

Understanding FCA & FCC Court Fees and Costs

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Who is this Infosheet for?

This Infosheet explains the court costs that may apply if you have a case with the Federal Circuit Court (FCC) or the Federal Court of Australia (FCA).

IMPORTANT

- **Your court case at the FCC or FCA has associated fees and costs. You should understand these fees and costs before you begin an application for review with the FCC or FCA.**
- **You may be exempt from paying certain fees or costs depending on your personal circumstances. If you are not exempt, you may still apply to be exempt from paying certain fees if paying them would cause you financial hardship.**
- **Any court fees that you do not pay will be held as a debt owed to the Australian Government. This means that failing to pay the court fees will impact your ability to return to Australia on any visa in the future.**
- **It is recommended you seek independent legal advice on how much you may have to pay in court fees or costs if you decide to appeal your case to the FCC or FCA.**

What are court fees?

Court fees are set by the Australian Government through the [Federal Court and Federal Circuit Court Regulation 2012 \(Cth\) \('FCA & FCC Regulations'\)](#). This law imposes fees for applying to the court, filing documents or evidence with the court, having a hearing, receiving a judgement from the court, having mediation with the other party with the court's assistance, taxation of bills of costs and other services.

What is the difference between costs and fees?

Court fees are different from costs. While court fees refer to fees paid to the court for its services, 'costs' refer to fees paid to a lawyer for their services in representing you or providing you with legal advice. A lawyer may also charge for expenses that they have paid on your behalf, known as disbursements – these disbursements may include court fees. Together, the fees paid to a lawyer for their services and disbursements are known as 'costs'.

What costs and fees might I have to pay?

Costs

If you are receiving legal assistance from a lawyer, your lawyer will prepare a 'bill of costs' for you that tells you how much you owe them for their services, unless you received those services for free (i.e. pro bono).

There are limits placed on how much a lawyer can charge for their services. These limits vary depending on whether you are appealing to the FCC or FCA. These limits are set by the [Federal Circuit Court Rules 2001 \(FCC\)](#), and the [Federal Court Rules 2011 \(FCA\)](#). You can read more by visiting the above links.

If you do not agree with the amount your lawyer is charging you for their services, you may wish to lodge a complaint with the **Victorian Legal Services Board**. You can access their website here: <https://lsbc.vic.gov.au/consumers/complaints>.

Fees

The court fees you incur will vary depending on your case. Each service that the court provides comes with a fixed fee. These fees are set by the *FCA & FCC Regulations*.

You can read about the types of and amounts for the different fees the court may impose by visiting:

- **FCC:** <http://www.federalcircuitcourt.gov.au/wps/wcm/connect/fccweb/forms-and-fees/fees-and-costs/fees-qfl/fees-qfl>;
- **FCA:** <https://www.fedcourt.gov.au/forms-and-fees/court-fees/fees>.

There are a number of different types of fees you may be required to pay if you appeal to the FCC or FCA. Some of the most important are:

- **Application fee:** this is a one-time fee for applying to have your case heard by the FCC.
- **Filing fee:** this is a fee for filing documents with the court.
- **Setting down fee:** this is a fee for the court allocating a date for your hearing and to begin preparing for your hearing.
- **Hearing fee:** this is a fee for the court hearing your case before a Judge or Registrar.
- **Fee for other service:** the court may also charge for other services, depending on your case.

The amount you will have to pay will vary depending on the specific circumstances and complexity of your case. The amount you will have to pay will also vary depending on whether you are appealing to the FCC or the FCA. **It is recommended you seek independent legal advice on how much you may have to pay in court fees or costs** if you decide to go to the FCC or FCA.

Recently the Federal Government has increased the cost of the application fee for migration law cases. As of 1 January 2021, **the FCC application fee is \$3,300, and the Registry has the discretion to reduce this fee to \$1,665 or less** depending on your personal circumstances.

What happens if I cannot afford to pay my court fees?

You may be exempt from paying court fees in a proceeding if:

- You have been **granted legal aid for that proceeding** from a State/Territory Legal Aid Office (in Victoria, this is **Victoria Legal Aid (VLA)**), or an approved legal aid scheme or service; or
 - **If you are receiving legal aid from a community legal centre, you may be exempt from paying court fees. You can see a full list of legal aid providers here: https://www.fedcourt.gov.au/data/assets/pdf_file/0013/23242/Approvaloflegalaidchemesandservices.pdf.**
- You are the primary holder of a health care card, pensioner concession card, or any other Commonwealth concession card; or
- You are serving a sentence of imprisonment or are otherwise detained in an institution; or
- You are younger than 18; or
- You are receiving youth allowance or Austudy payments.

If one or more of these categories apply to you, you must **complete and lodge** an ‘**Application for Exemption from Paying Court Fees – General**’, which you can access here: <https://www.fedcourt.gov.au/forms-and-fees/court-fees/exemptions/guide-to-form>. You must provide supporting evidence with this application (e.g. if you are receiving legal aid, you must provide a letter from your provider proving you are receiving legal aid).

If you are not exempt from paying court fees but cannot afford to pay them, you may apply for an exemption on grounds of financial hardship.

You may be granted an exemption if paying a court fee in a proceeding would cause you financial hardship. The court will consider your income, day-to-day living expenses, any liabilities or debts you have, and any assets you own. To apply for a financial hardship exemption, you must **complete and lodge** an ‘**Application for Exemption from Paying Court Fees – Financial Hardship**’, which you can access here:

- **FCC:** <http://www.federalcircuitcourt.gov.au/wps/wcm/connect/fccweb/forms-and-fees/court-forms/form-topics/family+law/form-application-exemption-fees-financial>;
 - For more information on how to complete this application, visit: <https://www.fedcourt.gov.au/forms-and-fees/court-fees/exemptions/guide-to-form-financial-hardship>.
- **FCA:** <https://www.fedcourt.gov.au/forms-and-fees/court-fees/exemptions/guide-to-form-financial-hardship>.
 - For more information on how to complete this application, visit: <http://www.federalcircuitcourt.gov.au/wps/wcm/connect/fccweb/reports-and-publications/publications/family-law/guidelines-for-exemption-of-court-fees>.

When do I have to pay my court fees?

You must pay your court fees before certain dates, as set out in the *FCA & FCC Regulations*.

- **Application fee:** this must be paid before the FCC or FCA can accept to hear your case for review.
- **Filing fee:** this must be paid before the document is filed.
- **Setting down fee:** this must be paid within 28 days after the date of your hearing is decided.
- **Hearing fee:** this must be paid within 2 business days before the date of your hearing.
- **Fee for other service:** for any other service provided by the court, the relevant fee must be paid before that service is provided.

The court may defer the payment of a fee until a later time if you are unable to pay your court fees by the relevant date, or are receiving legal representation for free.

What happens if I cannot afford to pay my court fees?

If you cannot afford to pay for your court fees, you may be unable to access the court's services or have a hearing, unless the Judge or Registrar decides otherwise.

If you incur court fees that you are not exempt from paying, and cannot afford to pay them, these fees will be held as a debt to the Commonwealth. This will impact your capacity to return to Australia on any other visa in the future.

Disclaimer: This fact sheet provides general information to people seeking asylum in Australia through the onshore protection visa application process according to the law in July 2021. This fact sheet is not legal advice. You should not rely on this fact sheet to make decisions about your immigration matter. We strongly recommend that you get independent advice from a qualified legal practitioner or a registered migration agent. For information please visit: <https://www.mara.gov.au>.

Date: 12 July 2021