

TASMANIA

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**GUARDIANSHIP AND ADMINISTRATION  
AMENDMENT REGULATIONS 2024**  
**STATUTORY RULES 2024, No. 39**

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## **GUARDIANSHIP AND ADMINISTRATION AMENDMENT REGULATIONS 2024**

I, the Governor in and over the State of Tasmania and its Dependencies in the Commonwealth of Australia, acting with the advice of the Executive Council, make the following regulations under the *Guardianship and Administration Act 1995*.

Dated 26 August 2024.

B. BAKER  
Governor

By Her Excellency's Command,

GUY BARNETT  
Minister for Justice

### **1. Short title**

These regulations may be cited as the  
*Guardianship and Administration Amendment  
Regulations 2024*.

### **2. Commencement**

These regulations take effect on the day on  
which the *Guardianship and Administration  
Amendment Act 2023* commences.

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### **3. Principal Regulations**

In these regulations, the *Guardianship and Administration Regulations 2017\** are referred to as the Principal Regulations.

### **4. Regulation 3 amended (Interpretation)**

Regulation 3 of the Principal Regulations is amended as follows:

- (a) by omitting the definition of *health care professional*;
- (b) by omitting the definition of *psychologist*.

### **5. Part 2 substituted**

Part 2 of the Principal Regulations is rescinded and the following Part is substituted:

## **PART 2 – APPLICATIONS UNDER THE ACT**

### **4. Application to be supported by report**

- (1) An application to the Tribunal under the Act in respect of a person, other than an application made under section 44, is to be supported by a report from a health practitioner or other person with relevant qualifications and expertise to conduct an assessment of a person's decision-making ability –

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\*S.R. 2017, No. 66

- (a) detailing, in accordance with Part 2 of the Act, the impairment to the decision-making ability of the person in respect of whom the application is made; and
  - (b) stating the opinion of the health practitioner or other person conducting the assessment as to whether the impairment to the person's decision-making ability affects the ability of the person to make decisions in respect of one or more of the following:
    - (i) personal matters;
    - (ii) financial matters; and
  - (c) providing details of reasonable steps taken to provide practicable and appropriate support to enable the person to make or communicate decisions in relation to matters specified in subregulation (1)(b).
- (2) Subregulation (1) does not apply to a request under section 58 of the Act.
- (3) An application for the purpose of section 44 of the Act is to be supported by a report from a registered health practitioner detailing the following prescribed information:
- (a) the condition requiring treatment;

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- (b) the nature of the proposed treatment;
- (c) the date, time and place of the proposed treatment, if known;
- (d) the impairment to the decision-making ability of the person in respect of whom the application is made;
- (e) how the impairment affects the capacity of the person to give consent to the proposed treatment;
- (f) the steps that have been taken to provide the person with any practicable and appropriate support needed to make or communicate decisions as to the proposed treatment;
- (g) whether the person concerned is, or is likely to become, capable of consenting to the treatment;
- (h) the risks to that person of carrying out the treatment;
- (i) the risks to that person of failure to carry out the treatment;
- (j) whether the proposed treatment can be postponed on the grounds that better treatment may become available;

- (k) any alternative treatment available to that person.
- (4) An application for the purposes of section 48O of the Act in relation to any matter, question or dispute under Part 6A of the Act is to –
- (a) be supported by a report that meets the requirements of subregulation (1); and
  - (b) include a report from the health and medical research practitioner conducting or proposing to conduct health and medical research, in relation to the person in respect of whom the application is made, detailing –
    - (i) the nature of the health and medical research; and
    - (ii) evidence of approval to conduct the research and any relevant conditions associated with that approval; and
    - (iii) the nature of any health or medical research already conducted; and
    - (iv) the risks to the person of carrying out the research; and

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- (v) the risks to the person of not carrying out the research.
- (5) If a report is not provided in accordance with subregulations (1), (2) or (3), a statement must be supplied detailing the reasons why the report cannot be provided.
- (6) A health practitioner or other person with relevant qualifications and expertise to conduct an assessment of a person's decision-making ability must not submit a report that deals with the decision-making ability of a close family member of the person.

Penalty: Fine not exceeding 10 penalty units.

**5. Application to be supported by declaration**

- (1) An application to the Tribunal made under the Act is to be supported by a declaration by the person making the application that –
  - (a) reasonable steps have been taken to comply with section 13 of the Act; and
  - (b) all the information contained in the application is true and accurate; and

- (c) the application is not misleading;  
and
  - (d) no details relevant to the  
application have been omitted.
- (2) A person must not make an application  
under the Act that is false or misleading  
in a material particular.

Penalty: Fine not exceeding 10 penalty  
units.

**6. Regulation 13AB inserted**

After regulation 13A of the Principal  
Regulations, the following regulation is inserted  
in Part 3A:

**13AB. Speech pathologists prescribed as health  
practitioners**

For the purposes of Part 5A of the Act, a  
speech pathologist is prescribed as a  
health practitioner.

**7. Part 3B inserted**

After regulation 13D of the Principal  
Regulations, the following Part is inserted:

**PART 3B – PUBLIC GUARDIAN AND PUBLIC  
TRUSTEE COMPLAINTS PROCESSES**

**13E. Complaints processes**

For the purposes of section 70(3) of the Act, any complaints processes established by the Public Guardian and the Public Trustee are to be consistent with Australian Standard 10002 Guidelines for complaint management in organisations (ISO 1002:2018 NEQ), as amended or replaced from time to time.

**8. Regulation 15 amended (Fees for examining statement of certain accounts)**

Regulation 15(1) of the Principal Regulations is amended by omitting “Board” from the definition of *relevant estate* and substituting “Tribunal”.

**9. Regulation 17 amended (Inspection of register)**

Regulation 17(3)(d) of the Principal Regulations is amended by omitting “medical practitioner” and substituting “health practitioner”.

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Printed and numbered in accordance with the *Rules Publication Act 1953*.

Notified in the *Gazette* on 27 August 2024.

These regulations are administered in the Department of Justice.

**EXPLANATORY NOTE**

*(This note is not part of the regulations)*

These regulations amend the *Guardianship and Administration Regulations 2017* –

- (a) in relation to information required in support of applications under the *Guardianship and Administration Act 1995*; and
- (b) to prescribe speech pathologists as health practitioners for the purposes of Part 5A of that Act; and
- (c) in relation to the complaint processes to be followed by the Public Guardian and the Public Trustee.