



Charities (Taxation and Charities Review Authorities— Appeals Process) Regulations 2024

Cindy Kiro, Governor-General

Order in Council

At Wellington this 1st day of July 2024

Present:

Her Excellency the Governor-General in Council

These regulations are made under section 73 of the Charities Act 2005 on the advice and with the consent of the Executive Council.

Contents

	Page
1 Title	2
2 Commencement	2
3 Interpretation	2
4 Filing fee	2
5 Power to waive filing fee in whole or part	2
6 Payment of filing fee may be postponed	3
7 Recovery of postponed filing fee	3
8 Power to refund filing fee in whole or in part	4
9 Power to proceed if party fails to attend case management conference	4

Regulations

1 Title

These regulations are the Charities (Taxation and Charities Review Authorities—Appeals Process) Regulations 2024.

2 Commencement

These regulations come into force on 5 July 2024.

3 Interpretation

In these regulations, unless the context otherwise requires,—

Act means the Charities Act 2005

Registrar or **Registrar of the Authority** means a Registrar or Deputy Registrar of an Authority.

4 Filing fee

The fee to file a notice of appeal under section 58C of the Act is \$173.91 exclusive of goods and services tax.

5 Power to waive filing fee in whole or part

- (1) The appellant may apply to the Registrar for a waiver of the filing fee payable under section 58C of the Act.
- (2) The Registrar may waive, in whole or in part, the filing fee payable by the appellant if they are satisfied,—
 - (a) on the basis of one of the criteria specified in subclause (3), that the appellant is unable to pay the fee; or
 - (b) that the proceeding,—
 - (i) on the basis of one of the criteria specified in subclause (4), concerns a matter of genuine public interest; and
 - (ii) is unlikely to be commenced or continued unless the fee is waived, in whole or in part.
- (3) For the purposes of this regulation, an appellant is unable to pay the filing fee if they—
 - (a) have been granted legal aid for the matter for which the fee is payable; or
 - (b) are dependent for the payment of their living expenses on a specified benefit (as defined in section 198(3) of the Social Security Act 2018) that is jobseeker support, sole parent support, a supported living payment, or an emergency benefit; or

- (c) are wholly dependent for the payment of their living expenses on New Zealand superannuation under the New Zealand Superannuation and Retirement Income Act 2001; or
 - (d) are wholly dependent for the payment of their living expenses on a veteran's pension under the Veterans' Support Act 2014; or
 - (e) would otherwise suffer undue financial hardship if they paid the fee.
- (4) For the purposes of this regulation, a proceeding concerns a matter of genuine public interest if—
 - (a) the proceeding has been or is intended to be commenced to determine a question of law that is of significant interest to the public or to a substantial section of the public; or
 - (b) the proceeding—
 - (i) raises issues of significant interest to the public or to a substantial section of the public; and
 - (ii) has been or is intended to be commenced by an organisation that, by its governing enactment, constitution, or rules, is expressly or by necessary implication required to promote matters in the public interest.
- (5) An application under subclause (1) must be made in a form approved for the purpose by the chief executive of the Ministry of Justice unless, in a particular case, the Registrar considers that an application in that form is not necessary.

6 Payment of filing fee may be postponed

- (1) This regulation applies to an appellant who is waiting for an application for a waiver of a filing fee under regulation 5(1) to be determined.
- (2) The appellant may apply to the Registrar to postpone the payment of the relevant fee until the date on which they are notified of the determination.
- (3) The Registrar may exercise the power under subclause (2) if they are satisfied that the appellant would be prejudiced if the matter to which the fee relates did not proceed before the determination.
- (4) An application under subclause (2) must be made in a form approved for the purpose by the chief executive of the Ministry of Justice unless, in a particular case, the Registrar considers that an application in that form is not necessary.

7 Recovery of postponed filing fee

- (1) This regulation applies to a fee that has been postponed under regulation 6.
- (2) If the effect of a determination under regulation 5 is that the fee is not to be waived, or is to be waived only in part,—
 - (a) the fee (or the balance of the fee, if applicable) must be paid, without delay, to the Authority; and

- (b) the fee (or the balance of the fee, if applicable) is recoverable as a debt due to the Crown in any court of competent jurisdiction; and
- (a) the appellant may not take a step in the proceeding to which the fee relates unless the fee (or the balance of the fee, if applicable) is paid.

8 Power to refund filing fee in whole or in part

- (1) This regulation applies to an appellant who has paid a filing fee under section 58C of the Act.
- (2) The appellant may apply to the Registrar to refund the fee that has been paid.
- (3) The Registrar may refund the fee that has been paid, in whole or in part, if the Registrar is satisfied that—
 - (a) the appellant has not made an application under regulation 5 for a waiver of the fee; and
 - (b) the fee would have been waived, in whole or in part, if an application had been made; and
 - (c) the criteria that would have justified the waiver, in whole or in part, still apply at the date of the application for the refund.
- (4) An application under subclause (2) must be made in a form approved for the purpose by the chief executive of the Ministry of Justice unless, in a particular case, the Registrar considers that an application in that form is not necessary.

9 Power to proceed if party fails to attend case management conference

- (1) If any party fails to appear or be represented at a case management conference before an Authority in respect of an appeal under section 58A of the Act, the Authority may—
 - (a) adjourn the hearing; or
 - (b) determine the preliminary issues in the absence of the party who failed to appear or be represented; or
 - (c) if it is the appellant who fails to appear or be represented, dismiss the appeal.
- (2) If an Authority determines the preliminary issues under subclause (1)(b) or dismisses an appeal under subclause (1)(c) in the absence of any party, the Authority on the application of that party may, if the Authority thinks fit, grant a rehearing of the preliminary issues or set down the dismissed appeal for a hearing.
- (3) An application for a rehearing or the setting down of a new hearing under subclause (2) must be made no later than 20 working days after the date of the Authority's determination or dismissal of the appeal.
- (4) If a rehearing is granted or a new hearing set down under subclause (2), the determination of the Authority made on the initial hearing, or its dismissal of the appeal, immediately ceases to have effect.

Rachel Hayward,
Clerk of the Executive Council.

Explanatory note

This note is not part of the regulations but is intended to indicate their general effect.

These regulations, which come into force on 5 July 2024, set out procedural requirements in relation to appeals to a Taxation and Charities Review Authority (the **Authority**) under the Charities Act 2005.

The regulations provide—

- for the filing fee for a notice of appeal:
- for applications for a waiver, in whole or in part, of payment of the filing fee:
- for applications for postponement of payment of the filing fee if a waiver application has been made but not yet determined:
- for the recovery of a postponed filing fee:
- for applications for the refund of a filing fee:
- an Authority with a power to proceed if a party fails to appear or be represented at a case management conference before the Authority.

Regulatory impact statement

The Department of Internal Affairs produced a regulatory impact statement on 12 March 2024 to help inform the decisions taken by the Government relating to the contents of this instrument.

A copy of this regulatory impact statement can be found at—

- <https://www.dia.govt.nz/resource-material-regulatory-impact-statements-index#charities>
- <https://treasury.govt.nz/publications/informationreleases/ris>

Issued under the authority of the Legislation Act 2019.

Date of notification in *Gazette*: 4 July 2024.

These regulations are administered by the Department of Internal Affairs.