

## COMPARATIVE TABLE OF RECOGNITION/REGISTRATION PROVISION FOR INTERSTATE GUARDIANSHIP/ADMINISTRATION ORDERS IN DIFFERENT AUSTRALIAN STATES AND TERRITORIES

*Date: August 2018*

*NB The following table does not deal with mutual statutory agency arrangements in place under state/territory legislation under which Public/State Trustees may appoint one another from time to time to be an agent for one another in the exercise of their powers and responsibilities.*

State /Terr	Recognition provisions in force and legislative provisions	States or Countries whose orders recognised/can be registered	Who can apply and for what?	Effect of Recognition Or Registration	View of effect of lapse/revocation of 'original' Order on recognised or registered Order	Contact person, Position and contact details
<b>ACT</b>	Yes ss. 8A and 12  <i>Guardianship and Management of Property Act 1991</i>	Other States, Territories or prescribed countries where its legislation substantially corresponds to ACT legislation. 39 countries have been prescribed per s 3 of the <i>Guardianship and Management of Property Regulation 1991</i>	Does not specify, but invariably the guardian or manager appointed under the external State, Territory or country law.  Apply for registration of his/her appointment as guardian or manager for the protected person who lives outside the ACT	On registration, the person is taken to be a guardian, and/or manager of the property, of the protected person as if the appointment had been made by the ACAT. (s.12(2) GAAPA)	No effect. Registration means the order operates as if an appointment by ACAT and so continues to apply for the purpose of making decisions affecting the protected person, or the protected person's property, in the ACT even if original order lapses or is revoked	Geoffrey McCarthy Presidential Member, ACAT (02) 6205 8673 <a href="mailto:geoffrey.mccarthy@act.gov.au">geoffrey.mccarthy@act.gov.au</a>  Last reviewed August 2018
<b>NSW</b>	Yes s.48A-48B  <i>Guardianship Act 1987</i>  s.16 Guardianship Regulation 2016	All States and Territories and New Zealand	Only the appointed guardian or financial manager  Apply for the recognition of status as guardian or financial manager	On recognition, the applicant is taken to be appointed under this Act as guardian or manager of the estate (as the case may be) of the other person.  The applicant's recognition may be	Not clear in the Act. View is that if original order no longer in existence then GD must revoke recognition as no longer an appointment to recognise	Jane Pritchard, Registrar NCAT Guardianship Division (02) 9556 7601 <a href="mailto:Jane.Pritchard@ncat.nsw.gov.au">Jane.Pritchard@ncat.nsw.gov.au</a>  Last reviewed August 2018

## COMPARATIVE TABLE OF RECOGNITION/REGISTRATION PROVISION FOR INTERSTATE GUARDIANSHIP/ADMINISTRATION ORDERS IN DIFFERENT AUSTRALIAN STATES AND TERRITORIES

Date: August 2018

State /Terr	Recognition provisions in force and legislative provisions	States or Countries whose orders recognised/can be registered	Who can apply and for what?	Effect of Recognition Or Registration	View of effect of lapse/revocation of 'original' Order on recognised or registered Order	Contact person, Position and contact details
				reviewed, varied and revoked as if it were an appointment under this Act. (s48B(3) and (5))		
<b>QLD</b>	Yes s.166-171 <i>Guardianship and Administration Act 2000</i>	All States and Territories and New Zealand	Any person  Apply for the registration of the order	Effect of registration is the order is treated as if it were an order made by the tribunal (s170 GAA)	No effect. Registration means as if a new order by GAAT so order has 'life of its own' and can continue even if original order no longer in existence	Mark Crofton Deputy Public Trustee and Official Solicitor, The Public Trustee of QLD (07) 3213 9300 <a href="mailto:Mark.Crofton@pt.qld.gov.au">Mark.Crofton@pt.qld.gov.au</a>  Last reviewed August 2018
<b>SA</b>	Yes provisions exist:  (1) Guardianship orders (s 34 <i>Guardianship and Administration Act 1993 (SA)</i> );  (2) Administration orders (s 48 <i>Guardianship and Administration Act 1993 (SA)</i> )	<u>Guardianship orders (s 34)</u> No states or territories currently recognised. Minister to enter into arrangements with other states/territories before recognition can occur.  No arrangements have been entered into.  <u>Administration orders (s 48)</u>	<u>Guardianship orders (s 34)</u> If Minister entered arrangement with another State or Territory re guardianship orders, then there would be no need to make an application to recognise order as it would automatically apply.  <u>Administration orders</u> If any state or territory were to be declared by the Minister to be a 'reciprocal state':	<u>Guardianship orders (s 34(2))</u> If such an arrangement exists, a guardianship order made in the other state or territory has, while the person to whom it relates is in SA, force and effect according to its terms as if it had been made under the <i>Guardianship and Administration Act 1993 (SA)</i> .	No view as no interstate arrangements in force	Jacqui Rugless Executive Senior Member Community Stream SACAT (08) 7424 7123 <a href="mailto:Jacqui.Rugless@sacat.sa.gov.au">Jacqui.Rugless@sacat.sa.gov.au</a>  Last reviewed August 2018

## COMPARATIVE TABLE OF RECOGNITION/REGISTRATION PROVISION FOR INTERSTATE GUARDIANSHIP/ADMINISTRATION ORDERS IN DIFFERENT AUSTRALIAN STATES AND TERRITORIES

*Date: August 2018*

State /Terr	Recognition provisions in force and legislative provisions	States or Countries whose orders recognised/can be registered	Who can apply and for what?	Effect of Recognition Or Registration	View of effect of lapse/revocation of 'original' Order on recognised or registered Order	Contact person, Position and contact details
	<p>But provisions are not in operation in SA: Act will not recognise interstate orders until (1) Minister enters into arrangements with other states/territories re guardianship orders, or (2) Minister makes a declaration about reciprocal states/territories re administration orders</p> <p>PLEASE ALSO NOTE: ss 32A and 32B of the <i>Aged and Infirm Persons' Property Act 1940 (SA)</i> in relation to protection orders for property of persons aged or infirmed.</p>	<p>No States or Territories currently declared to be a 'reciprocal state'. Minister to declare in Gazette any state or territory to be a reciprocal state before registration can occur.</p> <p>No declaration has ever been made to declare any reciprocal states.</p> <p><u><i>Aged and Infirm Persons' Property Act 1940 (SA) (s 3(2))</i></u> Governor can, by proclamation, declare any country, state or territory to be a proclaimed state.</p> <p>By proclamation published in the Government Gazette on 24 April 1985 the following jurisdictions are 'proclaimed states' for the purposes of the</p>	<ul style="list-style-type: none"> <li>• an authority invested by the laws of any reciprocal state with the custody or administration of the estate of a person with a mental incapacity could send a written request to the Public Trustee of SA authorising the Public Trustee of SA to be administrator of estate (s 48(2)); and</li> <li>• an administrator of the estate of a protected person who has property in a reciprocal state could send a written request to an authority in a reciprocal state who is or may be invested by its laws with the custody or administration of the states of persons who have a mental</li> </ul>	<p><u>Administration orders</u></p> <ul style="list-style-type: none"> <li>• Where Public Trustee of SA has been authorised by an authority in a reciprocal state, it has and may exercise in respect of property of the protected person in SA all the powers that could be exercised if he or she were the administrator of the estate of that person (s 48(2)); and</li> <li>• Where authority in reciprocal state, has been authorised by administrator of estate, may administer the property of the protected person that is in the</li> </ul>		

**COMPARATIVE TABLE OF RECOGNITION/REGISTRATION PROVISION FOR INTERSTATE GUARDIANSHIP/ADMINISTRATION ORDERS  
IN DIFFERENT AUSTRALIAN STATES AND TERRITORIES**

*Date: August 2018*

State /Terr	Recognition provisions in force and legislative provisions	States or Countries whose orders recognised/can be registered	Who can apply and for what?	Effect of Recognition Or Registration	View of effect of lapse/revocation of 'original' Order on recognised or registered Order	Contact person, Position and contact details
		Act:  NSW Victoria Tasmania Queensland Western Australia ACT NT New Zealand.	incapacity in reciprocal state, authorising that authority to administer property of protected person in the reciprocal state (s 48 (3)).  <u><i>Aged and Infirm Persons' Property Act 1940 (SA)</i></u> <ul style="list-style-type: none"> <li>an authority invested by the laws of any proclaimed state with the custody or administration of the estate of a person who is incapable of managing his affairs by reason of age, disease, illness or physical or mental infirmity can authorise in writing for the Public Trustee to manage the property of that person within SA (s32A);</li> <li>manager of protected person's estate who has property in a proclaimed</li> </ul>	reciprocal state (s 48(3)).  <u><i>Aged and Infirm Persons' Property Act 1940 (SA)</i></u> <ul style="list-style-type: none"> <li>Where Public Trustee of SA has been authorised by an authority in a proclaimed state, it has and may exercise in respect of property of the protected person in SA all the powers that could be exercised if he were the manager of the estate of that person (s 32A); and</li> <li>Where authority in proclaimed state, has been authorised by a manager of a protected person's</li> </ul>		

**COMPARATIVE TABLE OF RECOGNITION/REGISTRATION PROVISION FOR INTERSTATE GUARDIANSHIP/ADMINISTRATION ORDERS  
IN DIFFERENT AUSTRALIAN STATES AND TERRITORIES**

*Date: August 2018*

State /Terr	Recognition provisions in force and legislative provisions	States or Countries whose orders recognised/can be registered	Who can apply and for what?	Effect of Recognition Or Registration	View of effect of lapse/revocation of 'original' Order on recognised or registered Order	Contact person, Position and contact details
			state may direct authority of that proclaimed state who is or may be invested by its laws with the management of the estates of persons, however described under those laws, who are incapable of managing their affairs by reason of age, disease, illness or physical or mental infirmity to manage the property of the protected person in that proclaimed state (s 32B).	estate, may manage the property of the protected person that is in the proclaimed state (s 48(3)).		
<b>TAS</b>	Yes s.81 <i>Guardianship and Administration Act</i> 1995	Orders made under corresponding laws as declared by Minister and published In Gazette.  Registration of instrument/order of appointment	Only the appointed guardian or administrator	On registration of the Order the applicant is taken to be – (a) the guardian of that person; or (b) the administrator of the estate of that person – as the case may be,	None, the registered order becomes an order of this Board of its own right. The Board usually reviews the registered order soon after registration and replaces with a fresh	Ms Aneita Browning Acting Registrar Guardianship & Administration Board (03) 6165 7500 <a href="mailto:guardianship@justice.tas.gov.au">guardianship@justice.tas.gov.au</a>  Last reviewed August 2018

## COMPARATIVE TABLE OF RECOGNITION/REGISTRATION PROVISION FOR INTERSTATE GUARDIANSHIP/ADMINISTRATION ORDERS IN DIFFERENT AUSTRALIAN STATES AND TERRITORIES

*Date: August 2018*

State /Terr	Recognition provisions in force and legislative provisions	States or Countries whose orders recognised/can be registered	Who can apply and for what?	Effect of Recognition Or Registration	View of effect of lapse/revocation of 'original' Order on recognised or registered Order	Contact person, Position and contact details
				as if the applicant had been appointed as such by the Board for the purposes of the Act.  (s.81(3) GAA)	order in any event.	
<b>VIC</b>	Yes  Part 6A ss. 63A-63G of the <i>Guardianship and Administration Act</i> 1986 (GAAA)	All States and Territories  Only orders where subject of interstate order either: <ul style="list-style-type: none"> <li>• Resides in the other State and proposes to enter Victoria</li> <li>or</li> <li>• Has property in Victoria</li> </ul> (63A GAAA)	A guardian or administrator from the other State or Territory  or  the Public Advocate (Vic)  can apply to VCAT for registration of interstate order.  (63E(1) GAAA)	An interstate order registered under this Part has the same force and effect according to its terms as a guardianship/ administration order made under the Victorian Act.  (s63E(4) GAAA)	No effect. Registration means as if a new order by VCAT so is treated as Victorian Order and can be reviewed or confirmed as Tribunal sees fit even if original order no longer in existence.  (63F(5) GAAA)	Registrar (Human Rights Division, VCAT) 1300 01 8228  Registrar (Human Rights Division, VCAT) 1300 01 8228  <a href="mailto:humanrights@vcat.vic.gov.au">humanrights@vcat.vic.gov.au</a>  Last reviewed August 2018
<b>WA</b>	YES s.44A (guardianship) s.83D (administration) <i>Guardianship and</i>	Current guardianship orders made in all States and Territories are recognised for guardianship orders. All	No application is required, where the Minister has been satisfied that legislation corresponds sufficiently with the WA Act	While the subject person is in WA, their interstate guardianship order/administration type order which is in	If original order no longer in force in original State/Territory then not in force in WA. Arrangement	Kathy Halden Executive Manager SAT (08) 9219 3099  <a href="mailto:Kathleen.Halden@justice.wa.gov">Kathleen.Halden@justice.wa.gov</a>

## COMPARATIVE TABLE OF RECOGNITION/REGISTRATION PROVISION FOR INTERSTATE GUARDIANSHIP/ADMINISTRATION ORDERS IN DIFFERENT AUSTRALIAN STATES AND TERRITORIES

*Date: August 2018*

State /Terr	Recognition provisions in force and legislative provisions	States or Countries whose orders recognised/can be registered	Who can apply and for what?	Effect of Recognition Or Registration	View of effect of lapse/revocation of 'original' Order on recognised or registered Order	Contact person, Position and contact details
	<i>Administration Act 1990 (WA GA Act)</i>	<p>current administration orders made in other States and Territories except:</p> <ul style="list-style-type: none"> <li>• Northern Territory</li> </ul> <p>If Minister has entered arrangement with other State/Territories then Orders from those States/Territories will be operative in WA but only if the person the subject of the orders</p> <ul style="list-style-type: none"> <li>• enters WA from that State or Territory; or</li> <li>• enters that State or Territory from WA.</li> </ul> <p>(s.44A(1) &amp; s.83D(1) WA GA Act)</p>	<p>for recognition of orders, and such arrangements have been published in the <i>Gazette</i>. Orders are automatically operative in WA except for NT administration orders.</p>	<p>force under the laws of the other State or Territory has the same force and effect as a guardianship/administration order made under the WA Act.</p> <p>(s.44A(3) &amp; s.83D (3) WA GA Act )</p>	<p>only applies when original order in force in the original State/Territory</p>	<p><a href="#">au</a></p> <p>Last reviewed August 2018</p>
<b>NT</b>	Yes	<i>The Guardianship of Adults Act (NT)</i> , which commenced on 28 July 2016, contains provision in Part 3 for registration by NTCAT of 'interstate	Under s.54(2) an application for registration can be made to NTCAT by the represented adult or by an interested person (defined in s.3).	A registered order has effect as if made under the <i>Guardianship of Adults Act</i> but does not permit any act not permitted in the source	Effect of the registered order in the NT ceases if/when the order ceases in the source jurisdiction (s.55). In addition a registered	<p>Renata Blanch Registrar, NTCAT <a href="mailto:renata.blanch@nt.gov.au">renata.blanch@nt.gov.au</a></p> <p>Last reviewed August 2018</p>

**COMPARATIVE TABLE OF RECOGNITION/REGISTRATION PROVISION FOR INTERSTATE GUARDIANSHIP/ADMINISTRATION ORDERS  
IN DIFFERENT AUSTRALIAN STATES AND TERRITORIES**

*Date: August 2018*

State /Terr	Recognition provisions in force and legislative provisions	States or Countries whose orders recognised/can be registered	Who can apply and for what?	Effect of Recognition Or Registration	View of effect of lapse/revocation of 'original' Order on recognised or registered Order	Contact person, Position and contact details
		orders'. That expression is defined by reference to 'corresponding laws' prescribed in the <i>Guardianship of Adults Regulations</i> (NT). The guardianship/administration laws of each of the States and the ACT are prescribed.		jurisdiction (s.56).	order is required to be reassessed one year after registration (s.57).	