



ADMINISTRATION ORDERS

Guardianship & Administration Act 1993

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WHAT IS AN ADMINISTRATION ORDER?

An administration order is an order made by the South Australian Civil and Administrative Tribunal ('the Tribunal') that appoints an administrator to make financial and legal decisions for a person with a mental incapacity. These orders were made by the Guardianship Board of SA up until 30 March 2015.

WHEN MIGHT AN ADMINISTRATION ORDER BE MADE?

Many people with mental incapacity have a family member or friend who can assist them with their financial and legal affairs. If there are no legal barriers, then these informal arrangements can continue and there may be no need for an administrator. The Tribunal will only make an administration order when:

- the person has a mental incapacity;
- the person cannot manage their own affairs because of this incapacity; there are decisions that need to be made and there is not a less restrictive way of these decisions being made.

WHAT IF THE PERSON HAS MADE AN ENDURING POWER OF ATTORNEY?

If a person made an Enduring Power of Attorney whilst they had capacity, then the 'attorney' appointed under this document will be responsible for making the person's financial and legal decisions if they lose capacity. In these situations, if there is no evidence of mismanagement, and the appointed person is willing and able to continue, there is no need to appoint an administrator. [See Information Sheet 8: Advance Directives in SA](#)

HOW LONG IS AN ADMINISTRATION ORDER MADE FOR?

Once an administration order is made, it remains in force until it is revoked or varied by the Tribunal. The Tribunal reviews administration orders at set periods, with a maximum of three years between reviews. An application to the Tribunal can be made to vary or to revoke the administration order sooner than the review date, if there is a change in circumstances.

WHO CAN BE APPOINTED AS ADMINISTRATOR?

An administrator may be an individual (e.g. a relative, friend, solicitor or accountant) or an organisation (e.g. Public Trustee or other private trustee company). Where an individual is appointed, they are known as a 'private administrator'. In deciding who to appoint, the Tribunal must consider whether a proposed administrator is compatible, competent and available to fulfil the role of administrator, and whether there are any conflicts of interest.

In deciding whether to make an order, the Tribunal must consider:

- what the wishes of the person would have been if he or she had not become mentally incapacitated (where this can be determined);
- the present wishes of the person, if these can be expressed;
- whether there are adequate existing informal arrangements for the management of the person's financial affairs; and
- what would be least restrictive of the person's rights and personal autonomy.

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Office of the Public Advocate

The Public Advocate is an independent statutory officer accountable to the South Australian Parliament.

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WHAT DOES AN ADMINISTRATOR DO?

An administrator is legally responsible for making all, or some, of a protected person's financial and legal decisions. This includes decisions about the person's income and property. An administrator's financial interests must not conflict with the interests of the protected person.

WHAT RECORDS MUST A PRIVATE ADMINISTRATOR KEEP?

A private administrator is required to keep detailed records about how the estate is managed. A statement of the accounts must be presented each year to the Public Trustee for auditing. The person whose affairs are being managed must have access to the statement unless the Tribunal thinks that the person would not understand it. The Tribunal will also determine whether anyone else should have a copy. The Tribunal and Public Trustee have a statutory responsibility to oversee the conduct of the administrator and to ensure that the estate is protected and utilised for the welfare of the protected person.

The Public Trustee provides a detailed manual for private administrators that provides information about the role and responsibilities of private administrators and contains guidance and advice including information about the content and form that accounts must take. The Public Trustee is located at 211 Victoria Square, Adelaide 5000 (Tel (08) 8226 9200, Toll Free 1800 673 119, Fax (08) 8231 0296).

WHAT HAPPENS TO THE PROPERTY OF A PROTECTED PERSON WHEN AN ADMINISTRATION ORDER IS MADE?

The Tribunal does not take away the property of a person when an Administration Order is made. The order is made for the protection of a person and his or her income and assets. The order gives the administrator the authority to manage the estate of the protected person as a trustee.

CAN AN ADMINISTRATION ORDER BE APPEALED?

An Administration Order made by the Tribunal can be appealed

See Information Sheet 18: Reviews & Appeals (Guardianship & Administration Act 1993)