

Retirement Villages and Residential Parks - vary (or set aside) a previous Tribunal order or apply for an internal review

When to apply to vary or set aside a previous Retirement Village or Residential Parks Tribunal order

You may apply to SACAT to vary or set aside a previous Tribunal order, decision or direction (Retirement Village and Residential Parks matters only) where there is a relatively simple issue with the order which can be easily corrected.

The Tribunal will not automatically entertain any application to vary or set aside a previous Retirement Village or Residential Parks order.

The process should be used only where there is a reasonable basis for it. For example:

- some obvious unfairness in the process eg one of the parties did not get a notice of hearing or was unable to attend the hearing for a good reason (eg a medical condition)
- a change in the circumstances of one of the parties so that the original order is no longer appropriate eg a resident's pay has been delayed and so they will have to make a late payment, or a resident has suddenly and unexpectedly become ill and cannot move out on time
- an administrative error which has meant the order is unfair/flawed eg the wrong phone number was provided to a Tribunal member.

Choosing not to attend a hearing is not regarded as an appropriate reason to vary or set aside the previous order.

At the time of making an application, you should always provide evidence to support your case eg a medical certificate or other applicable evidence.

An application must be made within 1 month of the making or giving of the previous Tribunal order.

When to apply for internal review of a Retirement Village or Residential Parks order

If you disagree with a decision of the Tribunal (eg you consider the Tribunal has ordered too much or too little compensation, the decision is “unjust” or “unfair” or wrong) then you should lodge an application for internal review.

Other examples include:

- where you believe the Tribunal has incorrectly determined the amount of premium to be repaid.
- where you believe the Tribunal has incorrectly determined whether a term of a residence agreement is harsh or unconscionable.
- where you believe the Tribunal has incorrectly excused non-compliance with the Retirement Villages or Residential Parks Act
- where you believe the Tribunal relied on information provided by the other party which was false or that the other party lied in the hearing

- where you believe you have further information which you wish to provide to the Tribunal (only in exceptional circumstances as this information should have been produced at the original hearing)
- where you believe that the Tribunal should not have relied on the evidence of the other party and should have accepted your evidence instead.

SACAT does not guarantee the accuracy or completeness of this Information Sheet and does not accept any responsibility if you rely on it.

You should always seek your own legal advice.

An application for internal review must be made within 1 month of the making of the decision. If an application for Internal Review is lodged outside the one month time period, SACAT can extend the timeframe if it considers that it is just and reasonable to do so. You should not assume that an extension will be granted.

Information regarding fees and charges can be found at:

<http://www.sacat.sa.gov.au/bringing-a-case/fees-and-charges>

Applications to SACAT can be made via our online application form on the SACAT website. If you are seeking more information about lodging an application or believe you are ready to make an application for an Internal Review visit:

www.sacat.sa.gov.au/application-form

If you are not able to lodge your application online, you may also:

- Visit SACAT at our Pirie Street or Collinswood office to lodge an application in person with the assistance of an officer or volunteer; or
- Contact SACAT on **1800 723 767** and an Officer may assist via telephone.