

◆ **Check the local level**

- Ask a constituency office of a political party in your area for help;
- Complain to the area or regional manager of the department concerned; or
- Complain to your Ward Counsellor or the Provincial MEC of the relevant department.

◆ **Write to the Minister or Director-General**

Find out which Minister is in charge of the department and write a letter to them (or the Director-General of the department) telling them what your problem is.

◆ **NGOs, CBOs and Paralegals**

There are many non-governmental organisations (NGOs), community based organisations (CBOs) and paralegals in South Africa that can help. Most will do so for free. Check in your community whether there are any you can ask for assistance.

◆ **The Public Protector**

Where it looks like there has been corruption involved in the decision, you can ask the Public Protector for assistance. This is provided free of charge. Call the Public Protector, toll free, on 0800-112040.

◆ **The South African Human Rights Commission (SAHRC)**

You can ask the SAHRC for help. If they agree, they will do so for free. Call the SAHRC, toll free, on 0860-120120.

The AJA protects your rights!

The **Constitution** protects your rights as a citizen. Section 33 specifically says that government should be accountable, responsive, open and transparent in dealing with the people. The principle of **Batho Pele** is about "People First", setting the standards for a government which is committed to efficient and compassionate service delivery.

The AJA protects your rights by ensuring that administrative decisions made by government are just, fair and transparent. It also gives you recourse when decisions have been made which compromise your rights. For further information about the AJA visit:

<http://wwwserver.law.wits.ac.za/qja/index1.htm>

◆ **Legal Aid Board and Justice Centres**

If there is a Justice Centre in your area they will help you free of charge. If there is not yet a Justice Centre then ask the Legal Aid officer at the nearest Court to give you a lawyer free of charge to help you. Call the Legal Aid Board on 012-481-2700, or visit their offices at any court near you.

◆ **Take the matter to court for a review**

You can ask a court to review the decision. This must be done:

- Within 6 months of any internal appeal having been decided.
- (Where there is no internal appeal) within 6 months of finding out the decision.

Because this procedure is expensive and a bit complicated, you should ask an NGO or CBO to help you or you can ask the Legal Aid Board to provide you with a lawyer.

know

YOUR rights



PROMOTION OF

ADMINISTRATIVE

JUSTICE ACT



German Technical Cooperation

1. What is the Promotion of Administrative Justice Act (AJA)?

The AJA is a law to make sure that the government acts fairly whenever it takes decisions that might affect you. This includes telling you about a decision that might go against you before it is taken and giving you a chance to say why the decision should not go against you.

It also gives you the right to ask for written reasons for any decision by government that goes against you. Lastly, it allows you to make use of any internal appeals within the department or to ask a court to review such a decision.

To summarise, the AJA gives effect to the right to just administrative action in the Bill of Rights and ensures that administrative action is lawful, reasonable and procedurally fair.

2. What can I expect when I apply for something from the government?

You can now expect to be:

- Told what decision is being planned before it is taken;
- Allowed to tell your side of the story before a decision is made;
- Told what the decision is and of your right to internal appeal or review;
- Told that you have the right to request reasons;
- Given proper written reasons for the decision; and
- Able to challenge the decision in court.

3. How to request reasons

You can request reasons for any decision that negatively affects your rights. Sometimes, these reasons will be given without you having to request them. If not, you must request them within 90 days of finding out the decision.

EXAMPLE

If you apply for an old age pension, the provincial Department of Welfare must decide whether or not to award it to you.

When making this decision, the department must act fairly.

If they think that the decision might go against you, the department must write to you and tell you this. They must also give you a chance to say why the decision should not go against you.

If after consideration of your comments the department still decides not to award you the old age pension, you can ask them for written reasons for their decision. This will help you to see whether or not the decision was properly taken.

The written reasons from the department must explain clearly how the decision was taken and why it went against you. They must also tell you whether there is an internal appeal mechanism that you can use.

If it seems to you that the decision was not properly taken, you can either make an internal appeal or you can ask a court to review the decision. If the court agrees with you, it will order the department to award you the pension or to reconsider their decision.

Other examples are when you apply for:

- An ID or birth certificate
- A first time home owner's subsidy
- A work or residence permit
- Refugee or asylum seeker status

* Main picture: Children of the San tribe play on a sand dune in ancestral lands in the Kalahari Desert which were handed back by the government in a ceremony on Sunday 21 March 1999.

Your request must:

- Be in writing;
- Say what decision you are requesting reasons for;
- Say why you think the decision is wrong;
- Include your name, postal address, email address, fax and telephone numbers; and
- Be sent by post, fax, email or delivered by hand.

If you cannot write, ask a friend, relative or paralegal to help you. You can also ask someone at the department to write your request for you.

4. What reasons will I be given?

You must be given reasons within 90 days of the department receiving your request.

You must be told how the department reached its decision. Your questions, these must be answered.

Reasons must be in writing unless you have agreed to them being given to you verbally (by someone at the department or over the phone). Even then, you should also ask for the reasons to be given to you in writing so that you can easily refer to them should you decide to challenge them or the decision later on.

5. What if I am still not satisfied?

If you are still not satisfied after you have been given written reasons, there are a number of things you can do.

Internal Appeals

Some departments give you an internal appeal for decisions that go against you. For example, if you are not happy with a decision by your provincial Department of Welfare, you can appeal to the provincial Member of the Executive Council (MEC). Usually, this is free.