



REVIEWS AND APPEALS

Guardianship & Administration Act 1993

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WHAT ARE REVIEWS AND APPEALS?

A review or appeal is a challenge to a decision or order and involves asking a higher body to review a decision or order and decide whether it is correct or should be changed. The people who undertake the review will not have been involved in the original decision and will take a fresh look at the situation. This information sheet is about applying for review of or appealing against orders made by the SA Civil and Administrative Tribunal (the Tribunal) under the *Guardianship and Administration Act 1993* (the Act).

HOW DOES A PERSON SEEK REVIEW?

If a person disagrees with an order made by the Tribunal they can apply for an 'internal review' by senior members of the Tribunal. The review is a fresh look at the decision, taking into account the information provided when the order or decision was made and any new information accepted by the Tribunal. An application for internal review must be made within one month of the date of the order or decision, though the Tribunal may grant an extension of time if it is just and reasonable to do so.

WHO CAN APPLY?

The following people can apply for an internal review:

- the person who the order is about;
- the person who made the application to the Tribunal;
- the Public Advocate;
- any person who gave evidence or made submissions to the Tribunal when it was considering making the order;
- any other person who satisfies the Tribunal that he or she has a proper interest in the matter.

HOW LONG DOES A PERSON HAVE TO APPLY FOR REVIEW?

An application for internal review must, in most cases, be made within one month of the date of the order or decision, though the Tribunal may grant an extension of time if it is just and reasonable to do so. However the time limit to apply for review of a decision about termination of a pregnancy is 2 working days.

WHAT IS A STATEMENT OF RIGHTS?

Whenever the Tribunal makes an order, it must provide the person who is subject to the order with a Statement of Rights. This statement explains the effect of the order and describes how to apply for internal review of the order.

WHAT IS PERMISSION TO APPLY FOR REVIEW?

The permission of the Tribunal is needed for most applications for internal review. Permission is not needed for decisions about sterilisation, termination of pregnancy or detention of a person. Whether or not permission is granted will be based on the reasons given and information provided when requesting the review.

Office of the Public Advocate

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

PO Box 213
PROSPECT SA 5082

Tel (08) 8342 8200
Toll Free 1800 066 969
Fax (08) 8342 8250

Email opa@agd.sa.gov.au

Web
www.opa.sa.gov.au

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WHAT IS THE REVIEW PROCESS?

Applications to the Tribunal for internal review can be made on-line through the Tribunal's website <http://www.sacat.sa.gov.au>, by telephoning 1800 723 767, or by attending the Tribunal's office in Adelaide. More information is available on the Tribunal's website.

The Tribunal members hearing the review will be provided with the information on which the order was based. The Tribunal may also accept additional information.

Reviews will be heard by the Tribunal as soon as is practicable. Internal review hearings are usually held at 100 Pirie Street, Adelaide.

Usually the order under appeal remains in force until a decision on review is announced. This means that the person must comply with the order until a decision of the Tribunal is announced. However, upon application, the Tribunal can direct that the order be stayed (not have any effect) or be varied (have a different effect) until the review is completed.

A written order or decision will be issued soon after the review is heard.

CAN A PERSON GET A LAWYER TO ASSIST WITH AN INTERNAL REVIEW?

A legal representation scheme is available free of charge to the person the order under review is about, regardless of who applied for review. The person is entitled to be represented by a lawyer and can be provided with a lawyer through the scheme. Other parties to a review will need to make their own arrangements and payment for legal representation.

APPEALS

If a person is unhappy with the outcome of an internal review by the Tribunal, he or she can seek leave from the Supreme Court to appeal the decision. Applications must be made within 14 days of the Tribunal's decision or 14 days of receiving reasons for the decision. There are costs associated with Supreme Court appeals and the person who is appealing must pay these. It is suggested that people wishing to appeal to the Supreme Court seek legal advice.

MORE INFORMATION

For specific information about reviews of prescribed treatment decisions see : *Information Sheets 10: Prescribed medical treatment* and *16: Prescribed psychiatric treatment*. For information about reviews of mental health treatment orders see *Information Sheet 17: Reviews and Appeals (Mental Health Act)*