

South Australia

South Australian Civil and Administrative Tribunal (Fee Notices) Variation Regulations 2020

under the *South Australian Civil and Administrative Tribunal Act 2013*

Contents

Part 1—Preliminary

- 1 Short title
- 2 Commencement
- 3 Variation provisions

Part 2—Variation of *South Australian Civil and Administrative Tribunal Regulations 2015*

- 4 Insertion of regulation 14
 - 14 Fees
-

Part 1—Preliminary

1—Short title

These regulations may be cited as the *South Australian Civil and Administrative Tribunal (Fee Notices) Variation Regulations 2020*.

2—Commencement

These regulations come into operation on 1 July 2020.

3—Variation provisions

In these regulations, a provision under a heading referring to the variation of specified regulations varies the regulations so specified.

Part 2—Variation of *South Australian Civil and Administrative Tribunal Regulations 2015*

4—Insertion of regulation 14

After regulation 13 insert:

14—Fees

- (1) The following persons or bodies are not required to pay a fee prescribed for the purposes of the Act that would otherwise be payable:
 - (a) a Minister of the Crown;
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- (b) the Commissioner for Consumer Affairs;
 - (c) the Public Advocate;
 - (d) the Commissioner of Police;
 - (e) a public sector employee acting on behalf of a public sector agency under the *Public Sector Act 2009*;
 - (f) the South Australian Housing Trust.
- (2) Subject to subregulation (3), fees prescribed for the purposes of the Act, other than a fee prescribed for application for internal review of a decision of the Tribunal under section 70 of the Act, or provision of a transcript of proceedings, are not payable in relation to Tribunal proceedings in respect of—
- (a) the *Advance Care Directives Act 2013*; or
 - (b) the *Consent to Medical Treatment and Palliative Care Act 1995*; or
 - (c) the *Guardianship and Administration Act 1993*; or
 - (d) the *Mental Health Act 2009*.
- (3) A fee prescribed for application for internal review of a decision of the Tribunal under section 70 of the Act is not payable by an applicant in respect of proceedings under—
- (a) the *Advance Care Directives Act 2013*; or
 - (b) the *Consent to Medical Treatment and Palliative Care Act 1995*; or
 - (c) the *Guardianship and Administration Act 1993*; or
 - (d) the *Mental Health Act 2009*,
- if the applicant is the person who is the subject of the proceedings.
- (4) Subject to this regulation, a fee prescribed for the referral of a matter under the *Residential Parks Act 2007* or the *Residential Tenancies Act 1995* must be paid—
- (a) in the case of a matter referred to the Tribunal under section 29(6a) of the *Residential Parks Act 2007*—
 - (i) where the park owner has lodged a written notice of dispute—by the park owner; or
 - (ii) in any other case—by the third party (as referred to in that subsection);
 - (b) in the case of a matter referred to the Tribunal under any other provision of section 29 of the *Residential Parks Act 2007*—by the park owner;
 - (c) in the case of a matter referred to the Tribunal under section 63(7) of the *Residential Tenancies Act 1995*—

- (i) where the landlord has lodged a written notice of dispute—by the landlord; or
 - (ii) in any other case—by the third party (as referred to in that subsection);
 - (d) in the case of a matter referred to the Tribunal under any other provision of section 63 of the *Residential Tenancies Act 1995*—by the landlord;
 - (e) in the case of a matter referred to the Tribunal under section 105M(8) of the *Residential Tenancies Act 1995*—
 - (i) where the rooming house proprietor has lodged a written notice of dispute—by the rooming house proprietor; or
 - (ii) in any other case—by the third party (as referred to in that subsection);
 - (f) in the case of a matter referred to the Tribunal under any other provision of section 105M of the *Residential Tenancies Act 1995*—by the rooming house proprietor.
- (5) Unless a Presidential member otherwise determines, proceedings before the Tribunal are stayed until a fee that is payable by a person, being a fee that is prescribed for—
 - (a) application for the commencement of Tribunal proceedings; or
 - (b) referral of a matter to the Tribunal under section 29 of the *Residential Parks Act 2007*, section 63 of the *Residential Tenancies Act 1995* or section 105M of the *Residential Tenancies Act 1995*; or
 - (c) application for an internal review of a decision of the Tribunal under section 70 of the Act; or
 - (d) application for review of a decision by the Tribunal under section 169 or 296 of the *Local Government Act 1999*, section 25C of the *Valuation of Land Act 1971* or section 15 of the *Lobbyists Act 2015*,is paid, or payment is waived or postponed under this regulation.
- (6) The Registrar may, on the grounds of financial hardship, or if the Registrar considers it is in the interests of justice to do so in the circumstances of a particular case—
 - (a) waive, remit or refund a prescribed fee (or part of a prescribed fee) payable by a person; or
 - (b) postpone payment of a prescribed fee (or part of a prescribed fee) by a person until such time, and on such conditions (if any) as the Registrar thinks fit.

- (7) A member of the Tribunal may if the member considers it is in the interests of justice to do so in the circumstances of a particular case—
 - (a) waive, remit or refund a prescribed fee (or part of a prescribed fee) payable by a person; or
 - (b) postpone payment of a prescribed fee (or part of a prescribed fee) by a person until such time, and on such conditions (if any) as the member thinks fit.
- (8) For the purposes of subregulation (7), the reference to a member of the Tribunal is, where the Tribunal is constituted of a registrar or other member of staff of the Tribunal, taken to include a reference to that registrar or other member of staff.
- (9) The Registrar may require payment of a non-refundable deposit on account of an amount to which a person may become liable in respect of fees prescribed for the purposes of the Act.

Note—

As required by section 10AA(2) of the *Subordinate Legislation Act 1978*, the Minister has certified that, in the Minister's opinion, it is necessary or appropriate that these regulations come into operation as set out in these regulations.

Made by the Governor

with the advice and consent of the Executive Council
on 4 June 2020

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