



INFORMATION SHEET – CHALLENGING AN NTCAT DECISION

Apart from the general information in this factsheet, NTCAT cannot advise you whether to challenge a decision, or how to do so. If possible, you should obtain independent legal advice when you are considering the options described below.

If you were a party to a proceeding before NTCAT and disagree with its decision, there are several ways in which you may be able to challenge the decision.

The alternatives depend on the type of decision and the basis upon which you wish to challenge it.

There are three main options.

INTERNAL REVIEW

Most decisions made by NTCAT in its original jurisdiction are subject to review within NTCAT by a member or members not involved in hearing the original matter. The front page of the decision will usually indicate whether it is made in NTCAT's original jurisdiction. This type of review is referred to as an internal review under section 140 of the *Northern Territory Civil and Administrative Tribunal Act* (the Act).

The party seeking an internal review will need to complete and file a Form 1 – Initiating Application with NTCAT. There is a time limit of 28 days from the date of the decision to apply for an internal review (although it can be extended in some circumstances). An application fee applies.

APPEAL TO SUPREME COURT

Under section 141 of the Act, certain NTCAT decisions can be appealed to the Supreme Court. The right of appeal to the Supreme Court is confined to NTCAT decisions involving legal errors. In addition, the party seeking to appeal must obtain leave to appeal from the Supreme Court.

More information about Supreme Court process, including forms, time frames and fees for appeals, can be found at www.supremecourt.nt.gov.au or by contacting the Supreme Court Registry.

REOPENING A PROCEEDING

In some cases, where a party to an NTCAT proceeding did not participate in a hearing, or consented to an order, that party may apply to have the proceeding re-opened under section 80 of the Act.

NTCAT may reopen a proceeding if it is satisfied that the party had a reasonable excuse for not participating at a hearing, or if their consent to an order was improperly obtained. If a proceeding is reopened, NTCAT will ensure that the issues between the parties are properly considered.

The party seeking to reopen a proceeding will need to file a Form 3 –Ordinary Application. There is a time limit of 28 days after the decision to apply to have a proceeding reopened (although it can be extended in some circumstances). No fee applies for this type of application.

IMPORTANT INFORMATION - STAYS

The filing of an application for internal review, an appeal to the Supreme Court or an application to reopen a proceeding, does not affect the operation of the decision.

A party wishing to challenge an NTCAT decision will need to obtain a stay of that decision if they wish to prevent the other party from taking steps to enforce the decision.

A stay may be granted by NTCAT itself, or, in the case of appeals to the Supreme Court, by that Court. If an NTCAT order has been registered with the Local Court (see separate NTCAT fact sheet - *ENFORCING AN NTCAT ORDER*) then a stay will need to be obtained from that Court in order to prevent further enforcement.

Even when a stay is sought, there is no guarantee it will be granted. An applicant for a stay will need to demonstrate that there are good reasons why the other party should not have the benefit of an NTCAT decision until the challenge to the decision is determined.