

FEDERAL COURT OF AUSTRALIA

Contact: Registry (Sydney)
Address: Level 17, Law Courts Building
Queens Square
Sydney NSW 2000
Telephone: 02 9230 8567
Facsimile: 02 9223 7706
Website: <http://www.fedcourt.gov.au>
E-mail: nswdr@fedcourt.gov.au

Fee Exemption: Yes. Categories detailed below.

Fee Waiver: Yes. Financial hardship.

Fees of the Federal Court of Australia

Regulations 5 – 7 and Schedule 1 of the *Federal Court of Australia Regulations 2004* sets out the fees payable in the Federal Court for filing, setting-down and hearing fees.

Fees Not Payable

Clause 2 of schedule 3 of the *Federal Court of Australia Regulations 2004* sets out the proceedings in which a fee is not payable. The regulation should be checked prior to paying fees, even if the Registry requests payment. For example, fees are not payable in an application under section 46PO or 46PP of the *Human Rights and Equal Opportunities Commission Act 1986* or under section 170CP of the *Workplace Relations Act 1996* (except filing fees).

Fee Exemption

The circumstances in which a person is exempt from paying a fee is set out in Regulation 11 and Schedule 3 of the *Federal Court of Australia Regulations 2004*. In general, exemption applies if the person:

- is the holder of a Health Care Card, Health Benefit Card, Pensioner Concession Card, Commonwealth Seniors Health Card or any other card issued by Centrelink or the Department of Veterans' Affairs that entitles the holder to Commonwealth health concession, or
- is granted assistance under Part 11 of the *Native Title Act 1993*, or
- is receiving Legal Aid, Youth Allowance, Austudy or Abstudy payment, or
- is a child under 18 or an inmate of a prison or otherwise legally detained in a public institution.

Fee Waiver/Postponement

Under clause 1(d) of Schedule 3 of the *Federal Court of Australia Regulations 2004*, a fee may be waived if the income, day-to-day living expenses, liabilities and assets of a person are at such a level that payment would cause financial hardship. A similar provision is made in relation to corporations under clause 1(e) of Schedule 3 of the *Federal Court of Australia Regulations 2004*.

Clause 10 of the *Federal Court of Australia Regulations 2004*, provision is made for deferral of a fee if there is an overriding urgency to file the document, or if it is unreasonable to demand payment, or if the person liable to pay the fee is being represented pro bono.

Procedure

If the person is within the categories established in clause 1(1)(a) - 1(1)(c) of Schedule 3, the relevant sections of the Exemption Form, must be completed. The form is attached (4 pages). The form can be found online at http://www.fedcourt.gov.au/pdfsrtfs_a/application_1.rtf

If a waiver of fees, on the basis of financial hardship is sought, the same form is used. A Statement of Financial Position must also be submitted with the waiver application. The Statement is attached (5 pages) and can be found online at http://www.fedcourt.gov.au/pdfsrtfs_s/statement_1.rtf

A Continuation Form should be used if a fee waiver has already been granted and circumstances have not changed. The form is attached (3 pages) http://www.fedcourt.gov.au/pdfsrtfs_w/waiver_continuation.rtf

If an application to postpone fees is sought, complete a Deferral of Fees Form. The form is attached (4 pages) or download from http://www.fedcourt.gov.au/pdfsrtfs_d/deferral_fees.rtf

Forms relating to an application by a corporation for the waiver of fees can be downloaded from the Federal Court website. Refer to regulation 1(1)(e) of the *Federal Court of Australia Regulations 2004*

Review

Under regulation 16 of the *Federal Court of Australia Regulations 2004*, an application may be made to the Administrative Appeals Tribunal for review of the decision not to waive a fee.

To update this manual:

Visit the 'Filing, Forms, Fees and Costs' from the Federal Court's website.

http://www.fedcourt.gov.au/fff/fff_waiver.html



Federal Court of Australia
Federal Magistrates Court of Australia

APPLICATION BY AN INDIVIDUAL FOR FEE EXEMPTION OR WAIVER

(Federal Court of Australia Regulations 2004/Federal Magistrates Regulations 2000)

FILE NUMBER: _____

FILE NAME: _____

1. My full name is: _____

2. I live at: _____

Postcode: _____

3. My postal address is: _____

Postcode: _____

4. My contact telephone number is: Work: _____

Home: _____

5. I apply for exemption or waiver of the following fee(s);

Table with 2 columns: Type of Fee, Amount of Fee. Includes checkboxes for 'All fees that may be payable in the proceeding' and specific fees like 'Filing fee on commencing application or appeal'.

6. I seek exemption of the fees on the ground that [please tick appropriate box(es)]:

- (a) I have been granted Legal Aid under a legal aid scheme or service established under Commonwealth, State or Territory law or approved by the Attorney General. I attach a copy of the document granting Legal Aid; or
- (b) I have been granted assistance under Part 11 of the *Native Title Act 1993* for the proceeding by:-
- a representative body; or
- a person or body to whom money has been granted under section 20FE of that Act for the purpose of enabling the person or body to perform some or all of the functions of a representative body.
- (c) I am the holder of at least one of the following cards **and attach a photocopy of both sides of the card:-**
- a health care card;
- a pensioner concession card;
- a Commonwealth Seniors health card;
- another card issued by the Department of Family and Community Services or the Department of Veterans' Affairs that certifies entitlement to Commonwealth health concessions; or
- (d) I am an inmate of a prison or am otherwise lawfully detained in a public institution; or
- (e) I am a child under the age of 18 years. I attach a photocopy of my birth certificate; or
- (f) I am in receipt of Youth Allowance or Austudy. I attach a photocopy of a document confirming my entitlement to this allowance.
- (g) I am in receipt of ABSTUDY. I attach a photocopy of a document confirming my entitlement to this allowance.

If you are seeking an exemption on any of the grounds listed above, you can now go to the declaration at the end of this form.

7. I seek a waiver of fees specified in paragraph 5 on the ground that:

- Having regard to my income, day-to-day living expenses, liabilities and assets, payment of the fee would cause financial hardship to me.

If you are seeking waiver you must complete a Statement of Financial Position and attach it to this form. You must also complete the declaration at the end of this form.

Declaration and undertaking

[Before signing, you must read and take note of this declaration and undertaking]

I declare that to the best of my knowledge and belief the information I have set out in this document is true and that, where any estimate is given, it is given in good faith. I have read and understand the warning set out below. I will notify the District Registrar if there are any changes to my circumstances that alter the information given above while the Federal Court or the Federal Magistrates Court (as the case may be) is dealing with my case.

Signature: _____ Date: _____

WARNING

Any person who knowingly makes an untrue representation or statement to obtain a benefit or advantage from the Commonwealth is guilty of an offence and, if found guilty, can be fined or imprisoned.

(A photocopy of this page can be given to the applicant if necessary)

DECISION ON APPLICATION FOR FEE EXEMPTION OR WAIVER

1. Decision on claim for exemption

- I accept the claim for exemption from payment of the fees in this matter on the ground that the applicant:*
 - has been granted Legal Aid (FCAR paragraph 1(1)(a) of Schedule 3 or FMR reg 8(1)(a)).*
 - has been granted assistance under Part 11 of the Native Title Act 1993 for the proceeding by a representative body (FCAR paragraph 1(1)(b)(i) of Schedule 3); or*
 - has been granted assistance under Part 11 of the Native Title Act 1993 for the proceeding by a person or body to whom money has been granted under section 20FE of that Act for the purpose of enabling the person or body to perform some or all of the functions of a representative body (FCAR paragraph 1(1)(b)(ii) of Schedule 3).*
 - is the holder of a health care card (FCAR paragraph 1(1)(c)(i)(A) of Schedule 3 or FMR reg 8(1)(b)(i)).*
 - is the holder of a pensioner concession card (FCAR paragraph 1(1)(c)(i)(B) of Schedule 3 or FMR reg 8(1)(b)(i)).*
 - is the holder of a Commonwealth Seniors health card (FCAR paragraph 1(1)(c)(i)(C) of Schedule 3 or FMR reg 8(1)(b)(i)).*
 - is the holder of another card issued by the Department of Family and Community Services or the Department of Veterans' Affairs (FCAR paragraph 1(1)(c)(ii) of Schedule 3 or FMR reg 8(1)(b)(i)).*
 - is an inmate of a prison or is otherwise lawfully detained (FCAR paragraph 1(1)(c)(iii) of Schedule 3 or FMR reg 8(1)(b)(ii)).*
 - is a child under the age of 18 years(FCAR paragraph 1(1)(c)(iv) of Schedule 3 or FMR reg 8(1)(b)(iii)).*
 - is in receipt of Youth Allowance or Austudy (FCAR paragraph 1(1)(c)(v) of Schedule 3 or FMR reg 8(1)(b)(iv)).*
 - is receiving benefit under ABSTUDY (FCAR paragraph 1(1)(c)(vi) of Schedule 3 or FMR reg 8(1)(b)(v)).*

- I do not accept the claim for exemption from payment of the fees in this matter because none of the grounds in FCAR paragraphs 1(1)(a), (b) and (c) of Schedule 3 or FMR paragraphs 8(1)(a) and (b) are satisfied.*

Date:

.....
Client Services Officer/Deputy District Registrar

2. Decision on application for waiver of fees

- I waive payment of the fees in this matter on the ground of financial hardship.*

- I do not waive payment of the fees in this matter on the ground of financial hardship as insufficient information has been provided.*

- I do not waive payment of the fees in this matter on the ground of financial hardship as in my view the applicant will not suffer financial hardship*

.....
.....
.....

I do not waive payment of the fees in this matter on the ground of financial hardship as (other reason)

.....
.....
.....

Date:

.....
Deputy District Registrar

NOTE TO APPLICANT: Subject to the *Administrative Appeals Tribunal Act 1975*, application may be made to the Administrative Appeals Tribunal for review of a decision not to waive payment of fees on the grounds of financial hardship within 28 days of the date of this decision (See regulation 16(1) of the Federal Court of Australia Regulations 2004 and regulation 13 of the Federal Magistrates Regulations 2000).

Nature of Income	\$ per fortnight
Other income (please specify)	\$
TOTAL	\$

6. I receive maintenance of \$ per fortnight in respect of myself and my children. *[if no maintenance write "nil"]*
7. I receive financial support or a financial contribution from family and others, calculated fortnightly, as follows *[if no financial support or contribution write "nil" below]* :

Name of person providing support	Nature of support	Value in \$ per fortnight
		\$
		\$
TOTAL		\$

Income of your dependants (if any)

[Generally, dependants are persons who rely on you for financial support]

8. I have dependants. *[write number of dependants or "nil" if no dependants]*
9. Their combined income, after tax, calculated fortnightly, is \$
[if no dependants write "nil"]

Property and Assets

["Property and assets" include land, houses, money in bank accounts and other investments, cars, boats, shares, moneys owed to you, interests in a deceased estate, interests in a trust.]

10. My property and assets are as follows *[if no assets write "nil" below]* :

House/Land <i>(including vacant land)</i> at:			
Market Value			\$
Amount of Mortgage (if any)			\$
Net Value			\$
Motor Vehicle :			
For each motor vehicle:-			
Year, Make and Model			
Market Value			\$
Amount owed to finance company			\$
Name of finance company:			
Net Value			\$
Deposit In Bank, Building Society, etc <i>(give details):</i>			
Bank/Society	Account Type	Amount	
			\$
			\$
Total			\$
Other Investments: including shares, debentures and bonds <i>(give details):</i>			

	\$	
	\$	
Total		
Money owing to you <i>(give details):</i>		
Name of debtor	\$	
Name of debtor	\$	
Total		\$
Value of interest in partnership or business <i>(give details):</i>		
	\$	
	\$	
Total		\$
Furniture, household and personal goods		
Total Estimated Market Value	\$	
Amount owing to Bank/Finance Company	\$	
Name of Bank/Finance Company:		
Net Value		\$
Life Insurance Policies <i>(give particulars and surrender value of each policy):</i>		
Maturity Date:		
	\$	
	\$	
Net Value		\$
Other Assets <i>(give particulars)</i>		
	\$	
	\$	
Total Value		\$
Total of Property and Assets		\$

Jointly owned assets

If any of the assets referred to above is owned jointly, identifying each asset and give the name of the other owner or owners	
Asset:	Name of other owner:

Expenses

11. My day-to-day living expenses (including living expenses of my dependants that are normally paid by me), calculated fortnightly, are as follows:

Nature of Expense	\$ per fortnight	Nature of Expense	\$ per fortnight
Rent / Board		Gas/electricity	
Mortgage repayments		Telephone	
Other loan repayments		Health care	
Council / Water rates		Child care	
Insurance premiums		Education	
Food		Other:	
Clothing		Other:	
Spouse/Child maintenance		Other:	
Travel and motor vehicle		TOTAL	\$

Liabilities

*["Liabilities" include outstanding mortgages, credit card debts, other moneys owed by you]
[if no liabilities write "nil" below]*

12. My liabilities are as follows:

Loans and other debts

Description of liabilities	Actual/estimated amount owing
Mortgage with	\$
Loan with	\$
Other (<i>give details</i>)	\$
TOTAL	\$

Credit card

Credit card with (<i>give details</i>)	Credit card limit	Actual/estimated amount owing
	\$	\$
	\$	\$
	\$	\$
TOTAL OWING		\$

Joint liabilities and debts

If any debts referred to above are due jointly, identifying each debt and give the name of the debtor or debtors:	
Description of liabilities	Name of other debtor:

Additional information

[any other comments you wish to make concerning your financial position which you believe will help the Registrar decide your request for a fee waiver]

DECLARATION

Declaration and undertaking

I declare that to the best of my knowledge and belief the information I have set out in this document is true and that, where any estimate is given, it is given in good faith. I understand the warning set out below.

I will notify the District Registrar if there are any changes to my circumstances that alter the information given above while the Federal Court or the Federal Magistrates Court is dealing with my case.

[Before signing, you must read and take note of this declaration and undertaking]

Signature:

Date:

WARNING

Any person who knowingly makes an untrue representation or statement to obtain a benefit or advantage from the Commonwealth is guilty of an offence and, if found guilty, can be fined or imprisoned.



Federal Court of Australia

APPLICATION FOR FEE EXEMPTION OR WAIVER
CONTINUATION OF CIRCUMSTANCES

(Federal Court of Australia Regulations 2004)

FILE NAME: FILE NUMBER:

- 1. My full name is:
2. My address is:
Postcode:
3. My contact telephone number is: Work: Home:
4. I apply for exemption or waiver of the following fee(s):

Table with 2 columns: Type of Fee, Amount of Fee. Rows include Filing fee on commencing application or appeal, Filing fee on Notice of Motion, Setting down fee, Daily hearing fee, Subpoena, Searching a file, Other (Please specify).

- 5. I apply for an exemption or waiver of the fees on the same ground/s as in my previous application and state that the circumstances and information set out in that application have not changed since the date of signing that application.

Declaration and undertaking

I declare that to the best of my knowledge and belief the information I have set out in this document is true and that, where any estimate is given, it is given in good faith. I have read and understand the warning set out below. I will notify the District Registrar if there are any changes to my circumstances that alter the information given above while the Federal Court is dealing with my case.

Signature: Date:

WARNING

Any person who knowingly makes an untrue representation or statement to obtain a benefit or advantage from the Commonwealth is guilty of an offence and, if found guilty, can be fined or imprisoned.

(A photocopy of this page can be given to the applicant if necessary)

DECISION ON REQUEST FOR CONTINUATION OF FEE EXEMPTION OR WAIVER

1. Decision on claim for exemption

I accept the claim for exemption from payment of the fees in this matter on the ground that the applicant:

- has been granted Legal Aid (paragraph 1(1)(a) of Schedule 3).*
- has been granted assistance under Part 11 of the Native Title Act 1993 for the proceeding by a representative body (FCAR paragraph 1(1)(b)(i) of Schedule 3); or*
- has been granted assistance under Part 11 of the Native Title Act 1993 for the proceeding by a person or body to whom money has been granted under section 20FE of that Act for the purpose of enabling the person or body to perform some or all of the functions of a representative body (FCAR paragraph 1(1)(b)(ii) of Schedule 3)*
- is the holder of a health care card (paragraph 1(1)(c)(i)(A) of Schedule 3).*
- is the holder of a pensioner concession card (paragraph 1(1)(c)(i)(B) of Schedule 3).*
- is the holder of a Commonwealth Seniors health card (paragraph 1(1)(c)(i)(C) of Schedule 3).*
- is the holder of another card issued by the Department of Family and Community Services or the Department of Veterans' Affairs (paragraph 1(1)(c)(ii) of Schedule 3).*
- is an inmate of a prison or is otherwise lawfully detained (paragraph 1(1)(c)(iii) of Schedule 3).*
- is a child under the age of 18 years(paragraph 1(1)(c)(iv) of Schedule 3).*
- is in receipt of Youth Allowance or Austud(paragraph 1(1)(c)(v) of Schedule 3).*
- is receiving benefit under ABSTUDY (paragraph 1(1)(c)(vi) of Schedule 3).*

I do not accept the claim for exemption from payment of the fees in this matter because none of the grounds in paragraphs 1(1)(a), (b) and (c) of Schedule 3 are satisfied.

Date:

.....
Client Services Officer/Deputy District Registrar

2. Decision on application for waiver of fees

I waive payment of the fees in this matter on the ground of financial hardship.

I do not waive payment of the fees in this matter on the ground of financial hardship as insufficient information has been provided.

I do not waive payment of the fees in this matter on the ground of financial hardship as in my view the applicant will not suffer financial hardship

.....
.....
.....

I do not waive payment of the fees in this matter on the ground of financial hardship as (other reason)

.....
.....
.....

Date:

.....
Deputy District Registrar

NOTE TO APPLICANT: Subject to the *Administrative Appeals Tribunal Act 1975*, application may be made to the Administrative Appeals Tribunal for review of a decision not to waive payment of fees on the grounds of financial hardship within 28 days of the date of this decision (See regulation 16(1) of the Federal Court of Australia Regulations 2004).



Federal Court of Australia

APPLICATION FOR DEFERRAL OF FEES
(Federal Court of Australia Regulations 2004)

FILE NUMBER (IF KNOWN): _____

FILE NAME (IF KNOWN): _____

1. My full name is: _____

2. Please complete (tick box and circle/strike out as appropriate):

I am the Applicant/Respondent in the proceeding (*if more than one applicant/respondent, please specify*)

I am an authorised officer of the Applicant/Respondent corporation in the proceeding (*if more than one applicant/respondent, please specify*)

I am the Applicant' s/Respondent' s Legal Representative

I am none of the above
(*please specify*): _____

3. I live at/the corporation' s street address is: _____

Postcode: _____

4. My/the corporation' s postal address is: _____

Postcode: _____

5. My contact telephone number is: Work: _____

Home: _____

6. I apply for deferral of the following fee(s):

Type of Fee	Amount of Fee
<input type="checkbox"/> Filing fee on commencing application or appeal	\$ _____
<input type="checkbox"/> Filing fee on Notice of Motion	\$ _____
<input type="checkbox"/> Setting down fee	\$ _____
<input type="checkbox"/> Hearing fee	\$ _____
<input type="checkbox"/> Subpoena fee	\$ _____
<input type="checkbox"/> Taxation fee	\$ _____
<input type="checkbox"/> Mediation fee	\$ _____
<input type="checkbox"/> File inspection fee	\$ _____

7. I seek deferral of the fees on the ground that [please tick appropriate box]:
- (a) The fee payable is a filing fee and the need to file the document is so urgent as to override the requirement to pay the filing fee at the time of filing (FCAR 10(2)(a)(i)). A statement setting out the reasons in support of this claim must be attached to this form.
 - (b) Having regard to my/the corporation's financial circumstances, it would be oppressive or otherwise unreasonable to require payment of the fee(s) in accordance with FCAR 9 (FCAR 10(2)(a)(ii)). **Go to item 7.**
 - (c) The fee payable is a setting-down fee and the date of the hearing is more than 6 months after the day on which the proceeding was set down for hearing (FCAR 10(2)(b)).
 - (d) I/the corporation is represented by a practitioner who is acting *pro bono*. **Go to item 8.**
8. If the person seeking deferral of fees pursuant to FCAR 10(2)(a)(ii) is an individual then a **Statement of Financial Position** must be completed and attached to this form. The person completing this application must also complete the declaration at the end of this form.
- If the person seeking deferral of fees pursuant to FCAR 10(2)(a)(ii) is a corporation then a **Statement of the Corporation's Financial Position** must be completed and attached to this form. The person completing this application must also complete the declaration at the end of this form.
9. A **Statement by a Practitioner acting Pro Bono** must be completed and attached to this form.

Declaration and undertaking

[Before signing, you must read and take note of this declaration and undertaking]

I declare that to the best of my knowledge and belief the information I have set out in this document and any attachments is true and that, where any estimate is given, it is given in good faith.

I have read and understand the warning set out below. I will notify the District Registrar if there are any changes to my circumstances that alter the information given above while the Federal Court (as the case may be) is dealing with my case.

I understand that the fees that have been deferred must be paid within 30 days after the date of the deferral or such other period as is specified by the District Registrar in writing.

Signature: _____ Date: _____

WARNING

Any person who knowingly makes an untrue representation or statement to obtain a benefit or advantage from the Commonwealth is guilty of an offence and, if found guilty, can be fined or imprisoned.

DECISION ON APPLICATION FOR DEFERRAL OF FEES

- I grant the application for deferral of fees in this matter on the ground that:*
 - The fee payable is a filing fee and, in my opinion, the need to file the document was so urgent as to override the requirement to pay the filing fee at the time of filing (FCAR 10(2)(a)(i)).
 - Having regard to the financial circumstances of the person liable to pay the fee, in my opinion, it would be oppressive or otherwise unreasonable to require payment of the fee in accordance with FCAR 9 (FCAR 10(2)(a)(ii)).
 - The fee payable is a setting-down fee and the date of the hearing is more than 6 months after the day on which the proceeding was set down for hearing (FCAR 10(2)(b)).
 - The person liable to pay the fee is represented by a practitioner who is acting *pro bono*.

The fee(s) of \$ _____ must be paid on or before _____.

- I decline to defer payment of the fee(s) because none of the grounds in FCAR 10(2) are satisfied.*

Date:

.....
Registrar

NOTE TO APPLICANT: Subject to the *Administrative Appeals Tribunal Act 1975*, application may be made to the Administrative Appeals Tribunal for review of this decision on deferral of fees within 28 days of the date of this decision (See regulation 16 of the Federal Court of Australia Regulations).

Federal Court of Australia

STATEMENT BY PRACTITIONER ACTING PRO BONO

(Federal Court of Australia Regulations 2004)

I, _____, *(name of practitioner)* state that I am representing the
_____ *(party)* on a pro bono basis in proceeding number _____ *(file
number, if known)*.

Date:

Signature: