

Form 3

Application for internal review of decision – guidance for applicants

What is an internal review?

An internal review is a mechanism for a person to seek review of a range of decisions made by inspectors or the Regulator dealing with labour hire matters under the *Labour Hire Licensing Act 2017* (Qld). This guide explains the principles of internal review and how internal reviewers conduct reviews and make their decisions.

A decision made that is not open to an internal review may be subject to appeal to the Queensland Civil and Administrative Tribunal (QCAT).

Eligibility to make an application

Only an 'eligible person' can apply for internal review. There are different categories of 'eligible persons' for each reviewable decision, including:

- a person who received, or is entitled to receive an information notice
- an interested person – a person or organisation, other than a licensee, who has an interest in the protection of workers or the integrity of the labour hire industry.

Timeframe for application

A person who receives, or is entitled to receive an information notice must make an application within 28 days from the day the information notice was given about the decision, or if no information notice is provided, the day the person became aware of the decision.

An interested person's application must be made within 28 days after the information about the decision is first shown on the register of licensed labour hire providers.

Late applications may be permitted in some circumstances. The reviewer will consider a number of factors including your explanation for the late lodgement, whether it would adversely affect anyone else if it were accepted, and the views of the original decision maker.

Applying for a review of decision

An application for internal review must be made in writing using *Form 3 – Application for internal review of decision*. If the form is incomplete, you may be contacted to provide information or the application may be returned to you to be completed.

The timeframe for the review does not start until the completed application is received.

Review process

The review is a 'merits review'. This involves the reviewer 'standing in the shoes' of the original decision maker and considering the material that was available to the original decision maker at the time the decision was made, and any new, relevant information that becomes available during the review.

If a reviewer asks you for more information, you will need to provide it within the timeframe specified by the reviewer. A reviewer can also liaise with the original decision maker and other relevant people such as technical experts. Sometimes a reviewer might arrange a meeting with you or visit the workplace if they think it is necessary to help them make their decision and if it can be achieved within the review timeframe.

The reviewer considers the available information and makes a decision on the matter. This decision may:

- confirm the original decision
- amend the original decision
- substitute another decision for the original decision.

Internal reviewer

The internal review is undertaken by an officer who was not involved in the original decision. Reviewers aim to be consistent in their approach. They follow best practice in decision making to ensure their decision accurately reflects the law and that the facts are established based on evidence.

All decisions must provide for natural justice (or procedural fairness) to all of the parties, and deal with any real or perceived conflicts of interest or bias.

Reviewers must act independently and exercise their own judgment while having regard for the legislation, the Regulator's policies and procedures, and where relevant, accepted technical standards or guidance material. They must provide written reasons for their decisions within a strict timeframe.

You can withdraw your application at any time before a decision is made by the internal reviewer.

Multiple applications

At times, more than one 'eligible person' may apply for an internal review of the same decision. These applications will be considered by the same reviewer wherever possible. If an internal review has already been completed, the reviewer will decide whether another application on the same original decision will be accepted.

In making this decision the reviewer will consider the nature of the application and the review decision already made. Where a valid application is refused, you will be advised of your right to seek an external review.

Invalid applications

An application can be invalid for a number of reasons, including:

- you are not an eligible person
- the application seeks review of a decision that is not reviewable
- your application has been determined previously (i.e. you can only lodge one application per reviewable decision)
- it is a complaint about the behaviour of the decision maker
- there is disagreement about the compliance requirements of the reviewable decision.

You will be advised of the alternative avenues available to address your concerns if any of these apply.

Notification of reasons for decision

The Chief Executive is required to advise you in writing of the decision and the reasons for it, within 21 days of receiving a complete application. The written reasons should be clear about the relevant issues and processes that led to the decision.

If the Chief Executive does not give a review notice within 21 days, the Chief Executive is taken to have made a review decision confirming the original decision. You may then appeal this review decision.

Appeal

If you are not satisfied with the decision made at internal review, or the original decision made by the Chief Executive, you can apply for an external review of the decision by the Queensland Civil and Administrative Tribunal (QCAT). If the decision falls within the decisions reviewable by QCAT you must submit your written notice of appeal to QCAT within 28 days of receiving the notice of decision. The external reviewer may:

- confirm the decision being appealed
- amend the decision being appealed
- set aside the decision being appealed and make a substitute decision
- return the issue to Labour Hire Licensing Compliance Unit.

A person applying for external review may also have a right to seek that review by the Queensland Ombudsman where there is no right of external review by QCAT. An application for review by the Queensland Ombudsman should be made within 12 months of the day the applicant received or became aware of the original decision.

Further information

For further information about how to apply for an external review of decision, including a stay, visit.

- qcat.qld.gov.au or call QCAT on 1300 753 228
- ombudsman.qld.gov.au
- labourhire.qld.gov.au.

Form 3

Application for internal review of decision

Labour Hire Licensing Act 2017 (Qld)

Complete this form to apply for an internal review of decision under the *Labour Hire Licensing Act 2017 (Qld)*.

It is your responsibility to ensure you have completed the required fields and supplied all required documents. An incomplete application may delay the review process.

1. About you

Provide your details below. If you are an 'interested person' you will need to complete your details including your organisation or company.

Name of person applying for review:		
Name of organisation/business/company/government agency (if applicable):		
Name of contact person (if not the same as person applying for review):		
Postal address:	Postcode:	
Phone:	Fax:	Email:
Can we send the decision by email? <input type="checkbox"/> Yes <input type="checkbox"/> No		

2. Which of the following applies to you as being eligible to apply for a review?

- A person who received, or is entitled to receive, an information notice > Go to 3A
- An interested person under the *Labour Hire Licensing Act 2017 (Qld)* > Go to 3B

3. Which decision would you like reviewed?

A. Reviewable decision for a person under the *Labour Hire Licensing Act 2017 (Qld)*

- | | |
|---|---|
| <input type="checkbox"/> Refusal to grant a labour hire licence (s16) | <input type="checkbox"/> The granting of a labour hire licence (s16) |
| <input type="checkbox"/> Cancellation of a labour hire licence (s24) | <input type="checkbox"/> Suspension of a labour hire licence (s22) |
| <input type="checkbox"/> Imposition, variation or revocation of conditions on a labour hire licence (s29) | <input type="checkbox"/> Other decision (please specify below at section 5) |

B. Reviewable decision for an interested party under the *Labour Hire Licensing Act 2017 (Qld)*

- | | |
|---|---|
| <input type="checkbox"/> The granting of a labour hire licence (s16) | <input type="checkbox"/> Suspension of a labour hire licence (s22) |
| <input type="checkbox"/> Imposition, variation or revocation of conditions on a labour hire licence (s29) | <input type="checkbox"/> Other decision (please specify below at section 5) |

4. Date the decision was made, notice issued or information published

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5. Decision for review

Attach the notice of decision or provide details of when the decision was made, name of inspector or officer who made the decision, date you received notice or any other relevant details. If you require more space, attach additional sheets outlining your response.

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6. Why do you think the decision should be reviewed?

You may attach additional information to support your request. If you require more space, attach additional sheets outlining your response.

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7. Are you seeking a stay (i.e. suspension) of the decision?

No Yes

An application for review of a decision does not stay a decision. However, an applicant under s93(1) who is advised of a decision may immediately apply to QCAT (s96) for a stay of the decision. Please note: if you are seeking for a decision to be stayed, you will need to apply separately to QCAT for this. Ticking this box only indicates that you are intending to seek a stay of the decision.

8. If this application is lodged outside the prescribed time of 28 days, provide a reasonable explanation for the delay.

Name	Signature	Date

How to submit

Submit your completed application to the Internal Review Officer at:

Email: labourhire@oir.qld.gov.au

Post: Labour Hire Licensing Compliance Unit
PO Box 7129
Brendale, Qld, 4500

Lodgement timeframes

Applicants must lodge their application within 28 days of receiving the notice of the original decision. Interested persons must lodge their application within 28 days after the information about the decision is first shown on the labour hire licensing public register. Incomplete applications will be returned to the applicant for completion and may result in delays for a decision on the review.

What happens next?

You will be provided with written confirmation that your application has been received. A decision on the review will be made within 21 days of receipt of the application. The decision may confirm or vary the original decision or substitute the original decision for another decision. Once a decision has been made you will be provided with written confirmation of the decision and the reasons for it.

Further information

For further information about internal reviews of decisions visit labourhire.qld.gov.au or phone 1300 576 088.

If you have any questions about filling out the form please call 1300 576 088. Please keep a copy of this form for your records before submission.

Appeal

If your review is unsuccessful you may apply to the Queensland Civil and Administration Tribunal (QCAT) for an appeal of the decision. For more information go to qcat.qld.gov.au or call QCAT on 1300 753 228.

Privacy statement

The *Labour Hire Licensing Act 2017* (Qld) allows the collection of personal information to assess compliance. Information may be provided to Queensland Police and certain regulatory bodies to obtain relevant disciplinary information. Information may be provided to other authorised agencies as part of the application, renewal, complaints and enforcement process. Personal information will only be provided to other persons or agencies with the permission of the relevant person or where permitted or required by law.