (b) of the Act, the following reviewable decisions are excluded from the operation of section 53 of the Act:

- (a) a decision referred to in section 90 (3) of the [Anti-Discrimination Act 1977](#),
- (b) a decision referred to in section 126A (6) of the [Anti-Discrimination Act 1977](#),
- (c) a decision referred to in section 20 of the [Architects Act 1921](#),
- (d) a decision referred to in section 16 of the [Surveyors Act 1929](#),
- (e) a decision referred to in section 21, 31 or 53 of the [Veterinary Surgeons Act 1986](#),

- (f) a decision referred to in section 126 (1) (a) of the *Fisheries Management Act 1994* relating to an endorsement that has been the subject of a review by a panel under Division 6 of Part 8 of the *Fisheries Management (General) Regulation 1995*,
- (g) a decision referred to in section 45 of the *Tow Truck Industry Act 1998* involving the exercise of a function conferred on the Tow Truck Authority under Division 4 of Part 3 of that Act,
- (h) a decision referred to in section 64A (8) of the *Fair Trading Act 1987*,
- (i) a decision referred to in section 22 (3) or (4) of the *Travel Agents Act 1986*.

7 Witness allowances and expenses: sec 141

For the purposes of section 141 (1) of the Act, the prescribed scale of allowances and expenses for witnesses required to appear or give evidence before the Tribunal is the scale of allowances for witnesses attending civil proceedings in the District Court.

8 Savings and transitional provisions

Schedule 2 has effect.

Schedule 1 Oaths of office

(Clause 5)

Part 1 Oath of office for President

I, _____, do

*swear/*solemnly, sincerely and truly declare and affirm

that I will faithfully and impartially discharge the duties of the office of President of the Administrative Decisions Tribunal of New South Wales.

Part 2 Oath of office for a Deputy President

I, _____, do

*swear/*solemnly, sincerely and truly declare and affirm

that I will faithfully and impartially discharge the duties of the office of a Deputy President of the Administrative Decisions Tribunal of New South Wales.

Part 3 Oath of office for a non-presidential judicial member

I, _____, do

*swear/*solemnly, sincerely and truly declare and affirm

that I will faithfully and impartially discharge the duties of the office of a non-presidential judicial member of the Administrative Decisions Tribunal of New South Wales.

Part 4 Oath of office for a non-judicial member

I, _____, do

*swear/*solemnly, sincerely and truly declare and affirm

that I will faithfully and impartially discharge the duties of the office of a non-judicial member of the Administrative Decisions Tribunal of New South Wales.

* Delete whichever is inapplicable

Schedule 2 Savings and transitional provisions

(Clause 8)

1 References to members of Equal Opportunity Tribunal

(1) On the abolition of the Equal Opportunity Tribunal by clause 5 of Schedule 5 to the Act, any reference in the *Anti-Discrimination Act 1977* to a senior judicial member of the Tribunal is to be read as a reference to a Deputy President of the ADT.

(2) In this clause:

ADT means the Administrative Decisions Tribunal established by the *Administrative Decisions Tribunal Act 1997*.

Equal Opportunity Tribunal has the same meaning as it has in clause 2 of Schedule 5 to the Act.