

New powers of SACAT to give advice or direction during the COVID-19 Pandemic



In response to COVID-19, new laws affecting the lawful detention of 'protected persons' have been introduced in South Australia in the *COVID-19 Emergency Response Act 2020*.

'Protected persons' are persons already the subject of a guardianship order under the *Guardianship and Administration Act 1993* (the G&A Act), or other persons with a 'mental incapacity' (as defined by the Act).

Persons with a mental incapacity may not be able to understand the Government directives about COVID-19, or the need to comply with them, and may leave their home or facilities unattended.

The changes expand the powers of Guardians, the person in charge of prescribed premises where a protected person usually resides (*prescribed person*), an *Authorising Officer*, or the Tribunal to detain or authorise the detention of a protected person as necessary to follow the Government's directives and to keep them safe during the pandemic.

Powers of the Tribunal to give Advice or Direction

The Authorising Officer, a Guardian or a Prescribed Person may apply to the Tribunal for advice or direction—

- on the exercise of powers
- as to the scope of those powers; or
- for approval to the taking of any action for which the approval of the Tribunal is required.

To apply for advice or direction please refer to online application.

Note: The application need not be served on any person and may be determined in the absence of persons affected by the Tribunal's decision (s18 (2))

For further information, please refer to:
Office of the Public Advocate
<http://www.opa.sa.gov.au/>

South Australian COVID-19 Directions for Residential Aged Care Facilities
<https://www.covid-19.sa.gov.au/emergency-declarations/aged-care>

This fact sheet is general in nature. It does not constitute legal advice and does not relate to the circumstances of any individual matter. Legal advice should be sought independently.