

QCAT Practice Direction No 8 of 2010

Directions relating to guardianship matters

1. This Practice Direction replaces Practice Direction No 10 of 2009, which is hereby repealed.
2. The Presidential Directions listed below, issued under the *Guardianship and Administration Act 2000*, are adopted as practice directions under the *Queensland Civil and Administrative Tribunal Act 2009*. References to the Guardianship and Administration Tribunal are to be read as references to the Queensland Civil and Administrative Tribunal. Relevant section numbers set out in the attached schedule have been changed as a result of amendments to the *Guardianship and Administration Act 2000*:
 - No 1 of 2003 - Providing accounts of administration for private administrator/s
 - No 2 of 2003 - Procedure to be followed in respect to applications for sterilisation
 - No 1 of 2004 - Random review of the appointment of trustee companies
 - No 3 of 2004 - Advice to registrar of titles if appointment concerns land presidential
 - No 4 of 2004 - Accounts of administration to the date of death
 - No 1 of 2007 - Accounts of administration provided by the public trustee of Queensland and trustee companies under the Trustee Companies Act 1968
 - No 2 of 2007 - Approval of management plans prepared by administrators appointed under section 245 of the Guardianship and Administration Act 2000
 - No 3 of 2007 - Interim orders (s.129 *Guardianship and Administration Act 2000*)
 - No 1 of 2009 - Arrangements for file inspection
3. The following matters will be heard on the papers by a member of the tribunal, unless the member allocated to hear the matter recommends that it is more appropriate that it is dealt with by an oral hearing:
 - a. Application for recognition of an order made under another law;
 - b. Review of the appointment of an administrator, guardian and guardians for restrictive practices;
 - c. Approval of financial management plans, other than those specified in Presidential Direction No 2 of 2007 and
 - d. Application for the appointment of an administrator in which the proposed appointee is The Public Trustee of Queensland and none of the active parties oppose the appointment.

("Active Party": Each of the following persons is an active party for a proceeding in relation to an adult—

- (a) the adult;
- (b) if the adult is not the applicant—the applicant;
- (c) if the proceeding is for the appointment or reappointment of a guardian, administrator or attorney for the adult—the person proposed for appointment or reappointment;
- (d) any current guardian, administrator or attorney for the adult;
- (e) the adult guardian;
- (f) the public trustee;
- (g) a person joined as a party to the proceeding by the tribunal.)

4. A review of an appointment of a guardian and/or an administrator made by the Tribunal will be conducted at the end of the period of the appointment as ordered by the Tribunal except in cases where:
- (i) New and relevant information has become available since the hearing; or
 - (ii) A relevant change in circumstances has occurred since the hearing; or
 - (iii) Relevant information that was not presented to the Tribunal at the hearing has become available;

And, in accordance with s.31 *Guardianship and Administration Act 2000*:

- (iv) The current appointee is no longer competent; or
- (v) Another person is more appropriate for appointment.

5. The Tribunal may hear and dismiss on the papers an application requesting a review of appointment of a guardian and/or administrator which the Tribunal determines does not disclose the information required in paragraph 4 of this practice direction.

Justice Alan Wilson
President

23 June 2010

Schedule of section changes

Presidential direction 2 of 2003	Remove ss100 and 110 of the <i>Guardianship and Administration Act 2000</i> and replace with s 226 of the <i>Queensland Civil and Administrative Tribunal Act 2009</i>
Presidential direction 3 of 2004	Remove s110 of the <i>Guardianship and Administration Act 2000</i> and replace with s226 of the <i>Queensland Civil and Administrative Tribunal Act 2009</i>
Presidential direction 1 of 2007	Remove s 100 of the <i>Guardianship and Administration Act 2000</i> and replace with s 226 of the <i>Queensland Civil and Administrative Tribunal Act 2009</i>
Presidential direction 2 of 2007	Remove ss100 and 110 of the <i>Guardianship and Administration Act 2000</i> and replace with s226 of the <i>Queensland Civil and Administrative Tribunal Act 2009</i>
Presidential direction 1 of 2009	Remove s108(2) and replace with s103(1) of the <i>Guardianship and Administration Act 2000</i> Remove s108(3) and replace with s 103(2) of the <i>Guardianship and Administration Act 2000</i> . Remove s112 and replace with s 114A of the <i>Guardianship and Administration Act 2000</i> . Remove s112(2) and replace with s 114A(2) of the <i>Guardianship and Administration Act 2000</i> . Remove s108 and replace with s103 of the <i>Guardianship and Administration Act 2000</i> . Remove s109E and replace with s109 of the <i>Guardianship and Administration Act 2000</i> .