



Information sheet for applicants
How to apply for fee waiver on the grounds of financial hardship

What type of future act applications can be made to the Tribunal?

There are two types of future act applications that can be made to the Tribunal:

- Expedited procedure objection applications; and
- Future act determination applications.

A future act determination can be made by any of the negotiation parties. An expedited procedure objection application can only be made by a registered native title claimant or a registered native title body corporate for the area affected by the future act.

Information sheets about these applications can be downloaded from the Tribunal's website or obtained from your nearest Tribunal office.

Is there a future act application fee?

A future act application must be accompanied by an application fee unless:

- the applicant qualifies for an exemption; or
- the fee is waived by the Registrar.

Do I qualify for a fee exemption?

The *Native Title (Tribunal) Regulations 1993* provide that fees are not payable in some circumstances. The full list of circumstances are set out in reg 8 of the regulations.

You do not have to pay an application fee if you fall into one of the groups below:

- you are receiving legal aid for your application;
- you have been assisted by a representative body recognised by the Commonwealth Minister or a person or body to whom funding has been made available by the Secretary of the Department (including native title service providers);
- you hold a health care card, a health benefit card, a pensioner concession card, a Commonwealth seniors health card or any other card that certifies entitlement to Commonwealth health concessions;
- you are an inmate of a prison or otherwise lawfully detained in a public institution;
- you are under the age of 18;
- you are receiving youth allowance, Austudy or ABSTUDY; or
- The Registrar, having had regard to the income, expenses, liabilities and assets of the person who is otherwise liable to pay the fee, waives the fee on the ground that payment of the fee would impose financial hardship on you.

If you fall into one of these groups, please inform the Tribunal and provide proof as soon as possible. Please contact the Tribunal if you are unsure about the documents you need to provide.

Requests to waive the application fee

If you do not qualify for an automatic exemption, you may wish to seek a waiver of the application fee on the basis of financial hardship.

What is financial hardship?

The Registrar will take into account a range of factors when deciding whether the payment of the application fee will cause the applicant financial hardship. In making the decision whether to waive the fee, the Registrar will consider the income, expenses, liabilities and assets of the person who has to pay the fee.

How and when do I apply for a fee waiver?

For the Registrar to consider a request for fee waiver on the basis of financial hardship, the following information should accompany the application at the time the application is lodged with the Tribunal.

Evidence of financial hardship: registered native title claimants

Evidence of financial hardship for registered native title claimants should be provided by way of a signed letter or affidavit. The documents in support of the fee waiver should set out the applicant's financial affairs, indicating how the application fee will impose financial hardship on the applicant or applicants. The evidence should address:

- the applicant's income;
- the applicant's expenses, including dependants;
- the applicant's assets; and
- the applicant's liabilities, including any debts owed.

Evidence of financial hardship: prescribed body corporate

Evidence of financial hardship for a registered native title body corporate (or prescribed body corporate) should be provided by way of a signed letter or affidavit and include the following:

- details of any bank accounts held by the body corporate, including the balance of each account at the time the application is lodged with the Tribunal (it is preferable to provide bank statements with this information);
- any other income received by the body corporate that is not apparent from the bank accounts;
- any real estate owned by the body corporate;
- any other assets held by the body corporate; and
- any other factors the applicant may wish the Registrar to take into account in considering whether payment of the fee would result in financial hardship.
- details of any bank accounts held by the body corporate, including the balance of each account at the time the application is lodged with the Tribunal (it is preferable to provide bank statements with this information);
- any other income received by the body corporate that is not apparent from the bank accounts;
- any real estate owned by the body corporate;
- any other assets held by the body corporate; and
- any other factors the applicant may wish the Registrar to take into account in considering whether payment of the fee would result in financial hardship.

No acceptance of future act applications until fee waiver request is decided

The Tribunal will give the applicant the opportunity to provide evidence in support of the request for a fee waiver before the future act application is considered for acceptance.

If the applicant for an expedited procedure determination does not pay the application fee or provide evidence in support of a fee waiver request before the closing date for objections, the Tribunal may not accept the application as a valid objection.

The Tribunal may provide the applicant with a reasonable period of time after the closing date to provide evidence in support of a fee waiver, provided the request is made before the closing date.

The Registrar will endeavour to decide the fee waiver request in five working days after evidence in support is provided to the Tribunal.

What if I have to make more than one future act application?

You have to pay an application fee for each future act application you make with the Tribunal. If you believe you are exempt from paying the fee, you will need to provide proof that you do not have to pay the fee, or provide evidence to support a request for a fee waiver, for each future act application.

What happens after the fee waiver request is made?

Once a request for a fee waiver is made and supporting documents are provided, the Registrar will decide to waive or not waive a fee for an application.

The applicant will be advised in writing within 28 days of the decision.

If the application fee is waived by the Registrar and the application is otherwise valid, it will be accepted by the Tribunal.

Can I do anything if my request for a fee waiver is refused?

If your request for waiver of the application fee is refused, you have a right to appeal to the Administrative Appeals Tribunal within 28 days of the Registrar's 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 to be heard by the Tribunal.

Can a future act application fee be refunded?

If you have to pay the application fee, it can be refunded if the Tribunal makes a determination in your favour.

You will need to apply to the Tribunal for a refund of the fee.