



Australian Government
Migration Review Tribunal

MIGRATION REVIEW TRIBUNAL

M10

The Migration Review Tribunal (the tribunal) is a statutory body that provides a final independent merits review of visa and visa-related decisions made by the Minister for Immigration and Citizenship (the Minister) or by officers of the Department of Immigration and Citizenship (the department) acting as delegates of the Minister.

In conducting a review, the tribunal will consider a case afresh and has the power to change the decision under review.

The Migration Act and the Migration Regulations specify the decisions that the tribunal can review, who may seek review of a decision, how an application for review must be made, the time limits within which applications for review must be lodged, and the application fee payable.

The rules about who may seek review of a particular decision, the applicable time limit, and whether a fee is payable vary depending on the type of decision and whether a person is in immigration detention. The tribunal has no power to make exceptions.

Who can apply for review?

The decision letter sent by the department should explain whether the decision can be reviewed by the tribunal and who can apply for review.

The tribunal can only accept an application for review made by a person who has the right to apply for review. In some cases the only person who can apply for review is the visa applicant or former visa holder, in other cases it can only be the sponsor or a close relative. In some cases the review applicant must be within Australia at the time of decision or at the time the application for review is lodged, or both. The tribunal cannot provide advice on individual circumstances, however you may seek advice on these issues from a registered migration agent or other registered provider of immigration assistance. For further information please see the '*Should you seek assistance with your application?*' section below.

Time limits for making your application for review

The decision letter sent by the department should state the time limit that applies to making an application to the tribunal.

If you are intending to apply to the tribunal, you should note that the tribunal cannot extend time limits or accept applications made outside a time limit. If you are lodging an application by post, you should ensure that you allow enough time for the application to be received before the expiry of the time limit.

How to apply

To apply for review, you must complete and lodge an 'Application for Review' form and pay the application fee (or 50% of the application fee together with an application for fee reduction) within the time limit. See below for information about the application fee.

Applicants in immigration detention must use Form M2. All other applicants must use Form M1. The forms are available from any of the offices listed at the end of this form and are also available on the tribunal website.

Applications can be lodged in person or by post or fax. Details of the tribunal's registries, as well as the registries of the Administrative Appeals Tribunal where applications for review are accepted on behalf of the Migration Review Tribunal, are set out at the end of this form.

If you are in immigration detention, you may also lodge your application by giving it to a departmental officer at a detention centre or at an office occupied by an officer of the department at an airport, at least one working day before the date the time limit would otherwise expire.

Combined applications for review

Members of the same family unit can usually combine their applications for review. An application for review of a decision to require a security can also be combined with a related application for review of a decision to refuse to grant a visa. Where applications are able to be combined, only one application fee is payable and only one application form needs to be used.

The application fee

A fee is payable in all cases except applications for review of bridging visa decisions (including any related decision to require a security) that are made by persons in immigration detention.

In all other cases:

- the application fee is \$1540;
- the fee may be reduced to \$770 if the Registrar, Deputy Registrar or an authorised tribunal officer is satisfied that payment of \$1540 has caused, or is likely to cause, **severe financial hardship to the review applicant**;
- the tribunal will refund \$770 if the tribunal makes a favourable decision on your case.

A 'Request for Fee Waiver/Reduction' (Form M11) is available from any of the offices listed below and from the tribunal website. Supporting documentary evidence, as listed on the Form M11, should be lodged with all fee reduction applications.

If you withdraw your application for review, the tribunal can only refund an application fee in limited circumstances.

Should you seek assistance with your application?

It is a matter for you whether you seek advice or assistance in relation to your case. The tribunal aims to ensure that the outcome of reviews does not depend on whether or not a person has a migration agent or other person to assist them.

The provision of 'immigration assistance' is regulated under the Migration Act. The only people who can provide 'immigration assistance' (using knowledge or experience in migration procedure to assist in preparing, advising or representing a visa applicant, a sponsor or nominator, or a cancellation review applicant) are:

- a registered migration agent;
- your spouse, child, parent, brother or sister;
- a nominator or sponsor if you are a visa applicant;
- parliamentarians;
- a member of a diplomatic mission, consular post or office of an international organisation; and
- an official (as defined in Part 3 of the Migration Act) in the course of his or her duties.

The factsheet 'MR2: Immigration Assistance' provides further information. It is available from any of the offices listed on this fact sheet, and on the tribunal website.

How does the tribunal work?

The tribunal is required to provide a review which is fair, just, economical, informal and quick. The general features of a review are:

- The Minister and the department are not represented before the tribunal. The department is required to provide the tribunal with all documents which are relevant to the case.
- You are entitled to have access to, or a copy of, the material before the tribunal in relation to your case (although some restrictions may apply).
- You can make written submissions or provide documentary evidence to the tribunal at any stage of the review. If you fax documents to the tribunal, including tribunal forms, it is not necessary to send the original documents to the tribunal by mail.
- You may nominate a person (your *representative*) to represent you in the preparation and running of your application before the tribunal. A representative can provide written submissions and documentary evidence and contact the tribunal on your behalf. A representative may also accompany and assist you at any meeting or hearing arranged by the tribunal. The tribunal may invite a representative to comment on matters at a hearing, but a representative cannot make an oral presentation other than in exceptional circumstances.
- You may nominate a person (your *authorised recipient*) to receive correspondence on your behalf. Most applicants who have a representative nominate their representative as their authorised recipient. If you nominate an authorised recipient, all correspondence will be sent to that person and will be taken to have been sent to you. (Where a person is in immigration detention, a copy is also sent to the person at the detention centre.)
- The tribunal is required to inform you of certain information that might lead to an adverse decision and to give you an opportunity to comment on or respond to that information.
- If the tribunal invites you to provide information or to comment on or respond to information within a time period, you must do so or you risk losing your right to a hearing.
- Except in specific circumstances, the tribunal is required to invite you to come to a hearing. You may request the tribunal to take evidence from other persons, and you may be accompanied by your representative and/or a friend or support person. The tribunal will provide an interpreter if required.

What will happen during the review?

The review process varies from case to case. A typical case may follow these steps:

- The tribunal will send you an acknowledgement letter to confirm that the application has been received. The tribunal will also inform the department of your application, and request the department to provide the tribunal with all relevant documents about your case.
- The case is allocated to a tribunal member.
- The member reviews the documents which are held by the tribunal.
- The tribunal invites you to attend a hearing, and/or to provide information or to comment or respond to information.
- When the tribunal makes a decision, it will send you and the department a written statement of decision and reasons.

As each case is different, it is difficult to say how long it will take for the tribunal to make a decision on your case. The tribunal gives priority to certain cases in accordance with legislation and directions issued by the Principal Member, for example, cases involving persons in immigration detention. The tribunal website has an icon for 'Processing Times' which can provide you with the current list of priorities and estimated processing times.

It is important to note that the tribunal is required to hold hearings which are open to the public, and to publish decisions in cases of particular interest. Hearings can only be held in private and publication can only be restricted if the tribunal is satisfied that this would be in the public interest.

Do you need further information?

For further information, please contact the tribunal (see below for contact details). Tribunal officers can give you information about the tribunal's procedures, but they cannot give you advice about the chances of success in a particular case.

Applicants located outside the Sydney or Melbourne metropolitan areas can telephone the tribunal's National Telephone Enquiry Number on 1300 361 969. Local call charges apply. The number is not available from mobile telephones. Telephone numbers for Western Australia are provided overleaf for application lodgment enquiries after close of business in the eastern states.

The Translating and Interpreting Service (TIS) can provide assistance if you require an interpreter. TIS can be contacted on 131 450 from anywhere in Australia.

The tribunal website is at www.mrt-rrt.gov.au.

Registries of the Migration Review Tribunal

An application for review can be lodged at any of the locations listed below. All locations are open on weekdays from 8.30am to 5.00pm local time.

The NSW Registry normally handles cases from applicants who reside in New South Wales, Queensland, the Australian Capital Territory and the Northern Territory. The Victoria Registry normally handles cases from applicants in Victoria, South Australia, Western Australia and Tasmania. However, applications can be lodged at any location and the tribunal conducts hearings in a range of locations including Sydney, Melbourne, Brisbane, Adelaide and Perth.

| | |
|---|---|
| New South Wales Registry Level 11, 83 Clarence Street Sydney NSW 2000 <i>GPO Box 1333</i> <i>Sydney NSW 2001</i> Phone (02) 9276 5000 Fax (02) 9276 5599 | Victoria Registry Level 12, 460 Lonsdale Street Melbourne VIC 3000 <i>PO Box 14158</i> <i>Melbourne VIC 8001</i> Phone (03) 8600 5900 Fax (03) 8600 5801 |
|---|---|

Registries of the Administrative Appeals Tribunal

The tribunal has an agreement with the Administrative Appeals Tribunal (the AAT) to provide certain services which include receiving applications for review on behalf of the Migration Review Tribunal. Applications for review can be lodged at the following registries of the AAT.

| | | |
|---|--|---|
| Queensland Level 4, 119 North Quay Brisbane QLD 4000 Fax (07) 3361 3001 | South Australia 11th Floor, 91 Grenfell Street Adelaide SA 5000 Fax (08) 8201 0610 | Western Australia Level 5, 111 St Georges Terrace Perth WA 6000 Fax (08) 9327 7299 [Phone (08) 9327 7200 (metropolitan area) 1300 366 700 (country areas)] |
|---|--|---|