

# APPLICATION UNDER THE DISABILITY ACT 2006

## ABOUT THIS FORM

Use this form only for applications made under the *Disability Act 2006* in the Human Rights Division.

Do not use this form if you want VCAT to appoint a guardian, an administrator or make an order under other legislation.

You must send a copy of your completed application to the person you are applying about and other interested persons, including any primary carer, nearest relative, legal representative, and any existing guardian or administrator.

## PRIVACY INFORMATION

For a copy of VCAT's privacy statement, go to [www.vcat.vic.gov.au/privacy](http://www.vcat.vic.gov.au/privacy).

## NEED HELP WITH YOUR APPLICATION?

If you have any questions about completing this form, contact our Customer Service team:

- email [humanrights@vcat.vic.gov.au](mailto:humanrights@vcat.vic.gov.au)
- call 1300 01 8228 (1300 01 VCAT) between 9 am and 4.30pm Monday to Friday
- go to VCAT Human Rights Division at Ground Floor, 55 King Street, Melbourne VIC 3000. We are open Monday to Friday from 8.30 am to 4.30 pm.

## APPLICANT DETAILS

The applicant is the person who makes this application.

### 1. What is your role in this application?

- Senior Practitioner (OSP)
- Office of the Public Advocate (OPA)
- Authorised Program Officer (APO)
- Person with disability
- Other, please specify

### 2. Details of the applicant

Given names

Family name

Do you wish to be identified as a person of Aboriginal and/or Torres Strait Islander descent?

- Yes  No

### 3. Address

This will be the address VCAT uses to correspond with you.

Organisation (if applicable)

Street address

Suburb  State  Postcode

Phone number

Email

### 4. Has a previous application about this person been made to VCAT?

No

Yes, provide the VCAT reference number/s below:

VCAT reference number

## DETAILS OF THE PERSON YOU ARE APPLYING ABOUT

### 5. Are you making this application about someone else?

Yes  No, skip to Question 9

### 6. Details of the person

Given names

Family name

### 7. Address

Street address

Suburb  State  Postcode

Phone number

Email

### 8. Date of birth of the person to be represented (DD/MM/YYYY):

## PRIMARY CARER'S DETAILS

### 9. Does the person have a primary carer?

Yes

No – skip to Question 13

**10. Details of the primary carer:**

Given names

Family name

**11. What is the primary carer's relationship to the person you are applying about?**

For example, partner, parent, relative, child, etc.

**12. Address**

Street address

Suburb  State  Postcode

Phone number

Email

**DETAILS OF ANY KNOWN REPRESENTATIVE**

**13. Is the person who the application is about represented by a lawyer, advocate or other representative?**

Yes

No – skip to Question 16

Don't know – skip to Question 16

**14. Details of representative**

Given names

Family name

**15. Address**

All correspondence will be sent to the representative.

Organisation (if applicable)

Street address

Suburb  State  Postcode

Phone number

Email

**DETAILS OF ANY KNOWN RELATIVES AND/OR INTERESTED PARTIES**

We need to ensure people with an interest in the person you are applying about are aware of this application.

Provide details of any relatives or interested parties of the person you are applying about, including their partner, parents, children or siblings.

## Person 1

### 16. Details of relative and/or interested party

Given names

Family name

### 17. Address

Organisation (if applicable)

Street address

Suburb  State  Postcode

Phone number

Email

### 18. The relationship to the person you are applying about:

## Person 2

### 19. Details of relative and/or interested party

Given names

Family name

### 20. Address

Organisation (if applicable)

Street address

Suburb  State  Postcode

Phone number

Email

### 21. The relationship to the person you are applying about:

## Person 3

### 22. Details of relative and/or interested party

Given names

Family name

**23. Address**

Organisation (if applicable)

Street address

Suburb  State  Postcode

Phone number

Email

**24. The relationship to the person you are applying about:**

If there are other known relatives or interested people, include an attachment to this application form with their details.

**REASONS FOR THE APPLICATION**

**25. Briefly explain your reasons for making this application:**

**26. What is the nature of the person's disability?**

- Intellectual disability
- Developmental delay
- Sensory, physical and/or neurological impairment and/or acquired brain injury

**HEARING ARRANGEMENTS**

All parties listed in your application must attend the VCAT hearing.

We offer a range of support services for people with disability, language difficulties and to help with accessibility. Let us know of your needs so we can make arrangements for the hearing.

**27. Are there any exceptional circumstances preventing the person who this application is about from attending the VCAT hearing? If so, explain below:**

**28. Does anyone mentioned in the application need special assistance at the hearing?**

Help accessing the venue (e.g. wheelchair access)

Interpreter required

Language:

Assisted communication (e.g. assistive listening device or hearing loop)

Personal safety concerns

Attend the hearing by phone or video link

Other – provide more detail on the next page

Provide more detail about who needs the forms of assistance you have indicated and why?

## WHAT DO YOU WANT VCAT TO DO?

### 29. Select at least one type of application you want to make:

#### Admission to a residential institution

- S88 Review a decision to admit person to a residential institution.  
You must apply within 28 days after the day you were notified of the decision or the day on which the statement of reasons is given (whichever is later).

Date person was notified of decision (DD/MM/YYYY):

Date statement of reasons given (DD/MM/YYYY):

#### Appointment of an Authorised Program Officer

- S132ZN(1)a Review a Senior Practitioner's decision to refuse the approval of an appointment of an Authorised Program Officer (application by a registered NDIS provider).

You must apply within 28 days after the day you were notified of the decision or the day on which the statement of reasons is given (whichever is later).

- S132ZN(1)b Review a Senior Practitioner's decision to revoke the appointment of an Authorised Program Officer (application by a registered NDIS provider).

You must apply within 28 days after the day you were notified of the decision or the day on which the statement of reasons was given (whichever is later).

#### Restrictive practice (including intervention, restraint and seclusion)

- S132ZW(1) Review the Authorised Program Officer's authorisation of the use of a regulated restrictive practice on an NDIS participant (application by the NDIS participant).

You must apply within 28 days after the day you were notified of the decision.

- S132ZW(2) Joint review of the Authorised Program Officer's authorisation and the Senior Practitioner's approval of the use of a regulated restrictive practice on an NDIS participant (application by the NDIS participant).

You must apply within 28 days after the day you were notified of the decision.

- S132ZW(3) Review of the Senior Practitioner's decision not to approve of the use of a regulated restrictive practice on an NDIS participant (application by the NDIS provider).

You must apply within 28 days after the day you were notified of the decision.

- S138 Review a refusal or revocation of approval to use restrictive practices (application by disability services provider).

You must apply within 28 days after the day the decision was made or the day on which the statement of reasons is given (whichever is later).

- S144 Review a decision to include the use of a regulated restrictive practice in a behaviour support plan (application by the Public Advocate).

You must apply within 28 days of receiving the report from the independent person.

- S146(1) Review the Authorised Program Officer's approval to include the use of a regulated restrictive practice in a person's behaviour support plan (application by person with disability).

You must apply within 28 days after the day you were notified of the decision.

- S146(1A) Joint review of the Authorised Program Officer's approval to include the use of a regulated restrictive practice in a person's behaviour support plan, and the Senior Practitioner's approval for its use (application by person with disability).

You must apply within 28 days after the day you were notified of the Senior Practitioner's decision.

- S146(1B) Review a Senior Practitioner's decision not to approve the use of a regulated restrictive practice in a person's behaviour support plan (application by a disability service provider).

You must apply within 28 days of the day after you were notified of the decision.

## About a residential treatment facility

- S153 (6&7) Variation of a treatment plan

Application by Authorised Program Officer:

Is this application to approve a material change to a treatment plan about an increase in the level of supervision or restriction?

Yes  No

Application by Senior Practitioner:

Has the Senior Practitioner approved a material change to the treatment plan because of an emergency?

Yes  No

- S154 Annual review of a treatment plan (application by Authorised Program Officer).

You must make your first application within 6 months of the person's admission to a residential treatment facility and any later review, no later than 12 months from the previous VCAT review.

Date criminal order made (DD/MM/YYYY)

Expiry of criminal order made (DD/MM/YYYY)

Date entered residential facility (DD/MM/YYYY)

- S152(2)a Residential treatment order

- S152(2)b Parole order

- S152(2)e Extended supervision order

- S152(2)f Supervision order or interim supervision order within the context of the *Serious Offenders Act 2018*.

- S155 Review of a treatment plan (application by Authorised Program Officer, Senior Practitioner or resident).

- S157(3) Review an Authorised Program Officer's decision to refuse to grant special leave of absence (application by resident).



## About a security resident

- S168(1) Annual review of a treatment plan and security order (application by Authorised Program Officer).  
You must apply at intervals of 12 months or less.
- S169(1) Review a treatment plan (application by Authorised Program Officer, Senior Practitioner or security resident).
- S171(3) Review an Authorised Program Officer's decision to refuse to grant special leave of absence to a security resident (application by security resident).
- S177(1) Recommendation that a security resident be transferred to a prison (application by security resident).

## Supervised treatment order

- S189 Review a decision by the Secretary to refuse or revoke the approval of supervised treatment (application by disability service provider).  
You must apply within 28 days after the day the decision was made or the days on which the statement of reasons is given (whichever is later).
- S191(1) Supervised treatment order about a person who has an intellectual disability (application by an Authorised Program Officer).  
The person must be receiving residential services, have an approved treatment plan and meet the criteria in S196(6).
- S191(1A) Supervised treatment order about an NDIS participant who has an intellectual disability (application by an Authorised Program Officer appointed by a registered NDIS provider).  
The NDIS participant must be an SDA resident living in an SDA enrolled dwelling with an SDA residency agreement, have an approved treatment plan and NDIS behaviour support plan and meet the criteria in S196(6).
- S191(5) Public Advocate to be joined as a party to a VCAT case about an application under S191(1) or S191(1A) (application by the Public Advocate).
- S192 Interim supervised treatment order (application by Authorised Program Officer).
- S194(1) Order directing the Authorised Program Officer to make an application under S191 (application by the Public Advocate).
- S195 (4&5) Variation of a treatment plan  
Application by Authorised Program Officer:  
Is this application to approve a material change to a treatment plan relating to an increase in the level of supervision or restriction?  
 Yes       No  
  
Has the Senior Practitioner approved a material change to the treatment plan because of an emergency?  
 Yes       No
- S195 (5A&5B) Variation of a treatment plan and/or review of supervised treatment order for an NDIS participant

Application by Authorised Program Officer:

Is this application to approve a material change to a treatment plan or a behaviour support plan relating to an increase in the level of supervision or restriction?

Yes       No

Application by Senior Practitioner:

Has the Senior Practitioner approved a material change to the treatment plan or a behaviour support plan because of an emergency?

Yes       No

S196(1)      Review, variation or revocation of a supervised treatment order or treatment plan (application by Authorised Program Officer, Senior Practitioner or person).

S196A      Application for determination about the expiry of a supervised treatment order (application by Authorised Program Officer).

You must apply as soon as possible within 60 days of the order expiry date.

S197      Rehearing of application in relation to a supervised treatment order (application by an Authorised Program Officer, Senior Practitioner or person subject to the order).

You must apply for a rehearing or for leave to apply for a rehearing within 28 days after the day VCAT made the order.

### **Assessment order**

S199A      Review of Senior Practitioner's decision to make an assessment order (application by a person).

### **Other**

Don't know      VCAT to determine.

## ACKNOWLEDGEMENT

By completing this application, I understand and acknowledge that:

- To the best of my knowledge, all information provided in this application is true and correct.
- It is an offence under section 136 of the *Victorian Civil and Administrative Tribunal Act 1998* to knowingly give false or misleading information to VCAT.
- I will send a copy of this completed application form to the person I am applying about and any other interested parties, including any primary carer, their nearest relatives, their representative, guardian or administrator as named in this application. I will notify VCAT as soon as possible if I am unable to do so.

Date of acknowledgement (DD/MM/YYYY):

## DOCUMENTS YOU NEED TO PROVIDE

Prior to the hearing, you must provide documents that support your application.

This may include:

- |                                                             |                                                             |
|-------------------------------------------------------------|-------------------------------------------------------------|
| <input type="checkbox"/> Copy of recent medical reports     | <input type="checkbox"/> Criminal orders                    |
| <input type="checkbox"/> Treatment plans                    | <input type="checkbox"/> Disability eligibility assessments |
| <input type="checkbox"/> Treatment plan certificates        | <input type="checkbox"/> Mental health plans                |
| <input type="checkbox"/> Behaviour support plans            | <input type="checkbox"/> Implementation reports             |
| <input type="checkbox"/> Disability eligibility assessments | <input type="checkbox"/> Neurological reports               |

## SUBMITTING THIS APPLICATION

You can submit your application to us by email, post or in person.

### By email

Email [humanrights@vcat.vic.gov.au](mailto:humanrights@vcat.vic.gov.au)

### By post

Send to:

The Registrar  
Human Rights List  
Victorian Civil and Administrative Tribunal  
GPO Box 5408 Melbourne VIC 3001

### In person

Go to:

Victorian Civil and Administrative Tribunal  
Ground Floor, 55 King Street, Melbourne  
VIC 3000

## GLOSSARY

Below is a list of terms that may be helpful when you make your application.

### **Applicant**

The person who makes the application.

### **Authorised Program Officer (APO)**

A person appointed by the disability service provider ensuring any use of restrictive practices or compulsory treatment for a person with disability is only used in accordance with the *Disability Act 2006*. APOs are responsible for submitting treatment plans to the Senior Practitioner and must make applications to VCAT following the receipt of an approved treatment plan.

### **Behaviour support plan**

A plan developed for a person with disability which specifies strategies to be used in managing the person's behaviour, including proactive strategies to build on the person's strengths and increase their skills.

### **Capacity**

An adult is deemed to have capacity if they have the ability to understand the consequences of a decision and can take responsibility for making a choice.

### **Certified copy**

A copy of a document on which an authorised person has certified: 'this is a true and complete copy of the original'.

### **Compulsory treatment**

The treatment of a person who is:

- admitted to a residential treatment facility or a residential institution under an order specified in section 152(2); or
- subject to a supervised treatment order.

### **Disability service provider**

Either the Secretary, a person or body on the register of disability service providers.

### **Interested parties**

People who play a significant role in the life or care of the represented person, including spouse, domestic partner, children, stepchildren.

### **Mechanical restraint**

The use of a device to prevent, restrict or subdue a person's movement primarily to influence a person's behaviour. It does not include the use of a device for therapeutic or non-behavioural purposes.

### **Order**

A legally binding decision by VCAT.

### **Other restrictive practices**

Include the following but are not restricted to: environmental restraints, psycho-social restraints and consequence-driven strategies.

### **Primary carer**

Any person who is responsible for providing support to the person with disability.

### **Public Advocate (Office of)**

An independent office of the Victorian State Government, established to promote the rights of, and advocate for, Victorians with disability. The Public Advocate can act as a guardian of last resort on appointment by VCAT.

**Rehearing**

A hearing at which VCAT reconsiders matters which are the subject of the order.

**Resident**

A person who receives disability services in a residential service.

**Residential treatment facility**

An accommodation setting where compulsory treatment is provided to people with an intellectual disability.

**Restrictive practice**

Any practice or intervention that restricts the rights or freedom of movement of a person with disability or of an NDIS participant.

**Seclusion**

The sole confinement of a person with disability in a room or physical space where they cannot leave for a period of time.

**Secretary**

Secretary to the Department of Human Services.

**Security resident**

A person for whom a security order is in force.

**Senior Practitioner (Office of)**

A person generally responsible for ensuring that the rights of people who are subject to restrictive practices and compulsory treatment are protected and that appropriate standards about those practices are followed.

**Supervised treatment order**

A civil order made by VCAT about a person with an intellectual disability (who is receiving residential services) to prevent the risk of significant harm to others.

**Treatment plan**

A plan for the use of treatment on a person with disability prepared under section 153, 167 or 191 of the *Disability Act 2006*.