

Approved Forms

Application forms and Health Care Professional Report templates

The purpose of this Fact Sheet is to identify the template Application forms and Health Care Professional report which are to be used to facilitate an application to the Tasmanian Civil and Administrative Tribunal - Guardianship Stream (Tribunal) under the *Guardianship and Administration Act 1995* (the Act) and other relevant Acts giving jurisdiction to the Tribunal.

Application Forms

If a person is making application to the Tribunal, the Application must be in writing and lodged with the Tribunal Registry.

If an Emergency Request is made under section 65 of the Act, the Request should be in writing unless otherwise authorised by the presiding member of a panel of the Tribunal. If an oral Request under section 65 of the Act is allowed because of urgency, the applicant must provide to the Tribunal in writing such information as it may require prior to or after determination of the Request.

The *Guardianship and Administration Regulations 2017* (the Regulations) prescribe what information must be contained in an Application made under the Act. Section 34 of the *Powers of Attorney Act 2000* prescribes what information must be contained in an Application made under section 33 of that Act. Section 41 of the *Disability Services Act 2011* provides what information must be contained in an Application for Approval to carry out Restrictive Interventions. Section 40 of the *Wills Act 2008* sets out information the applicant must furnish to the Tribunal.

The Tribunal has developed a range of prescribed application forms to assist potential applicants in making an application that complies with the relevant legislative requirements. These application forms, listed below, are to be used when making application to the Guardianship Stream of the Tribunal.

- Administration
- Guardianship
- Emergency Request
- Renew Emergency Order
- Guardianship and Administration
- Review Enduring Power of Attorney
- Review Enduring Guardianship
- Consent for Medical Treatment
- Consent for Medical Treatment – Sterilisation
- Restrictive Intervention
- Review Restrictive Intervention
- Advice and Direction
- Gifts and Settlement

- Statutory Will
- Review of Order

These forms are available on the Tribunal's website at: www.tascat.tas.gov.au

Health Care Professional Report (HCPR) templates.

Regulation 4 of the *Guardianship and Administration Regulations 2017* (the Regulations) prescribes that a report from a Health Care Professional must accompany certain applications and is to contain information or opinion of the type specified in the Regulations.

4. Applications to be supported by report

(1) An application made under the Act in respect of a person, other than an application under section 44, is to be supported by a report from a health care professional –

(a) detailing the disability of the person in respect of whom the application is made; and

(b) made in accordance with [subregulation \(2\)](#) .

(2) The report referred to in [subregulation \(1\)](#) is to state the opinion of the health care professional as to whether the disability affects the ability of the person concerned to make reasonable judgements in respect of one or more of the following:

(a) his or her person;

(b) his or her circumstances;

(c) his or her financial affairs.

The report should be current and detailed, so the Tribunal has sufficient evidence to determine the Application before it.

The Tribunal has developed a template report for use by a health care professional that is to be used to provide the Tribunal with the information required by the Regulations for each application type under the Act. The template is:

- HCPR – General

The HCPR – General template must be used for all applications which require a report from a Health Care Professional, unless Regulation 4(3) of the Regulations applies. This template must be used for applications for Guardianship; Administration; Review of a Guardianship and/or Administration order; Review of Enduring Guardian Instrument; and can be used for applications for Review of Power of Attorney; Review of Revocation of a Power of Attorney; and applications for approval or variation of a Restrictive Intervention under the *Disability Services Act 2011*.

The Tribunal has developed a Template report for use by a registered practitioner (medical practitioner or dentist registered under the Health Practitioner Regulation National Law (Tasmania)) when lodging an Application for Consent for Medical or Dental Treatment under Part 6 of the Act. This template is to be used to provide the Tribunal with the information required by Regulation 8 of the Regulations. The template is:

- HCPR - Medical and Dental Treatment

The HCPR - Medical and Dental Treatment template must be used when lodging an application for consent for medical or dental treatment, including special treatment.

A HCPR must accompany the Application when it is lodged with the Tribunal Registry.

Regulation 4(3)

Regulation 4(3) of the Regulations provides:

If a report is not provided in accordance with [subregulation \(1\)](#), a statement must be supplied detailing the reasons why the report cannot be provided.

The Statement must detail what steps have been taken to attempt to obtain a report.

The Applicant should be mindful that in determining an application for Guardianship or Administration TASCAT must be satisfied on the evidence before it that the person subject to the application:

- (a) is a person with a disability; and
- (b) is unable by reason of the disability to make reasonable judgments in respect of all matters relating to his or her person or circumstances/ all or any part of his or her estate.

The Tribunal applies the same test when determining a Review of Order.

Evidence of a person's capacity is usually in the form of an assessment by a health care professional.