

Stay Applications

Applying to put your SACAT order on hold during an internal review

Are you seeking an internal review of a SACAT order?

If you are dissatisfied with an order from SACAT, you may have applied, or are thinking about applying, for an internal review.



An internal review is a request to have a decision reconsidered by a different member of SACAT.

While you are waiting for your hearing for internal review, **the original order is still in force**. This means that all of the parties, including you, are still required to comply with the order even if you have applied, or intend on applying for, an internal review.

What is a stay?

If granted, a stay puts the order on hold until your internal review matter is heard (or some other date determined by SACAT). A request for a stay is decided urgently by a legally-qualified member of SACAT. The following conditions must be met for a stay to be granted:

- ✓ SACAT considers that you have an arguable case on internal review; AND
- ✓ the consequences for you if a stay is not granted are more significant than the consequences for the other party if the stay is granted.

To demonstrate an arguable case you do not have to prove your case. However, you do need to state what your argument is and what evidence supports it in your application to SACAT.

How will my stay application be resolved?

If SACAT considers that you have an arguable case, it will usually be necessary to ask the other party what their attitude is to the stay.

Their view is important because SACAT is required to weigh the interests of both parties.

Depending on the urgency, a stay application may involve a telephone conference to hear both side's views. It may also be decided solely on your request in writing. SACAT will decide how to address your application.

Your stay application can only be considered once the fee for your internal review application has been paid or waived (see 'Fees and charges' below).

If a stay is granted, the operation of the previous decision will be placed on hold.

If a stay is refused, it does not mean the internal review is finalised. The previous order will still be in effect and can be enforced. The internal review will still proceed if you would like it to.

Who can apply?

Any party to the initial proceedings for which the order was made can apply for a stay of that order.

Examples of where a stay request might be successful



Jane, a tenant, seeks an internal review of an order that she must leave her rental in 7 days. The order will take effect in 2 days. Jane did not attend the hearing because she was in hospital. She does not have an issue with leaving her rental but asks for 3 weeks to leave as she is discharged from hospital in a week and wants 2 weeks to find another rental. Jane offers to pay \$600 of the \$1200 of rent that she owes to have the order stayed until the review can be heard in 5 days. Jane's landlord is concerned about receiving rent.

- ✓ *Taking some action to protect the interests of the other party may assist the likelihood of a stay being granted.*



Bob had made an internal review application about a guardianship order which appointed his sister as the guardian of their mother. The decision was made urgently because their mother, who is in hospital, was offered a nursing home room. Bob couldn't attend the hearing because he works in the far north of the State and was not able to be contacted. Bob wants to be a joint guardian. He says that the urgency of the appointment has reduced because their mother is now ill and must remain in hospital for some weeks. Bob's sister opposes him being appointed guardian because he is always away working.

- ✓ *If circumstances have changed so that a decision is no longer urgent, SACAT may stay the order and await the outcome of the review.*

Examples of where a stay request is unlikely to be successful



Rauf, a tenant, has been allowed to stay at his rental by the Tribunal on the condition that he makes certain payments at certain times. If he does not make a payment then he must leave his rental within 24 hours and if he does not leave, his landlord can request the bailiff to evict him. Rauf fails to make a payment and does not move out. He submits an internal review application and requests a stay. He says that he does not have the money to pay the amount in the Tribunal's order but he has nowhere else to live.

- ✓ *Becoming homeless does not guarantee that a stay will be granted.*



Giulia has been ordered by SACAT to comply with treatment for her mental illness as directed by her medical team. She does not agree with SACAT's finding that she has a mental illness and lodges an internal review. She applies for a stay because she disagrees that she has a mental illness or needs treatment. In her application, she states that she is in the process of finding a doctor to support her views.

- ✓ *SACAT is unlikely to issue a stay where it has already weighed the available evidence and decided in favour of one party, simply because the other party believes that they will be able to gather evidence in the future to overturn the decision.*

Requirements for SACAT to consider a stay application

When lodging an application for a stay, you must appreciate the time it will take SACAT to consider the application. This includes the availability of a legally-qualified member to consider the application, and the availability of the other party to respond if required. There must be a reasonable window of time for proper consideration of the application before the order it relates to takes effect.



SACAT makes an order requiring Jill, a tenant, to leave her rental by 12pm on a specified day. Jill rings SACAT on that day at 10am, 2 hours before she is required to leave her rental. She is ringing to lodge an internal review application and to request a stay of the order requiring her to vacate.

- ✓ *It is unlikely that SACAT will be able to schedule a legally qualified Member and hear a response from the other party (if required) within this short timeframe. You should lodge*

and pay for your Internal Review application as soon as possible after the order is made.

Fees and charges

There is no fee directly applicable to an application for a stay. However, an application for a stay will not be considered unless the fee for the related internal review application has been paid.

SACAT may waive or reduce the application fee in certain circumstances. In guardianship and administration or mental health matters, if the person who is the subject of the order lodges the internal review application, the application fee is not applicable.

For further information relating to fees and fee waivers see our website, [Fees and charges](#) and [Fee waivers and exemptions](#).

SACAT will not do anything with your application until any applicable fees have been paid or waived. Your fee can be paid when you complete the online application or you can pay later, in which case you will be given an invoice to be paid within 7-14 days.

If you do not make the payment in time, SACAT will take no further steps to progress your application.

Options for submitting your stay application

All applications to SACAT are completed through our online application form which you can find at SACAT's website: www.sacat.sa.gov.au.

All of the information you are required to provide will be contained in the online application form.

If you are unable to complete the form online, you can contact the Tribunal for assistance on 1800 723 767. You can also visit SACAT's offices at Level 4 or 7, 100 Pirie Street, and use a computer at one of SACAT's public kiosks.

Contact the Tribunal

If you would like to speak to a staff member about the administrative review jurisdiction of the Tribunal, please telephone SACAT on 1800 723 767 (select option 4 and then option 5).

This information sheet does not constitute legal advice and does not relate to the circumstances of any individual matter. If you wish to have legal advice you should seek that independently.