



New South Wales

# Guardianship Amendment Bill 2007

## Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

## Overview of Bill

The object of this Bill is to amend the *Guardianship Act 1987* (***the Act***) as follows:

- (a) to change the circumstances in which the Guardianship Tribunal (***the Tribunal***) may make a guardianship order that will not be required to be reviewed when it expires,
- (b) to add to the range of functions that may be exercised by the Tribunal when, at the discretion of the President of the Tribunal, it is constituted by fewer than 3 members and to make provision for the composition and procedure of the Tribunal when so constituted,
- (c) to provide that the Registrar of the Tribunal may, at the discretion of the President of the Tribunal, exercise certain functions of the Tribunal, and to provide for certain decisions of the Registrar made in the exercise of those functions to be reviewable by the Tribunal,
- (d) to extend the maximum term of office of a member of the Tribunal from 3 years to 5 years.

## Outline of provisions

**Clause 1** sets out the name (also called the short title) of the proposed Act.

**Clause 2** provides for the commencement of the proposed Act on a day or days to be appointed by proclamation.

**Clause 3** is a formal provision that gives effect to the amendments to the *Guardianship Act 1987* set out in Schedule 1.

**Clause 4** amends the *Powers of Attorney Act 2003* by omitting a provision made redundant as a consequence of the amendment made by **Schedule 1 [14]**.

**Clause 5** provides for the repeal of the proposed Act after all of the amendments made by the proposed Act have commenced. Once the amendments have commenced the proposed Act will be spent and section 30 of the *Interpretation Act 1987* provides that the repeal of an amending Act does not affect the amendments made by that Act.

## Schedule 1 Amendments

### Guardianship orders that are not required to be reviewed

**Schedule 1 [4]** changes the circumstances in which the Tribunal may make a guardianship order that is not required to be reviewed at its expiration, so that such an order can be made only if the Tribunal is satisfied that, in all the circumstances, it is in the best interests of the person who is the subject of the order that the order is not reviewed at its expiration. The Tribunal may still review the order if the Tribunal considers it necessary or if certain persons request a review.

### Fewer than 3 Tribunal members may deal with certain matters

**Schedule 1 [5], [6] and [8]** simplify the language of subsections dealing with the different member categories of the Tribunal. Proposed section 49 (3) (a) (which is inserted by **Schedule 1 [5]**) also makes an amendment to the qualifications of legal members of the Tribunal, by broadening the category to include all Australian lawyers.

Section 51 of the Act provides that the Tribunal is, for the purpose of exercising its functions, to be constituted by no fewer than 3 and no more than 5 members, of whom at least 1 must be a legal member, at least 1 must be a professional member and at least 1 must be a community member. However, section 51A provides that the Tribunal may be constituted by 1 or 2 members if the Tribunal is exercising functions in respect of certain listed functions.

**Schedule 1 [10]** repeals section 51A and inserts a new section, as follows:

Section 51A (1) includes an expanded list of functions that a Tribunal constituted by fewer than 3 members may exercise, at the discretion of the President of the Tribunal. When the Tribunal is constituted by fewer than 3 members, the President is no longer required to nominate such members in writing.

Existing section 51A (2) provides that the persons who may constitute the Tribunal are the President, the Deputy President and such other members of the Tribunal as the President may nominate. The new section 51A (2) and (4) specify, respectively, that:

- (a) when the Tribunal is constituted by 2 members, the 2 members can be any combination of the different member categories but must not be from the same member category, that is, they must not both be legal members, both be professional members or both be community members, and
- (b) when the Tribunal is constituted by a single member for the purpose of exercising the Tribunal's function of reviewing a decision of the Registrar, the single member must be either the President of the Tribunal, the Deputy President of the Tribunal or a legal member, and
- (c) when the Tribunal is constituted by 2 members for the purpose of exercising the Tribunal's function of reviewing a decision of the Registrar, at least one member must be either the President of the Tribunal, the Deputy President of the Tribunal or a legal member.

Section 51A (3) provides that, when the Tribunal is constituted by 1 or 2 members, the Tribunal may exercise its functions under Division 2 of Part 6 even if the substantive proceedings are not before the Tribunal.

Section 51A (5) defines terms used in the proposed section.

**Schedule 1 [9]** omits the current provision specifying who is the presiding member of the Tribunal, which is substituted by **Schedule 1 [11]**.

**Schedule 1 [11]** specifies who is to be the presiding member at any sitting of the Tribunal. The new section 51B differs from current section 51 (3) and 51A (2) by providing that, if the Tribunal is constituted by a single member, that member is the presiding member and, if the Tribunal is constituted by fewer than 3 members and does not include the President of the Tribunal, the Deputy President of the Tribunal or a legal member, the presiding member is the member of the Tribunal whom the President of the Tribunal nominates.

**Schedule 1 [12]** provides for the determination of questions of law arising at a sitting of the Tribunal. At present, questions of law are determined by the presiding member of the Tribunal. The amendment provides that, in the case of a Tribunal constituted by fewer than 3 members, if the presiding member of the Tribunal is not the President or the Deputy President of the Tribunal or a legal member, then the presiding member may not determine a question of law arising at a sitting of the Tribunal. In those circumstances, the presiding member must refer the question of law to the President of the Tribunal, the Deputy President of the Tribunal or a legal member nominated by the President of the Tribunal for decision and must then decide the question of law according to the decision on the reference.

**Schedule 1 [15]** limits the power of the presiding member at a sitting of the Tribunal to order a person to appear before the Tribunal to give evidence or produce documents so that the power will only apply if the presiding member is the President of the Tribunal, the Deputy President of the Tribunal or a legal member.

**Schedule 1 [21]** provides that, when the Tribunal is constituted by fewer than 3 members, the Tribunal is only required to provide each party with formal written reasons for a decision that relates to consent to major treatment, a review of a guardianship order, a refusal of a request to review a guardianship order, a review of a financial management order, a refusal of a request to review a financial management order, a review of the appointment of a financial manager or a refusal of a request to review the appointment of a financial manager. The Tribunal, when constituted by fewer than 3 members, is not required to provide formal written reasons for other decisions unless a party to the proceedings has requested reasons within 14 days of the decision or an appeal against the decision has been made to the Supreme Court.

**Schedule 1 [17], [18] and [22]** make consequential amendments.

#### **Tribunal may join parties**

**Schedule 1 [14]** extends the power of the Tribunal to join parties to proceedings before the Tribunal, so that it applies to any proceedings before the Tribunal, not just proceedings under the *Guardianship Act 1987*. This would include proceedings before the Tribunal under the *Powers of Attorney Act 2003* relating to the review of powers of attorney.

#### **Withdrawal of applications**

**Schedule 1 [16]** provides that an application to the Tribunal (whether under the *Guardianship Act 1987* or any other Act) cannot be withdrawn except with the consent of the Tribunal.

#### **Exercise of certain functions of the Tribunal by the Registrar**

**Schedule 1 [7]** omits the existing provision concerning the appointment of the Registrar and other staff of the Tribunal, which is substituted by proposed section 67B by **Schedule 1 [19]**.

**Schedule 1 [19]** provides for the appointment of a Registrar and other staff, sets out the functions of the Tribunal that the Registrar may exercise and provides for the review of decisions of the Registrar exercising such functions, as follows:

Proposed section 67B provides for the appointment of a Registrar and other staff (in updated terms).

Proposed section 67C sets out the functions of the Tribunal that the Registrar may exercise, at the discretion of the President of the Tribunal. For example, the section provides for the Registrar to dismiss an application if satisfied, on the face of the application, that the Tribunal does not have jurisdiction to deal with the application and to dismiss an application for want of prosecution. Alternatively, the Registrar may refer a particular matter to the Tribunal if the Registrar considers it more appropriate for the Tribunal to deal with the matter.

Proposed section 67D provides for the confirmation of decisions by the Registrar and provides that the Registrar must provide formal written reasons for any decision to refuse a request to review a guardianship order, to refuse a request to review a financial management order or to refuse a request to review the appointment of a financial manager.

Proposed section 67E provides for the review of certain decisions of the Registrar exercising functions of the Tribunal, either on the Tribunal's own motion or on the application of a party to proceedings before the Registrar. Those decisions are a refusal of a request to review a guardianship order, a refusal of a request to review a financial management order or a refusal of a request to review the appointment of a financial manager. The section also provides for the conduct of reviews of decisions of the Registrar and for the making of orders on such reviews.

#### **Term of office of Tribunal members**

**Schedule 1 [23]** provides that a member of the Tribunal can be appointed to hold office for a maximum period of 5 years (rather than the current maximum period of 3 years).

**Schedule 1 [27]** provides that the extension of the maximum term of members does not apply to the current appointment of current members of the Tribunal.

#### **Other amendments**

**Schedule 1 [1]** inserts definitions of terms used in the proposed amendments.

**Schedule 1 [2]** updates a reference to an Act that has been renamed.

**Schedule 1 [3], [24] and [25]** update references to a repealed Act and its provisions.

**Schedule 1 [13]** transfers two provisions concerning proceedings before the Tribunal to a more appropriate Division.

**Schedule 1 [20]** makes the language used in a section consistent.

**Schedule 1 [26]** provides for the making of savings and transitional regulations consequent on the enactment of the proposed Act.

**Schedule 1 [27]** inserts savings and transitional provisions consequent on the enactment of the proposed Act.



First print



New South Wales

# Guardianship Amendment Bill 2007

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New South Wales

## Guardianship Amendment Bill 2007

No. , 2007

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### A Bill for

An Act to amend the *Guardianship Act 1987* with respect to the review of guardianship orders, the constitution of the Guardianship Tribunal, the exercise of certain functions of that Tribunal by its Registrar and the review of the exercise of those functions and the term of office of members of that Tribunal; and for other purposes.

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<b>The Legislature of New South Wales enacts:</b>	1
<b>1 Name of Act</b>	2
This Act is the <i>Guardianship Amendment Act 2007</i> .	3
<b>2 Commencement</b>	4
This Act commences on a day or days to be appointed by proclamation.	5
<b>3 Amendment of Guardianship Act 1987 No 257</b>	6
The <i>Guardianship Act 1987</i> is amended as set out in Schedule 1.	7
<b>4 Amendment of Powers of Attorney Act 2003 No 53</b>	8
The <i>Powers of Attorney Act 2003</i> is amended by omitting section 35 (4).	9
<b>5 Repeal of Act</b>	10
(1) This Act is repealed on the day following the day on which all of the provisions of this Act have commenced.	11 12
(2) The repeal of this Act does not, because of the operation of section 30 of the <i>Interpretation Act 1987</i> , affect any amendment made by this Act.	13 14

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## Schedule 1 Amendments

		1
	(Section 3)	2
<b>[1] Section 3 Definitions</b>		3
Insert in alphabetical order in section 3 (1):		4
<i>community member</i> means a member of the Tribunal in the member category referred to in section 49 (3) (c).		5
<i>legal member</i> means a member of the Tribunal in the member category referred to in section 49 (3) (a).		6
<i>member category</i> means a category of member of the Tribunal provided for by section 49 (3).		7
<i>professional member</i> means a member of the Tribunal in the member category referred to in section 49 (3) (b).		8
<i>Registrar</i> means the Registrar of the Tribunal.		9
<b>[2] Section 3 (1), definition of “exempt premises”</b>		10
Omit “ <i>Education Reform Act 1990</i> ” from paragraph (a) (i) of the definition.		11
Insert instead “ <i>Education Act 1990</i> ”.		12
<b>[3] Section 3 (1), definition of “officer”</b>		13
Omit the definition. Insert instead:		14
<i>officer</i> means a person employed under Chapter 1A of the <i>Public Sector Employment and Management Act 2002</i> in the Government Service to enable the Tribunal to exercise its functions.		15
<b>[4] Section 16 Guardianship orders</b>		16
Omit section 16 (2A). Insert instead:		17
(2A) A guardianship order may contain a statement to the effect that the order will not be reviewed under section 25 (2) (b) at the expiration of the period for which it has effect, but only if the Tribunal is satisfied that, in all the circumstances, it is in the best interests of the person who is the subject of the order that the order is not reviewed at the expiration of that period.		18
<b>Note.</b> Section 25 (1) and (2) (a) provide for the review of a guardianship order on the Tribunal’s own motion or at the request of any person entitled to request a review. Those rights to review are unaffected by any statement in the guardianship order that the order will not be reviewed under section 25 (2) (b) at its expiration.		19
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<b>[5] Section 49 Constitution of the Tribunal</b>	1
Omit section 49 (3). Insert instead:	2
(3) Of the members of the Tribunal:	3
(a) at least 3 must be persons who are Australian lawyers of at least 7 years' standing ( <i>legal members</i> ), and	4
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(b) at least 3 must be persons (such as medical practitioners, psychologists and social workers) who, in the opinion of the Minister, have experience in assessing or treating persons to whom Part 3, 4 or 5 relates ( <i>professional members</i> ), and	6
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(c) at least 4 must be persons (other than those referred to in paragraph (a) or (b)) who, in the opinion of the Minister, have had experience with persons to whom Part 3, 4 or 5 relates ( <i>community members</i> ).	11
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<b>[6] Section 49 (4)</b>	15
Omit "members of the Tribunal referred to in subsection (3) (a)".	16
Insert instead "legal members of the Tribunal".	17
<b>[7] Section 50 Registrar and other staff of the Tribunal</b>	18
Omit the section.	19
<b>[8] Section 51 Composition of the Tribunal</b>	20
Omit section 51 (1). Insert instead:	21
(1) For the purposes of exercising its functions the Tribunal is to be constituted by no fewer than 3 and no more than 5 of its members of whom:	22
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(a) at least 1 is a legal member, and	25
(b) at least 1 is a professional member, and	26
(c) at least 1 is a community member.	27
<b>[9] Section 51 (3)</b>	28
Omit the subsection.	29

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<b>[10] Section 51A</b>	1
Omit the section. Insert instead:	2
<b>51A Fewer than 3 Tribunal members may deal with certain matters</b>	3
(1) Despite section 51 (1), the Tribunal may, at the discretion of the President of the Tribunal, be constituted by 1 or 2 members if the Tribunal is exercising its functions referred to in:	4
(a) Division 4 (Assessment and review of guardianship orders) of Part 3, or	5
(b) Division 2 (Review and revocation of financial management orders) of Part 3A, or	6
(c) Division 3 (Review of appointment of manager) of Part 3A, or	7
(d) section 36 (Who may give consent) in respect of giving consent to the carrying out of minor treatment or major treatment (but not special treatment or treatment in the course of a clinical trial), or	8
(e) Part 5A (Reciprocal arrangements), or	9
(f) Division 2 (Proceedings before the Tribunal) of Part 6 (other than functions under section 65), or	10
(g) section 67E (Review of decisions of the Registrar).	11
(2) When the Tribunal is constituted by 2 members, the members must not be in the same member category.	12
(3) When constituted by 1 or 2 members, the Tribunal may exercise functions referred to in subsection (1) (f) even if the substantive proceedings are not currently before that sitting of the Tribunal.	13
(4) For the purpose of exercising the function of reviewing a decision of the Registrar referred to in subsection (1) (g), the Tribunal (when constituted by 1 or 2 members) must be constituted by or include the President, the Deputy President or a legal member.	14
(5) In this section, <i>clinical trial</i> , <i>major treatment</i> , <i>minor treatment</i> and <i>special treatment</i> have the same meanings as in Part 5.	15
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<b>[11] Section 51B</b>	1
Insert after section 51A:	2
<b>51B Presiding member of Tribunal</b>	3
The presiding member at any sitting of the Tribunal is to be:	4
(a) in the case of the Tribunal constituted by one member— that member, or	5 6
(b) if the Tribunal is so constituted as to include the President of the Tribunal—the President of the Tribunal, or	7 8
(c) if the Tribunal is so constituted as not to include the President of the Tribunal but is so constituted as to include the Deputy President of the Tribunal—the Deputy President of the Tribunal, or	9 10 11 12
(d) if the Tribunal is so constituted as to include neither the President nor the Deputy President of the Tribunal but is so constituted as to include a legal member—the member of the Tribunal who is a legal member, or, if there is more than one legal member, such one of those members as the President of the Tribunal nominates, or	13 14 15 16 17 18
(e) if the Tribunal is so constituted as to include neither the President nor the Deputy President of the Tribunal nor a legal member—the member of the Tribunal that the President of the Tribunal nominates.	19 20 21 22
<b>[12] Section 54 Voting</b>	23
Omit section 54 (3). Insert instead:	24
(3) Despite subsection (1), questions of law arising at a sitting of the Tribunal are to be determined:	25 26
(a) if the presiding member is the President or Deputy President of the Tribunal or a legal member—by the presiding member of the Tribunal, or	27 28 29
(b) if the presiding member is not the President or Deputy President of the Tribunal or a legal member—by:	30 31
(i) referring the question of law to the President or Deputy President of the Tribunal or a legal member nominated by the President for the purposes of this section for decision, and	32 33 34 35
(ii) determining the question of law according to the decision on the reference.	36 37

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<b>[13] Part 6, Division 2, heading</b>	1
Omit the heading to the Division. Insert before section 53:	2
<b>Division 2 Proceedings before the Tribunal</b>	3
<b>[14] Section 57A Tribunal may join parties</b>	4
Omit “under this Act” from section 57A (1).	5
Insert instead “(whether under this or any other Act)”.	6
<b>[15] Section 60 Compulsion of witnesses</b>	7
Omit section 60 (1). Insert instead:	8
(1) The President or Deputy President of the Tribunal or the member presiding at a sitting of the Tribunal (if that person is a legal member), or any other legal member nominated in writing by the President for the purposes of this section, may, by instrument in writing, require any person on whom the instrument is served personally or by post:	9 10 11 12 13 14
(a) to appear before the Tribunal for the purpose of giving evidence, or	15 16
(b) to produce to the Tribunal any document that is relevant to the proceedings before the Tribunal,	17 18
at a time, date and place specified in the instrument.	19
(1A) The President or Deputy President of the Tribunal or the member presiding at a sitting of the Tribunal, or any legal member nominated in writing by the President for the purposes of this section, may:	20 21 22 23
(a) require a person who appears before the Tribunal to be sworn for the purpose of giving evidence on oath, and	24 25
(b) administer such an oath.	26
<b>[16] Section 64A</b>	27
Insert after section 64:	28
<b>64A Withdrawal of applications</b>	29
An application to the Tribunal (whether under this or any other Act) cannot be withdrawn except with the consent of the Tribunal.	30 31 32

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<b>[17] Section 67 Appeals to the Supreme Court</b>	1
Omit section 67 (2) (a). Insert instead:	2
(a) in the case of a prescribed decision made by the Tribunal	3
in the exercise of a function under section 51A or of a	4
decision made in the exercise of a function under section	5
64 (2)—within the period ending 28 days after the relevant	6
decision has been made, or	7
<b>[18] Section 67 (7)</b>	8
Insert after section 67 (6):	9
(7) In this section:	10
<i>prescribed decision</i> means a decision made in the exercise of a	11
function under:	12
(a) section 36 in respect of giving consent to minor treatment,	13
or	14
(b) Part 5A, or	15
(c) Division 2 of Part 6, or	16
(d) section 67E.	17
<b>[19] Part 6, Division 3A</b>	18
Insert after section 67A:	19
<b>Division 3A Registrar and other staff of Tribunal</b>	20
<b>67B Registrar and other staff of Tribunal</b>	21
A Registrar and such other staff as are necessary for the purpose	22
of enabling the Tribunal to exercise its functions are to be	23
employed under Chapter 1A of the <i>Public Sector Employment</i>	24
and <i>Management Act 2002</i> .	25
<b>67C Functions of the Registrar</b>	26
(1) The Registrar may, at the discretion of the President of the	27
Tribunal, exercise any function of the Tribunal in respect of:	28
(a) dismissing an application, at any stage of the proceedings,	29
if satisfied on the face of the application that the Tribunal	30
does not have jurisdiction to hear and determine the	31
application, or	32
<b>Example of lack of jurisdiction.</b> The Tribunal does not have	33
jurisdiction to hear and determine an application for a	34
guardianship order in respect of a person who is under the age of	35
16 years.	36

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(b)	dismissing an application, at any stage of the proceedings, for want of prosecution including, but not limited to, unreasonable delay by the applicant in providing the Tribunal with requested information, or	1 2 3 4
(c)	refusing (under section 25A) a request to review a guardianship order, or	5 6
(d)	refusing (under section 25O) a request to review a financial management order on an application under section 25R, or	7 8 9
(e)	refusing (under section 25T) a request to review the Tribunal's appointment of the manager of a protected person's estate, or	10 11 12
(f)	recognising (under section 48B) a person's status as the guardian of another person or as the manager of the estate of another person, or	13 14 15
(g)	joining (under section 57A) a person as a party to any proceedings before the Tribunal, or	16 17
(h)	granting leave (under section 58 (1)) for a person to be represented by an Australian legal practitioner or an agent, or	18 19 20
(i)	making orders (under section 58 (3)) requiring and securing separate representation for a person, or	21 22
(j)	giving directions as to the conduct of any proceedings before the Tribunal, or	23 24
(k)	adjourning proceedings before the Tribunal (under section 64 (1)), or	25 26
(l)	consenting to the withdrawal of an application to the Tribunal (under section 64A).	27 28
(2)	The President of the Tribunal may direct the Registrar to refer the exercise of a function in a particular matter to the Tribunal (as constituted under section 51 or 51A). The Registrar must comply with such a direction.	29 30 31 32
(3)	The Registrar may refer a particular matter to the Tribunal if the Registrar considers it would be more appropriate for the Tribunal (as constituted under section 51 or 51A) to deal with the matter.	33 34 35
(4)	The Registrar constitutes the Tribunal for the purposes of exercising any functions of the Tribunal conferred on the Registrar under this section. However, sections 65, 66, 68 (1A), 69 and 71 do not apply when the Registrar constitutes the Tribunal.	36 37 38 39 40

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<b>67D</b>	<b>Decisions of Registrar</b>	1
(1)	A decision of the Registrar made in the exercise of a function of the Tribunal is to be confirmed, as soon as practicable after the order arising out of the decision of the Registrar is made, in a written instrument that is:	2
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	(a) signed by the Registrar or, if it is not practicable for the Registrar to sign the instrument, by the President or Deputy President, and	6
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	(b) furnished to each of the parties unless, in the particular case, the Registrar considers that there is an appropriate reason not to furnish such an instrument to any or all parties.	9
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(2)	In the case of a decision under section 67C (1) (c)–(e), the Registrar must furnish each party to the proceedings before the Registrar with formal written reasons for the decision as soon as practicable after giving the decision. The reasons for a decision may be included in the instrument confirming the decision or in a separate instrument.	13
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(3)	No decision of the Registrar is to be vitiated merely because of any informality or want of form.	19
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(4)	The Registrar must cause a record to be kept of any decision made by the Registrar in the exercise of any function under section 67C and of the reasons for that decision.	21
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(5)	The regulations may make further provision with respect to the keeping of records of the exercise of any function under section 67C.	24
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<b>67E</b>	<b>Review of decisions of the Registrar</b>	27
(1)	The Tribunal may, on its own motion, review any decision of the Registrar made under section 67C (1) (c)–(e).	28
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(2)	The Tribunal must review any decision of the Registrar made under section 67C (1) (c)–(e) at the request of any person who was a party to the proceedings before the Registrar.	30
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(3)	A request by a person for a review of a decision of the Registrar must be made:	33
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	(a) within the period ending 14 days after the day on which the written instrument setting out the formal reasons for the decision is furnished to the person, or	35
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	(b) within such further time as the Tribunal may, in any case, allow.	38
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(4)	On reviewing a decision of the Registrar, the Tribunal must conduct a re-hearing of the matter and may take into consideration evidence that was not before the Registrar at the time of the decision under review.	1 2 3 4
(5)	On reviewing a decision of the Registrar, the Tribunal may make such orders as it thinks fit and may:	5 6
	(a) confirm the decision, or	7
	(b) set aside the decision.	8
(6)	Unless the Tribunal otherwise orders, a decision made by the Registrar in a matter to be reviewed remains in force until a decision is made at the review.	9 10 11
(7)	There is no right of appeal under section 67 from a decision made by the Registrar under section 67C.	12 13
	<b>Note.</b> Nothing prevents a person making a further application to the Tribunal in respect of any matter that has been the subject of a decision by the Registrar.	14 15 16
<b>[20]</b>	<b>Section 68 Decisions of Tribunal</b>	17
	Omit “giving” from section 68 (1B). Insert instead “making”.	18
<b>[21]</b>	<b>Section 68 (1C)</b>	19
	Omit the subsection. Insert instead:	20
	(1C) Despite subsection (1B), the Tribunal is not required to provide formal written reasons for a prescribed decision made in the exercise of a function under section 51A or for a decision made in the exercise of a function under section 64 (2), unless:	21 22 23 24
	(a) a party to the proceedings concerned requests the Tribunal, within the period ending 14 days after the relevant decision has been made, to specify its reasons for the decision, or	25 26 27
	(b) an appeal against the decision is instituted under section 67.	28 29
<b>[22]</b>	<b>Section 68 (3)</b>	30
	Insert after section 68 (2):	31
	(3) In this section:	32
	<i>prescribed decision</i> means a decision made in the exercise of a function under:	33 34
	(a) section 36 in respect of giving consent to minor treatment, or	35 36
	(b) Part 5A, or	37

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Guardianship Amendment Bill 2007

Schedule 1 Amendments

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	(c) Division 2 of Part 6, or	1
	(d) section 67E.	2
<b>[23]</b>	<b>Schedule 1 Provisions relating to the Tribunal</b>	3
	Omit “3 years” from clause 1 (1). Insert instead “5 years”.	4
<b>[24]</b>	<b>Schedule 1, clause 2 (3)</b>	5
	Omit “ <i>Public Sector Management Act 1988</i> ”.	6
	Insert instead “ <i>Public Sector Employment and Management Act 2002</i> ”.	7
<b>[25]</b>	<b>Schedule 1, clause 2 (3)</b>	8
	Omit “Part 8”. Insert instead “Chapter 5”.	9
<b>[26]</b>	<b>Schedule 3 Savings and transitional provisions</b>	10
	Insert at the end of clause 1 (1):	11
	<i>Guardianship Amendment Act 2007</i>	12
<b>[27]</b>	<b>Schedule 3, Part 6</b>	13
	Insert after clause 12:	14
	<b>Part 6 Provisions consequent on enactment of Guardianship Amendment Act 2007</b>	15 16
<b>13</b>	<b>Definition</b>	17
	In this Part:	18
	<i>amending Act</i> means the <i>Guardianship Amendment Act 2007</i> .	19
<b>14</b>	<b>Giving of reasons for decisions</b>	20
	Section 68 (1C), as substituted by the amending Act, extends to decisions made before the commencement of the amendment.	21 22
<b>15</b>	<b>Functions of Registrar</b>	23
	Section 67C applies so as to extend the power of the Registrar to exercise functions in relation to applications made and proceedings pending on the commencement of that section.	24 25 26

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**16 Term of office of Tribunal members**

The amendment made to clause 1 (1) of Schedule 1 by the amending Act does not apply to a person who was, immediately before the commencement of the amendment, a member of the Tribunal, unless that person is later appointed to a further term of office.

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