



Child Support Review Directions

These Directions are given under section 18B of the *Administrative Appeals Tribunal Act 1975*.

About these Directions

1. Name of Directions

These Directions are the Child Support Review Directions.

2. Commencement

These Directions commence on 1 July 2015.

3. Interpretation

(1) An expression that is used in the *Administrative Appeals Tribunal Act 1975* has the same meaning, when used in these Directions, as in that Act.

(2) In these Directions:

AAT means the **Tribunal** as defined in subsection 3(1) of the **Act**.

Act means the *Administrative Appeals Tribunal Act 1975*.

child means a person under the age of 18 years who is not a party.

CSRC Act means the *Child Support (Registration and Collection) Act 1988*.

Child Support Registrar means the person referred to in section 10 of the **CSRC Act**.

Department means the Department of which the Child Support Registrar is an employee.

family violence order means an order (including an interim order) made under a law of a State or Territory prescribed under the *Family Law Regulations 1984* to protect a person from family violence.

hearing means the hearing of an application for a **review**.

lawyer means a person who has been admitted to practise law in an Australian jurisdiction and who holds a current practising certificate.

NAATI means the National Accreditation Authority for Translators and Interpreters Ltd.

party means a person referred to in subsection 30(1) of the Act or in section 95D of the **CSRC Act**, other than the Child Support Registrar.

presiding member means the member who will preside at the hearing whether or not the AAT is constituted by one or more members.

personal information means information or an opinion about an individual whose identity is apparent from the information or opinion.

representative means a person whom the AAT permits to represent a **party**.

review means the review of a decision specified in section 89 of the CSRC Act.

we or **us** means the **AAT**.

you means a **party**.

4. Application of these Directions

These Directions apply to an **AAT first review** (within the meaning of section 89 of the **CSRC Act**). Unless the contrary intention appears, they do not apply to an **AAT second review** (within the meaning of section 96A of the **CSRC Act**).

Extension of time

5. Application for extension of time

- (1) If you need an extension of time, you must apply in writing and include in your application your reasons for failing to apply in time as well as any submissions and documents which you wish us to take into account.
- (2) We will request the Department to give us the documents referred to in subsection 37(1) of the Act.
- (3) The extension application will be decided by the President or an authorised member.
- (4) We will not give notice of the extension application to any other person without a direction by the President or an authorised member.
- (5) Your extension application will be decided on the papers unless the President or an authorised member decides otherwise in your case.

Application for review

6. Written application

To make a written application for review, you should use the on-line lodgement facility or the form which are available through our internet site www.aat.gov.au.

7. Details required for application

- (1) If you make an oral application for review, we will ask for and record:
 - (a) your name;
 - (b) your residential address;
 - (c) your postal address (if different from your residential address);
 - (d) any telephone number on which you can be contacted during our business hours;

- (e) the decision which you want us to review;
- (f) the date of that decision;
- (g) the date on which you received notice of the reasons for the decision;
and
- (h) if you don't need an extension of time for making your application, your answers to any other questions on the application for review form.

8. Requirements for valid application

- (1) Subject to subsection (2), we will not register an application for review of a decision which is not listed in an item in the table in section 89 of the CSRC Act.
- (2) If you are seeking to make an application for review on behalf of a person listed in an item in the table in section 89 of the CSRC Act, you must satisfy us that you are:
 - (a) a lawyer instructed by a person so listed to make the application; or
 - (b) the holder of a power of attorney authorising the commencement of legal proceedings; or
 - (c) the appointed guardian of the person who lacks legal capacity; or
 - (d) the executor or administrator of the deceased estate of the person.
- (3) If you make an application for review in the circumstances listed in paragraphs (2)(b) to (d), you are a party for the purposes of these Directions.

9. Non-disclosure order to party

We will make and issue non-disclosure orders, under subsection 35(3) or (4) of the Act, to you and the other party at the earliest opportunity to protect the confidentiality of personal information acquired through the review.

Documents to be given to us

10. Documents for hearing

- (1) The Department must give us a copy of the decision to be reviewed within 3 working days after receiving our notification of your application for review.
- (2) The Department must not, without our permission, obliterate any information not listed in subsection (4) in the documents which the CSRC Act requires it to give to us and to you.
- (3) You must give us the evidence and information specified in any directions which we give to you by the date specified in those directions.
- (4) Unless we direct otherwise, you may obliterate the following information from a document which you give us:
 - (a) your tax file number or passport number;
 - (b) your Centrelink client reference number or child support identification number;

- (c) the number of the account on a bank statement (but not the numbers of any account to or from which money is transferred in the bank statement) other than the last four digits in that account number.
- (5) You must not obliterate any other information in a document which you give us without our permission.
- (6) You must give us any written submissions by the date specified in any directions which we give you.
- (7) If you are not directed to give us evidence, information or written submissions by a specified date, any document on which you intend to rely at the hearing must be given to us at least:
 - (a) 14 days before the hearing where no party resides outside Australia;
 - (b) 28 days before the hearing where a party resides overseas.
- (8) The Department must give us any written submissions, made under subsection 39AA(2) of the Act, in the timeframes specified in subsection (7).
- (9) The Department must give us any written submissions, made under subsection 39AA(5) of the Act, by the date specified in the order.
- (10) A document which is not given to us in accordance with subsections (3) to (7) will only be considered with the permission of the presiding member.

Note: Subsection 42A(5) of the Act permits the AAT to dismiss the application for review if the applicant fails to comply with a direction of the AAT in relation to the application.

11. Family violence order or history

- (1) Within 14 days of making, or being notified by us of, the application for review, you must give us a copy of any current family violence order which you obtained against another party to the review.
- (2) You must also tell us if your whereabouts, residential address, contact details and place of employment are not known to the other party due to a history of family violence.
- (3) If you obtain a family violence order against another party to the review, after the making or notification of the application for review but before the hearing, you must give us a copy of the order as soon as practicable.

Note: Subsection 21(3) of these Directions prescribes how a party, against whom another party has a current family violence order, must make any oral submissions to the AAT.

12. Statement of financial circumstances

If we give you a “Statement of financial circumstances” form, you must complete and return the form to us within 14 days.

13. Requests for another person to make submissions

- (1) If you want to be represented by another person at the hearing, you must seek our permission at least 21 days before the day of the hearing.
- (2) Your request must be made in writing and must state:
 - (a) whether the permission is sought for the person to make oral submissions or written submissions or both;

- (b) the name and contact details of the person;
 - (c) the relationship of the person to you;
 - (d) the reasons why you want to have the person make the submissions on your behalf.
- (3) We will give the other party a copy of your request and ask whether that party has any objection to it being granted.
 - (4) We will not usually permit both a party and a representative to make submissions.
 - (5) Even if you are represented, we may require you to answer questions at the hearing and may issue a notice under paragraph 95H(1)(c) of the Act for that purpose.
 - (6) We will make and issue a non-disclosure order to a representative who is not a lawyer.
 - (7) A copy of the order referred to in subsection (6) will also be sent to you.

Note: The matters which must be taken into account by the AAT in deciding whether to grant permission for representation are contained in subsection 32(3) of the Act.

Disclosure of information by us

14. Documents given to us by a party

- (1) We will give a copy of a document of a party that we consider is relevant to the review (or the relevant part of a document) to the Department and the other party.
- (2) Subsection (1) does not apply if the other party asked us not to send him or her any documents or correspondence in relation to the review.
- (3) If you don't want us to disclose particular information to the other party, you must tell us at a directions hearing or in writing stating your reasons, at or before the time you give us the document containing that information.
- (4) Your request will be refused if withholding the information from the other party could adversely affect the fairness of the review.
- (5) We will refuse to give you a document of the other party which contains his or her personal information, or the personal information of another person, by electronic means without that party's consent.

Note: Subsection 10(4) of these Directions prescribes the information which a party can obliterate from a document without a direction from us. Section 33 of these Directions contains the procedures in relation to receipt of notices and material electronically from the AAT.

15. Documents obtained by us from other persons

- (1) We will give you a copy of any document, obtained by the exercise of our statutory powers, if the document is to be considered in the review.
- (2) We will give the Department a copy of a document, obtained under section 95H of the CSRC Act, which is to be considered in the review.

- (3) Subject to subsection (4), no information will be obliterated by us in the copy of a document referred to in subsection (1) unless the President, the Head or a Deputy Head of the Social Services & Child Support Division or the presiding member directs otherwise.
- (4) We will obliterate in the copy of a document which we give to you:
- (a) the residential address or other contact details of a party, or the name or address of the party's employer, if there is a family violence order to protect that party;
 - (b) the residential address or other contact details of a party, or the name or address of the party's employer, if we have been advised that that information is not known to you due to a history of family violence;
 - (c) place names if the locality in which a party lives is not known to you due to a history of family violence;
 - (d) another party's tax file number or passport number;
 - (e) another party's Centrelink client reference number or child support identification number;
 - (f) the number of the account on a bank statement of another party (but not the numbers of any account to or from which money is transferred in the bank statement) other than the last four digits in that account number.

Note: This section does not apply to documents which the Department sends to the AAT or to copies of those documents which subsections 37(1AE) and 38AA(2) of the Act require the Child Support Registrar to give to the parties.

16. Access to documents by representatives

- (1) We will not send a copy of documents to a representative, who is not a lawyer, without the permission of the President, the Head or a Deputy Head of the Social Services & Child Support Division.
- (2) You may give your representative access to documents given to you by the Department or us for the purposes of the review.

17. No access to certain documents

- (1) Before or after completion of the review, we will not give you, or any other person, access to a document containing:
 - (a) notes made by a member in preparation for, or in the course of, a directions hearing or the hearing;
 - (b) any communication between our members, officers or staff in relation to the review.
- (2) After completion of the review, we will not give you access to a document containing personal information about another person unless the document was given to us by you.

18. Communication of protected information

- (1) Subject to subsection (2), communication of protected information for the purposes of subsection 16(3A) of the CSRC Act will be made through the President, the Head or a Deputy Head of the Social Services & Child Support Division.
- (2) A member may communicate protected information directly to a law enforcement authority if the member considers that the threat to the life of a person is immediate.

Directions hearing

19. Holding and attendance

- (1) If the review involves an application under Part 6A of the *Child Support (Assessment) Act 1989*, the presiding member will decide whether a directions hearing is to be held.
- (2) If the review does not involve an application under Part 6A of the *Child Support (Assessment) Act 1989*, the President, the Head or a Deputy Head of the Social Services & Child Support Division will decide whether a directions hearing is to be held.
- (3) Any directions hearing will be held by telephone.
- (4) You are required to attend any directions hearing and will not usually be permitted to appear by a representative.
- (5) We will give you at least 7 days' notice of the day and time of a directions hearing unless you and the other party have agreed to a shorter notice period.
- (6) If you fail to attend a directions hearing, we may:
 - (a) dismiss the application for review if you are the applicant; or
 - (b) direct that you cease to be a party to the review if you are not the applicant.

20. Record of directions hearing

- (1) We will electronically record a directions hearing.
- (2) You must not electronically record any part of a directions hearing.
- (3) Subject to subsection 27(4), we will not give the electronic recording, or a copy of the electronic recording, of a directions hearing to a party or any other person.

Hearing of a review

21. Oral submissions by telephone

- (1) You or your representative may ask us for permission to make oral submissions by telephone or by means of other electronic communications equipment.
- (2) We will give permission unless making oral submissions in that way could:

- (a) affect the efficiency or effectiveness of the hearing;
 - (b) impede proper consideration of the review by us; or
 - (c) adversely affect the privacy of the hearing.
- (3) If there is a current family violence order against you, you must make oral submissions to us by telephone or by means of other electronic communication equipment unless we have decided that the party protected by the family violence order is to make submissions by telephone.

22. Interpreters

- (1) We will not allow a relative or friend to interpret at a directions hearing or the hearing.
- (2) If you need the services of an interpreter at a directions hearing or the hearing, you must tell us within 14 days of making, or being notified of, the application for review.
- (3) If you are not proficient in English, we will arrange for an interpreter, accredited or recognised by NAATI in the relevant language, to attend any directions hearing and the hearing.
- (4) We will make an order directing the interpreter not to disclose personal information obtained by him or her in the course of the directions hearing or the hearing.

23. Adult persons who may be present at the hearing

- (1) At least 14 days before the hearing, you must tell us of any person (other than an interpreter or representative) whom you want to be present at the hearing.
- (2) If you want a person to give evidence, you must also tell us in writing of the matters about which you want the person to give evidence.
- (3) We will advise the Department and the other party of any notification received under subsection (1) or (2).
- (4) The presiding member will decide whether to take evidence from the person.
- (5) A representative will not usually be permitted to give evidence at the hearing.
- (6) The presiding member will direct who may be present at the hearing or any part of the hearing.
- (7) The presiding member will direct a person present at the hearing (other than a party or representative) not to disclose personal information about any person obtained by him or her in the course of the hearing.

24. No children at the hearing

We will not allow a child to be present during the hearing.

25. Giving evidence at the hearing

- (1) You will be asked to take an oath or make an affirmation before giving evidence.

- (2) A witness will be asked to take an oath or make an affirmation before giving evidence at the hearing, and refusal to do so may result in the presiding member refusing to take evidence from the witness.
- (3) A witness will not usually be permitted to be present at a hearing before or after giving his or her evidence.
- (4) A person attending before us to answer questions, pursuant to a notice under paragraph 95H(1)(c) of the CSRC Act, will be asked to take an oath or make an affirmation prior to answering the questions.

Note: Subsection 23(2) of these Directions prescribes what a party must do if he or she wishes a person to give evidence to the AAT.

26. Nature of a hearing

- (1) The hearing will be conducted in an inquisitorial manner.
- (2) A party or a representative will not be permitted to question a party or witness.
- (3) A party or representative may ask the presiding member to put a particular question to another party or witness.

27. Recording of hearing

- (1) We will electronically record the hearing.
- (2) You or your representative or any other person present at a hearing must not electronically record any part of a hearing.
- (3) Subject to subsections (4) and (5), we will not give the recording of the hearing, or a copy of the recording of the hearing, to you or any other person.
- (4) If you file an appeal under section 44 or 44AAA of the Act and want a transcript of the hearing, we will give a copy of the recording to our current provider of transcription services to prepare the transcript at your expense.
- (5) If you apply for second review under section 96A of the CSRC Act and want a transcript of the hearing, we will give a copy of the recording to our current provider of transcription services to prepare the transcript at your expense.

Note: See the note to section 35 of these Directions.

28. Adjournment requests

- (1) If you want us to adjourn a directions hearing or hearing, you must do all of the following:
 - (a) make a written request to us for the adjournment;
 - (b) make the request at the earliest opportunity before the directions hearing or hearing that you want adjourned;
 - (c) state in the request the reasons why you need an adjournment; and
 - (d) attach any supporting documents to your request.
- (2) If you request an adjournment of a directions hearing before the date of the directions hearing, we will refer your request to the President, the Head or a

Deputy Head of the Social Services & Child Support Division or to the presiding member.

- (3) If you request an adjournment of the hearing before the date of the hearing, we will refer your request to the presiding member.
- (4) If you request an adjournment of a directions hearing or hearing (as the case may be) on the day of that hearing, we will usually require you to make your request to the presiding member at the commencement of that hearing.

29. Failure to attend the hearing

If you fail to attend the hearing, we may:

- (a) proceed to hear the matter in your absence; or
- (b) dismiss the application for review if you are the applicant; or
- (c) direct that you cease to be a party to the review if you are not the applicant.

30. Material received after the hearing

- (1) Unless the presiding member has given you permission to give us submissions or other documents after the hearing, such documents will not usually be taken into account and we will return them to you.
- (2) If the presiding member decides that material received or obtained from any source after the hearing will be taken into account, he or she will decide whether to reconvene the hearing or invite a party to respond in writing to the material.
- (3) We will not usually allow a party to reply to another party's written response to material received after the hearing.

Reinstatement of an application

31. Request for reinstatement

- (1) If we have dismissed the application for review and you want us to reinstate it, you must tell us in writing why you are seeking reinstatement.
- (2) If you make an application for reinstatement more than 28 days after receipt of our notification of dismissal of the application for review, you must also explain your delay in requesting reinstatement.
- (3) We will give the other parties a copy of your reinstatement application with a notice that any submissions opposing reinstatement must be made in writing within 14 days.
- (4) We will decide your application for reinstatement on the papers unless we decide otherwise in the particular circumstances of your case.

Note: Regulation 17 of the *Administrative Appeals Tribunal Regulation 2015* specifies how a document may be given to a person and regulation 18 specifies that a document given electronically is taken to have been given on the day of dispatch. Section 29 of the *Acts Interpretation Act 1901* deems a document sent by post to have been delivered in the ordinary course of post unless the contrary is proved.

Communication with the AAT

32. Contact with members and giving us information

- (1) You must not attempt to directly communicate with a member in relation to the review outside of a directions hearing or hearing.
- (2) Any information which you want us to take into account in the review must be put in writing and may be delivered by hand, post, facsimile transmission or email to the address on our correspondence to you.
- (3) You must quote the review number in all communications with us.

Note: Sections 14 and 30 of these Directions contain directions about procedures where information is received from a party.

33. Notification by us by electronic means

- (1) We will give any notification or material to the Department by electronic means.
- (2) You may elect in writing to receive any notification or material from us by electronic means.
- (3) Notices or material which we give to you by electronic means will be taken to have been received by you on the day when we send the email.
- (4) An election under subsection (2) may be revoked by you by written notice to us at any time.
- (5) Your revocation takes effect from the date on which it is received by us.

Note: Subsection 14(5) of these Directions precludes personal information about a party being given to the other party by electronic means without the consent of both parties.

34. Request in relation to our decision

- (1) Where we have given you the reasons for our decision in accordance with section 43 of the Act, we will not give you any further explanation of our decision.
- (2) If you think that we have made an obvious error in the text of a decision or statement of reasons, you must make any request for correction to us in writing.

Note: Examples of obvious errors are given in subsection 43AA(3) of the Act.

Note: Section 60 of the Act confers the same protection and immunity on a member of the AAT in the performance of his or her duties as a Justice of the High Court.

Production of documents by us

35. Subpoenas etc.

- (1) Unless it is necessary to do so for the purposes of the Act or the CSRC Act, we will not produce to a court a document in relation to the review, including the recording of the hearing.
- (2) If a subpoena is issued to us for the production of the recording of the hearing for the purposes of an appeal under section 44 or 44AAA of the Act, we will

object to a copy of the produced recording being made by (or for) a party to the appeal.

Note: Section 66 of the Act prevents the AAT from being required to communicate to a court a ***protected*** document or information except in certain circumstances.

Justice Duncan Kerr
President

30 June 2015