

Instructions for completing

Application to stay a decision

General instructions

Copies of the application and providing copies to other parties

No extra copies of the application form and attachments are required for cases related to:

- *Adoption of Children Act 1964*
- *Child Care Act 2002*
- *Child Protection Act 1999*
- *Commission for Children and Young People and Child Guardian Act 2000*
- *Disability Services Act 2006*, section 123ZK(8) or 123ZN(5)
- *Guardianship and Administration Act 2000*.

You also do not need to give a copy of the application to another party in those cases.

For a minor civil dispute, the application form and all attachments must be accompanied by two copies. Where there is more than one respondent, an extra copy of the application form and attachments is required for each additional respondent.

For all other cases, the application form and all attachments must be accompanied by three copies. Where there is more than one respondent, an extra copy of the application form and attachments is required for each additional respondent.

Generally, you must give a copy of the application to all parties to the proceeding as soon as practicable, and no later than seven days after the application is filed.

Applications may be lodged

In person: Queensland Civil and Administrative Tribunal, Level 11, Bank of Queensland Building, 259 Queen Street, Brisbane QLD 4000, or at any Magistrates Court outside of the Brisbane CBD.

By mail: QCAT, GPO Box 1639, Brisbane 4001

Some applications may be lodged by fax or email. For more information call 1300 753 228 or visit www.qcat.qld.gov.au

Applications must be accompanied by the prescribed application fee or an application for waiver

For more information on QCAT fees, please refer to the QCAT factsheet or go to www.qcat.qld.gov.au

There is no fee payable for an application to stay a decision of the tribunal.

Payment can be made by cash, cheque (payable to Department of Justice and Attorney-General), money order or credit card payment authorisation (see credit card payment authorisation form – mastercard and visa accepted).

If you wish to apply for a stay of a guardianship and administration decision pending a hearing, please complete form 15 instead.

Instructions for completing *(continued)*

PART A APPLICANT'S AND RESPONDENT'S DETAILS

- More than one applicant and respondent may be named in an application. If there is insufficient space for the names of either applicant or respondent, you may attach additional pages with similar details.
- In an application to review a decision, the decision-maker will be the respondent.
- If the applicant or respondent is not an individual then the correct name must be used, for example:
 - a company name
 - a business name regardless of whether it is registered under the *Business Names Act 1962*
 - a State agency name, for example a Queensland Government department.
- Your address will be the address at which documents are given or sent to you, unless you indicate your representative's address as your address for notices.
- Any change in your address for notices must be filed in the tribunal and given to all other parties.

Representative's details

If you want your representative's address as the address for notices, please complete your representative's details.

If you want your representative to represent you in any proceedings before the tribunal you must complete the form *Application for leave to be represented*. Generally the tribunal expects people to represent themselves. It may not grant your request.

You are not required to seek leave if:

- you are a child or a person with impaired capacity
- your case is a disciplinary case
- an Act or the Rules state that you may be legally represented.

PART B DECISION YOU REQUEST TO BE STAYED

You may apply for a stay where:

- a proceeding for the application for the review of the decision has started in QCAT, or
- an Act allows QCAT to stay the decision while another entity is reviewing the decision, or
- you are appealing a decision of the tribunal to the QCAT appeal tribunal or the Court of Appeal.

If you need help answering this question contact the tribunal.

A hearing for a stay of the decision will, if successful, only temporarily suspend the decision until the tribunal or the other entity has made its decision. A stay is not the final decision of QCAT.

Instructions for completing *(continued)*

STAY OF A DECISION WHERE APPLICATION FOR REVIEW HAS COMMENCED IN QCAT

In deciding whether to order a stay for a reviewable decision in QCAT, the tribunal must consider the interests of:

- any person whose interests may be affected by making or not making a stay order
- any submissions made to the tribunal by the decision-maker
- public interest

The tribunal does not have to give a person whose interests are affected an opportunity to make submissions if it is not practicable to do so because of the urgency of the case or for another reason.

If the tribunal makes a stay order, it may also require a party to promise to pay costs in certain circumstances.

STAY OF A DECISION UNDER REVIEW BY ANOTHER ENTITY

Where an Act allows, the tribunal may stay the decision being reviewed by another entity to secure the effectiveness of the review and any later review by the tribunal.

The stay:

- may be given on the conditions the tribunal considers appropriate, and
- operates for the period fixed by the tribunal, and
- may be revoked or amended by the tribunal.

The period of the stay must not extend past the time when the other entity makes a review decision and any later period the tribunal allows to enable the applicant to apply to QCAT for a review of the review decision.

STAY OF A DECISION WHERE A QCAT DECISION IS BEING APPEALED

The QCAT appeal tribunal may make an order staying the operation of the decision until the appeal tribunal hears the appeal.

The tribunal as constituted for the decision or the Court of Appeal may make an order staying the operation of the decision until the Court of Appeal hears the appeal.

Form Number 44 (version 1)
Queensland Civil and Administrative Tribunal Act 2009 (sections 22 and 33)

Application to stay a decision

Refer to attached instructions at the front of this application prior to filling out this form.

For office use only

Case number:	
Date:	
Registry:	
Sent to:	

PART A APPLICANT'S DETAILS

Name

<input type="text"/>	<input type="text"/>	<input type="text"/>
<i>Title</i>	<i>Given name/s</i>	<i>Surname/Family name</i>

Company/Partnership/other

<input type="text"/>	ABN	<input type="text"/>
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Business Name

Address

<input type="text"/>	Postcode	<input type="text"/>
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Telephone

() <input type="text"/>	() <input type="text"/>	<input type="text"/>
<i>Home</i>	<i>Business</i>	<i>Mobile</i>

Fax

Email

PART A APPLICANT'S DETAILS *(continued)*

Representative's details *(if applicable)*

- Tick if you want this to be your address for notices
- Tick if you want your representative to represent you in proceedings before the tribunal *(see Part B of the instructions – you may be required to seek the tribunal's leave for this to happen by way of an application under the form Application for leave to be represented)*. The tribunal may not give you leave to be represented.

Name

<input type="text"/>	<input type="text"/>	<input type="text"/>
<i>Title</i>	<i>Given name/s</i>	<i>Surname/Family name</i>

Company/Partnership/other

<input type="text"/>	ABN	<input type="text"/>
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Business Name

Address

<input type="text"/>		
<input type="text"/>	Postcode	<input type="text"/>

Telephone

() <input type="text"/>	<input type="text"/>
<i>Business</i>	<i>Mobile</i>

Fax

Email

PART A RESPONDENT'S DETAILS

Name

<input type="text"/>	<input type="text"/>	<input type="text"/>
<i>Title</i>	<i>Given name/s</i>	<i>Surname/Family name</i>

Company/Partnership/other

<input type="text"/>	ABN	<input type="text"/>
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Business Name

Address

<input type="text"/>	Postcode	<input type="text"/>
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Telephone

() <input type="text"/>	() <input type="text"/>	<input type="text"/>
<i>Home</i>	<i>Business</i>	<i>Mobile</i>

Fax

Email

Representative's details (if applicable)

Name

<input type="text"/>	<input type="text"/>	<input type="text"/>
<i>Title</i>	<i>Given name/s</i>	<i>Surname/Family name</i>

Company/Partnership/other

<input type="text"/>	ABN	<input type="text"/>
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Business Name

Address

<input type="text"/>	Postcode	<input type="text"/>
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Telephone

() <input type="text"/>	<input type="text"/>
<i>Business</i>	<i>Mobile</i>

Fax

Email

PART D CHECKLIST AND SIGNATURE

- I have completed all questions on the application form according to the instructions
- I have provided the correct number of copies of the application form and attachments (for the number of copies required – see instructions)
- I have paid the prescribed fee (where applicable)
- I am ready to proceed with this application

Interpreter

Is an interpreter required?

- Yes No

If YES, please specify language

Warning

Section 216 of the *Queensland Civil and Administrative Tribunal Act 2009* makes it an offence for a person to knowingly give the registry documents containing false or misleading information.

Maximum penalty for such an offence – \$10,000.

SIGN AND DATE HERE

The information in this application is true to the best of my knowledge.

Applicant/s sign here

Date

If more than one applicant is named all must sign the application.