

PAJA and CDWS

UNFAIR DECISIONS OF ADMINISTRATION IN YOUR DAILY WORK?

Are you experiencing decisions taken by the administration as being unfair? Maybe an administrator refuses a disability grant without telling the community member why? Or an administrator bases the decision on facts which are not in accordance with reality?

The legislator has realised that government often takes decisions that affect people's lives without giving them a chance to have their side of the story heard and without really explaining what they were doing. Therefore, the right to just administrative action is guaranteed by the Constitution as a basic human right (Section 33).

PAJA – LAW AGAINST UNFAIR ADMINISTRATION

The Promotion of Administrative Justice Act (PAJA) is a law that gives effect to this right by clearly setting out the rights people have within administrative procedures.

Whenever administration takes a decision that has a negative effect on people's rights,

PAJA requires administrators to...

- Tell the people what they plan to decide (**give prior notice**)
 - Allow people to tell their side of the story (**make representations**)
- } Before taking a decision
- Clearly explain their decisions
 - Tell people about their right to an internal appeal or review
 - Tell people that they have a right to ask for **written reasons**.
- } After taking a decision

WHY PAJA IS IMPORTANT FOR CDWS DAILY WORK

Many people do not know about the existence of PAJA and about the rights they have according to this law. They do not know that when their application for an older person's grant is being refused, they can ask for written reasons explaining why this happened. They do not know that they can appeal or even go to court to review the matter, if they have not been granted the chance to make representations before the decision has been taken.



CDWs at PAJA road show, Western Cape

Unfortunately, many administrators are also not aware of the existence of PAJA and the requirements it sets up for their decisions. Therefore, the procedures do not comply with the PAJA requirements, leaving the citizens in the dark about their rights.

As CDW you are in the position to make a difference!

By informing your clients about their rights according to PAJA, you can make sure that they get a fair procedure. You can show them how to ensure that they have the chance to make representations before a negative decision is being taken and how to request reasons after the decision has been taken.



Since you are confronted with administrative decisions on a daily basis, the impact of your support will be tremendous.

FUNCTION OF THE ATTACHED FORMS

The attached forms

- **Request for a prior notice and the opportunity to make representations before the decision is made**
- **Request for Reasons**

have been created by the PAJA project to make it easier for the citizens to enforce their rights.

No matter if the administration's decision consists in the refusal of a social grant, a first time home owners subsidy or a licence, the community member always has the right to get a prior notice, to make representations and to be given reasons. Therefore, the form sheets can be applied in all conceivable situations. Instead of requiring the community member to formulate the request for a prior notice or for reasons themselves, these forms enable the citizens to only fill in the gaps and sign the form.

USE OF THE ATTACHED FORMS - YOUR ROLE AS CDW



CDW at PAJA road show,
Western Cape

As CDW you should inform the community members about their rights according to PAJA. You could hand out copies of the attached forms to your clients, explain when using them is appropriate and help to fill in the forms. You can use the attached forms as master copy or download the forms under:

<http://www.doj.gov.za/paja/citizen.htm>.

The form "Request for a prior notice and the opportunity to make representations before the decision is made" is to be attached to each application which might result in a rejection by the administration.

The form "Request for Reasons" should be used in the case that the administrator has taken a negative decision without providing the reasons for his decision.

If the administrator receiving the request is ignorant of the PAJA requirements, you could refer him to the relevant internet pages: <http://www.doj.gov.za/paja/training.htm>.

If the administrator does not react on the request, you may refer the matter to the Office of the Public Protector, Private Bag X677, Pretoria 0001, Tel. 012 366 2700, or the South African Human Rights Commission, Private Bag X2700, Houghton 2041, Tel: 011 484 8300.

By informing the citizens about PAJA and helping to get the attached forms into use, you can make a big contribution to insuring the citizen's right to just administrative action.

Thank you very much for your support!

For further information material on PAJA, please contact: GTZAdministrator@justice.gov.za