

Review a revocation of an Enduring Power of Attorney

The following information explains how to apply to the NSW Civil and Administrative Tribunal (NCAT) Guardianship Division to review a revocation of an Enduring Power of Attorney.

Role of NCAT's Guardianship Division

Under the *Power of Attorney Act 2003*, the NSW Civil and Administrative Tribunal (NCAT) Guardianship Division can review the revocation of an enduring power of attorney.

Applications made to NCAT are generally decided at a hearing. The hearing is an opportunity for the person who is the subject of the application (the principal), as well as other parties and interested people, to present their views.

When reviewing the revocation of an enduring power of attorney, NCAT can make either or both of the following orders:

- An order declaring that the principal did or did not have mental capacity to revoke an enduring power of attorney.
- An order declaring that the enduring power of attorney remains valid in whole or in part.
- An order declaring that the revocation was invalid for any other reason, for example the principal was induced to make the revocation by dishonesty or undue influence and that the enduring power of attorney remains valid (either in whole or in part).

Applying for a review of a revocation

There are separate application forms for:

1. A review of the making and operation and effect of an Enduring Power of Attorney
2. A review of a revocation of Enduring Power of Attorney.

The *Application to review revocation of enduring power of attorney* form can only be used to apply for a review of a revocation of an enduring power of attorney.

Please use the *Application to review of an enduring power of attorney* form if you wish to have the making of and/or the operation and effect of an enduring power of attorney reviewed by NCAT.

Your responsibilities as applicant

Applicants have responsibilities beyond completing and lodging the form.

As the application you must:

- Provide your details to NCAT (anonymous applications are not accepted).
- Advise the person that you are making an application about them.
- Provide details of all the people who have an interest in the application even if they disagree with it.
- Obtain evidence to support your application and supply to NCAT (Section 7 of the form provides more detail about what is required)
- Keep NCAT informed of any changes to the person's circumstances while your application is being considered.
- If the application proceeds to a hearing, give the person a copy of the application and notice of hearing (both will be sent to you by NCAT).
- Attend the hearing and arrange for the person to attend.

If for any reason you cannot continue in the role of applicant, you must inform NCAT and arrange for someone else to take your place as a substitute applicant.

Who will see your application?

Anyone who is a party to your application under the *Power of Attorney Act 2003* is entitled to receive a copy of your application and all documents sent to the Tribunal, unless the Tribunal orders otherwise.

The following people are parties to your application:

- You, the applicant
- The principal
- Any attorney
- NSW Trustee and Guardian
- Any other person joined by the Tribunal as a party to proceedings.



Please note that if you answer a question in the application by referring to an attached document, that document becomes a part of the application and may be distributed to parties.

Applying to be joined as a party

Other people involved, such as an enduring guardian, spouse or carer, may apply to NCAT to be joined as a party.

NCAT has the authority to join a person if satisfied that he or she has a genuine concern for the welfare of the person that the application is about or a proper interest in the proceedings.

How to lodge your application

To lodge your form and attachments:

- **Post**
NSW Civil and Administrative Tribunal
Guardianship Division
PO Box K1026, Haymarket NSW 1240
- **Deliver in person**
Level 6 John Maddison Tower, 86-90 Goulburn Street, Sydney NSW 2000

When lodging your application, please return all pages of the form. There is no fee for lodging a Guardianship Division application.

What happens next?

NCAT will send you and other parties a notice of hearing with the date, time and place of hearing.

If you need further information about making an application, contact NCAT's Guardianship Division.

Contact NCAT

1300 006 228 | www.ncat.nsw.gov.au

Interpreter Service (TIS) 13 14 50

National Relay Service for TTY users 13 36 77

For more information and assistance visit the NCAT website or contact NCAT's Guardianship Division on (02) 9556 7600 or 1300 006 228.