THE RENTING BOOK

AUTHORISED BY THE DIRECTOR-GENERAL OF THE JUSTICE AND COMMUNITY SAFETY DIRECTORATE

2021

The Renting Book reflects the law in the ACT as at March 2021.

Published by the ACT Government Justice and Community Safety Directorate.

Authorised by the Director-General of the Justice and Community Safety Directorate under the *Residential Tenancies Act 1997*.

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WELCOME TO THE RENTING BOOK

WHAT IS THE RENTING BOOK?

The Renting Book is a guide to rental laws in the ACT. It is primarily written for tenants, to explain their legal rights and responsibilities. It may also help landlords and real estate agents to make sure that properties are managed in accordance with the law.

Rental laws in the ACT are set out in the *Residential Tenancies Act 1997* (**the Act**). The Act applies to properties rented from private landlords (whether or not through a real estate agent) as well as to public housing rented from the Government and other forms of social housing. The Act aims to ensure that (among other things) people renting in the ACT have stable and secure housing and are protected from unfair practices.

The Act requires landlords to provide a copy of this Renting Book to the tenant (or tell the tenant where it can be obtained) before the tenancy starts.

The Renting Book covers the main issues that may arise before, during and after a tenancy. **It is a guide only. It does not cover every aspect of the Act or every situation.** The Act is also amended from time to time. You should always read your tenancy agreement closely, check the Act and seek legal advice if you are unsure about your rights or obligations. The Standard Residential Tenancy Terms, which form the basis for all tenancy agreements in the ACT are contained in Schedule 1 of the Act.

You can find the Act at the ACT Legislation Register at www.legislation.act.gov.au.

IS THIS BOOK FOR YOU?

The guidance in the Renting Book applies where a property (or a room in a property) is rented under a residential tenancy agreement (often referred to as a lease). If you are paying rent for your home, you will usually have a residential tenancy agreement, but there are a few exceptions.

Agreements to live in a caravan or mobile home in a mobile home park, a room in a club or boarding house, crisis accommodation or student accommodation on a university campus or other educational institution will usually be **occupancy agreements**. The law that applies to occupancy agreements is different and so the guidance in this Renting Book will not apply.

More information about occupancy agreements is available on the Justice and Community Safety website: https://justice.act.gov.au/renting-and-occupancy-laws

If you have an occupancy agreement (or if you are unsure what type of agreement you have), you can contact these services for **free and confidential advice**:

- the Tenancy Advice Service ACT on 1300 402 512 or TAS@legalaidact.org.au, or
- Canberra Community Law on (02) 6218 7900 or info@canberracommunitylaw.org.au Canberra Community Law can provide advice to occupants in crisis accommodation,

residential parks (long-stay caravan parks) or social housing (including social housing provided by community housing providers).

The Act (and this Renting Book) also does not apply to retirement villages, aged care accommodation, or short-term holiday accommodation (e.g. through platforms like AirBnB).

IMPORTANT NOTE ABOUT CHANGES TO RESIDENTIAL TENANCY LAWS IN RESPONSE TO THE COVID-19 GLOBAL PANDEMIC

In 2020 a range of temporary changes were made to the Act **to protect tenants impacted by COVID-19** and to assist landlords. As these changes are temporary and rapidly evolving they are not covered in this book. However, readers are advised that some of the information contained in this book may be altered by COVID-19 response measures. For more information on changes to residential tenancy law made in response to the COVID-19 pandemic, see: https://www.justice.act.gov.au/safer-communities/protection-rights/information-tenants-and-occupants-impacted-covid-19.

ESSENTIALS FOR TENANTS

- Read your residential tenancy agreement before you sign it.
- Do not sign anything unless you understand what it means. Never sign a blank form even if it looks official. Keep a copy of everything you sign.
- Read the condition report for the property and make sure you sign it and send it back, otherwise you will be taken to accept it. You have the right to add your comments to the report. Consider taking photos of the property on or soon after the day you move in as evidence of its condition. You may wish to send your photos to your landlord along with the completed condition report.
- Put all requests to your agent or landlord in writing. If important matters are discussed or agreed in a conversation, follow up with an email to confirm your understanding of the conversation.
- Communicate with your landlord or agent and keep them informed of any problems that may arise. Most problems are resolved by agreement.
- Let your landlord or agent know as soon as possible of any repairs that need to be done.
- Get written permission from your landlord and fellow co-tenant(s)if you want to move out or have a new housemate move in as a co-tenant or if you wish to sublet the property to someone else. You are not allowed to have new people (other than a domestic partner or children) living in the property without the landlord’s consent.

- Make sure you pay your rent on time. You are not allowed to withhold rent during a dispute with your landlord unless you have the approval of the ACT Civil and Administrative Tribunal (**ACAT**).
- You are always entitled to seek legal advice. The Tenancy Advice Service ACT is funded by the ACT Government to provide free legal advice to all tenants. You can contact them on 1300 402 512 or TAS@legalaidact.org.au. Other information and support services are listed in the 'Need more help?' section at the end of this book.
- If a dispute between you and the landlord (or agent) cannot be resolved, you have the right to take the dispute to ACAT. You do not need a lawyer in ACAT. Application fees may apply. You can contact ACAT on (02) 6207 1740 or tribunal@act.gov.au.
- The law prohibits landlords from retaliating against you (e.g. trying to evict you or putting you on a tenancy data base (also known as a tenancy 'blacklist') if you seek to enforce your rights).

NEW TENANT CHECKLIST

I have been given a copy of my residential tenancy agreement ☐

- I have read the agreement and asked questions if I didn't understand it ☐
- I know whether my agreement has a break lease clause ☐
- I know whether my agreement has a fair clause for posted people ☐
- If renting an apartment or unit, I have been given a copy of the owners' corporation's rules ☐

I have been given two copies of the condition report ☐

- I have made any necessary changes to the condition report and returned my signed copy within two weeks ☐

I have been given a copy of the energy efficiency rating statement for the property (if one exists) ☐

I have a receipt as proof that my bond will be lodged with the ACT Revenue Office ☐

I have provided my email address so the ACT Revenue Office can send me the bond lodgment receipt ☐

I am not being required to pay more than two weeks' rent in advance (unless I have chosen to pay more) ☐

I am not being charged more than 4 weeks' rent for bond ☐

I am not being charged for the initial supply of keys and security devices ☐

I know the rules on pets for my new home:

- I am allowed to keep a pet ☐
  (if my agreement does not state that the landlord's consent is required and I do not need permission from the owners' corporation of my unit complex)

  OR

- I must seek the landlord's written consent for my pet ☐
  (if my agreement states that consent is required. Landlords cannot refuse consent without the approval of ACAT.)
- **AND**
- I am aware that if I am in an apartment building or unit complex, I may also require permission from the owners' corporation as well as from my landlord. ☐

- There are smoke alarms in my new home and they work ☐
- I know which utilities bills I have to pay ☐
- I have the contact details for my landlord or real estate agent, including an address (physical or email address) where I can serve notices on them. ☐

END OF TENANCY CHECKLIST

- I have made sure the property is in substantially the same state of cleanliness and repair as it was when I moved in (fair wear and tear excepted). ☐
- If I have made any modifications to the property: I have agreed with my landlord on whether I need to undo the modifications or if they are to remain. ☐
- The final inspection has been done in my presence (unless I agreed otherwise) ☐
    - I have signed the final condition report based on the inspection (indicating clearly if I disagree with any aspects of it) ☐
    - I have returned all my keys. ☐
- My landlord, co-tenant(s) and I have discussed the approach we will take to the bond (see below for options). ☐
- My contact details (and those of my co-tenant(s)) are up to date with the ACT Revenue Office so they can contact me/us about the bond. ☐
- I have arranged for final meter readings and for accounts for utilities connected in my name to be closed on the date I leave the property. ☐
- I have not left any goods behind in the property. ☐
- I have changed my mailing address and/or arranged a mail redirection. ☐

RETURN OF BOND OPTIONS

At the end of the tenancy you, your co-tenant(s) (if there are any) and your landlord must determine an approach to the bond. Options for this are outlined below.

My landlord has confirmed within 3 days of final inspection that I/we will be refunded my bond in full and I/we have provided bank account details to them or rb@act.gov.au	☐
OR	
My landlord has provided an itemised list and costs for claiming part of my/our bond within 10 days of the final inspection. I/we agree with the landlord and have provided my/our bank details to my landlord or rb@act.gov.au for the bond to be returned to me/us.	☐
OR	
My landlord has provided an itemised list and costs for claiming part of my bond, within 10 days. I/we do not agree with the landlord claiming part of the bond and have sent a refund form to rb@act.gov.au as soon as possible.	☐
OR	
My landlord requested the refund of the bond be paid to them and the rental bonds office has requested I/we agree or dispute the claim made by my landlord, I/we have replied within 14 days to rb@act.gov.au noting that if I/we do not respond to the ACT Revenue Office within 14 days the ACT Revenue Office will pay out the bond in accordance with the request made by the landlord. I/we understand that if I/we dispute the claim the matter will be referred to ACAT for resolution.	☐

Note: A different process will apply if you are a co-tenant who is leaving a tenancy while your fellow co-tenants remain in the property and continue the tenancy agreement. See the section on share housing for more information.

STARTING YOUR TENANCY

This section of the Renting Book discusses the most important rules about how tenancies are started and issues you should consider before you sign a residential tenancy agreement.

KNOW YOUR AGREEMENT

A residential tenancy agreement is often called a 'lease'. It is a legally binding contract that includes all the terms associated with the tenancy. As a tenant, you must comply with the terms of the tenancy agreement (as must the landlord).

Read your agreement carefully so you know what is in the agreement before you sign it. If you do not understand something in the agreement, ask the agent or landlord for clarification, or seek independent legal advice. You may wish to get clarification on any points that are important to you in writing from the landlord or agent.

It is possible under the law for residential tenancy agreements to be oral (or partly written and partly oral). However, this is not the norm, and it is not advisable as it can give rise to confusion or disputes. It can be difficult to prove what was agreed in an oral conversation. Anything agreed with your landlord at the time of entering a tenancy agreement should preferably be recorded in writing as part of the agreement.

FIXED TERM OR PERIODIC AGREEMENT?

Make sure you understand at the beginning of your tenancy whether you have a fixed term or periodic agreement.

A **fixed term agreement** specifies a set duration for the agreement. It is common in the ACT for residential tenancy agreements to start out as fixed term agreements for 6 or 12 months.

Any residential tenancy agreement that does not specify a fixed term is a **periodic agreement.**

Whether your agreement is for a fixed term or periodic affects your rights and responsibilities, especially around when the agreement can be terminated. Generally speaking, it is easier for periodic agreements to be terminated, which gives you and the landlord more flexibility.

A fixed term agreement will become a periodic agreement if it is not renewed

If you have a fixed term tenancy and the term expires, and you do not enter into a new fixed term agreement with your landlord but you remain living in the property, your tenancy automatically becomes a periodic tenancy.

For example:

> You find a rental property and you sign a residential tenancy agreement with the landlord that states that the term of the agreement is from 1 July 2020 until 30 June 2021. You have a fixed term agreement.

> By 30 June 2021, you have not entered into a new fixed term tenancy agreement, but you remain in the property. On 1 July 2021, you have a periodic agreement.

> Your periodic agreement will continue until you or the landlord terminate it, or you enter into a new fixed term agreement with the landlord.

ANY CHANGES TO THE STANDARD TERMS?

Before you sign a residential tenancy agreement, pay attention to whether your agreement has any changes to the Standard Terms. The Standard Terms are the basic rules that form part of every residential tenancy agreement in the ACT. The Standard Terms can be found in Schedule 1 of the Act. Many of the rules described in the Renting Book come from the Standard Terms.

Tenants and landlords can add other terms to their agreement, and make changes to the Standard Terms, only in the circumstances described below.

Terms that can be added by agreement

A residential tenancy agreement can include **additional terms as long as those terms are consistent with the Standard Terms** and you and the landlord agree on their inclusion.

Common examples of additional terms in Canberra include:

> the 'fair clause for posted people' (see further below)

> the 'break lease clause' (see further below);

> a term that says that the landlord will pay for a gardener once every quarter;

> a term that prohibits smoking inside the property; or

> a term that requires the carpets to be professionally cleaned at the end of a tenancy, provided that the carpet is delivered in that condition at the beginning of the tenancy.

Terms that can only be added with ACAT endorsement

A residential tenancy agreement can only include a term that is **inconsistent with the Standard Terms** if:

> you and the landlord agree; <u>and</u>

> the term is endorsed by ACAT.

Most agreements do not include endorsed inconsistent terms, although in some cases there might be good reason to do this.

If your landlord proposes to include inconsistent terms in the agreement, these must be clearly marked or annotated in the agreement in a way to draw your attention to them.

If an inconsistent term is not endorsed by ACAT, it will be unenforceable, even if you have agreed to it by signing the lease.

Some examples:

> A landlord inserts a term into the agreement that says only one person can live in the property (e.g. a studio apartment) at any time. This term is inconsistent with clause 52 of the Standard Terms which provides that a landlord must not cause or permit interference with the reasonable peace, comfort or privacy of the tenant in the use by the tenant of the premises. It cannot be included unless you as the tenant agree and it is endorsed by ACAT.

> A landlord inserts a term into the agreement that says that the landlord may conduct inspections at any time and without notice. This term is inconsistent with the Standard Terms. It cannot be included unless you as the tenant agree and it is endorsed by ACAT.

Terms that cannot be added

A residential tenancy agreement cannot include a term that is **inconsistent with the Act** (other than the Standard Terms). ACAT cannot endorse such terms. Such terms are unenforceable, even if the tenant and landlord agree to include them. This is because the law is designed to protect tenants by making sure that landlords cannot try to 'contract out' of the basic minimum protections in the Act.

Example:

> A landlord inserts a term in the agreement requiring the payment of extra bond because you have a pet. This term is inconsistent with the Act. It cannot be included (and cannot be endorsed by ACAT).

Break lease clause

If you have a fixed term agreement, check if it includes a 'break lease' clause. If not, you might want to ask your landlord about including this clause.

The break lease clause determines the fee that you must pay if you end a fixed term agreement early (other than for a reason permitted under the Act). The fee will be capped at between 4 to 6 weeks' rent, depending on how much of the term of your lease has expired. See further below the section on 'Ending Your Tenancy' for details on how the break lease clause works.

You might wish to include a break lease clause if there is any chance you may not stay in your home for the full fixed term period.

If you do not include the break lease clause and you end up leaving the property early (other than for a reason permitted under the Act), **ACAT may order you to keep paying rent** until the date when your agreement would normally end, or for up to 25 weeks (whichever is the lesser amount).

However, your landlord is always under a duty to minimise any losses they may suffer (this is sometimes referred to as 'mitigating' loss). This means that if you break your lease, they must act to find replacement tenants as soon as possible. As soon as new tenants are found and commence their tenancy, your liability to pay compensation to your landlord will reduce by the amount that the new tenants pay in rent. If the new tenants pay the same or a higher

amount of rent than you were paying, this will mean that your liability to pay compensation will end from the date that the new tenants' tenancy agreement commences.

Fair clause for posted people

If you have a fixed term agreement, check if it includes a 'fair clause for posted people.' Reflecting the realities of life in Canberra, this clause allows either the tenant or the landlord to break a fixed term agreement if posting arrangements for their work require them to do so.

> The landlord may break a fixed term agreement if they are posted to Canberra during the fixed term.

> The tenant may break a fixed term agreement if they are posted away from Canberra during the fixed term.

The person who wishes to rely on the clause must provide a minimum of 8 weeks' notice to the other person before the agreement can be terminated, as well as evidence of their posting arrangements (e.g. a letter from their employer).

You should:

> Consider whether your employment arrangements make it desirable for the fair clause for posted people to be included in your agreement.

> Be aware, if it is included, that it may be exercised by the landlord to end your agreement early.

UNITS – OWNERS' CORPORATION'S RULES

If your new home is a unit or apartment it will have an owners' corporation that has rules about how the building will operate. The rules will cover such things as use of common space in the apartment building, The landlord or agent is required to give you a copy of the oweners' coroporation's rules at the start of your tenancy. Owners' corporation's rules are sometimes referred to as articles or by-laws and must be registered with the Land Titles Office to be enforceable.

You must comply with the owners' corporation's rules (and any notices given to you by the owners' corporation under the rules), unless the rules are inconsistent with the Standard Terms.

An example:

> A landlord provides a copy of the owners' corporation's rules. The rules say that tenants are not permitted to have visitors stay overnight. This rule is inconsistent with clause 52 of the Standard Terms, which entitles tenants to use the property without interference, and so tenants would not be required to comply with it.

However, if the owners' corporation's rules include rules about pets you must comply with them.

If you think the owners' corporation's rules for your new home are inconsistent with the Standard Terms, you should raise this with your landlord or agent, and you may wish to seek legal advice.

If you breach a rule of the owners' corporation, you may be issued with a rule infringement notice by the owners' corporation. This notice will outline what the breach is and what you must do to rememdy the breach. You may dispute the rule infringement notice if you believe you have not comitted a breach of the rule. However, if you fail to comply with a rule infringement notice, the owners' corporation can pursue the matter further through ACAT, where an order or penalties may be applied.

RENT

You have an obligation to pay rent in full and on time. Failure to pay your rent can be a ground for the landlord to terminate your agreement.

How much and how often?

Your residential tenancy agreement will state **how much rent is to be paid and when (how often) rent is to be paid**. Check that the rent as advertised for the property matches what is in the agreement. Many advertisements express the rent as a weekly amount, but landlords can ask for 2 weeks rent in advance and you can opt to pay more rent in advance (eg monthly) if it suits you to do so. You should raise any discrepencies between the advertised amount and the agreement.

A landlord or real estate agent **cannot require you to pay more than two weeks' rent in advance** unless you nominate this at your request (for example, if it suits you to pay rent monthly in accordance with your income cycle). If you are being asked to pay more than two weeks' rent in advance, you are entitled to say no.

If you agree to pay rent on a monthly basis, check the amount payable per calendar month stated in the agreement. Be aware that it will be more than 4 weeks' rent if the property was advertised with a weekly rent amount (as a month is longer than 4 weeks). For example:

> A weekly rent of $500 becomes $2172.62 payable per calendar month.

If you have any questions, ask the real estate agent or landlord how they calculated the rent amount, or check the accuracy of the amount using an online rent calculator.

Method of payment

The residential tenancy agreement should also state **how rent will be paid** e.g. directly into a bank account. The way in which rent is to be paid cannot be changed unless both parties agree. For example, if your agreement states that your rent is to be paid into a bank account, the landlord cannot demand that you pay the rent using a third party payment app.

Receipts for rent

If the rent is paid directly into a bank account, the landlord is not required to give you a receipt. The landlord is required to provide a receipt when the rent is paid:

> in person—a receipt must be given at that time; or
> by another method—the receipt should be provided or sent by post within one week.

A receipt for rent (or bond) should include:

> the date of payment;
> the period for which the payment was made;
> which property the payment was made for; and
> whether the payment was for bond or rent.

A note for landlords:

> Under the Act you are required to keep records of all rent paid for one year after the tenancy ends. Be aware that other legislation (e.g. tax laws) may require you to keep records for a longer period.

UTILITIES AND ENERGY EFFICIENCY

When advertising properties for rent, landlords or real estate agents must state in the advertisement whether the property has an existing energy efficiency rating ('EER'). Properties with higher EERs should be more energy efficient and save you money on your energy bills.

Make sure you are clear at the outset which bills you will need to pay for the property. Generally:

> You are liable to pay all utilities bills where the account is in your name. For example, if the gas or electricity bill is in your name, you are responsible for the charges.
> For water bills, however, the landlord is responsible for the supply charge, and the tenant is responsible for consumption charges (the bills will itemise supply and consumption separately).

A landlord cannot make you pay for services for which there is not a separate metering device for the property. For example, if there is no water meter for each apartment in an apartment building, the tenant cannot be required to pay water consumption charges as there is no way of accurately measuring their consumption. The landlord (through the owners' corporation) is responsible for that cost.

If the property you are going to rent has a current EER, the landlord or agent must give you a copy of the EER statement before your tenancy begins.

For tips on how to make your rental home more energy-efficient, and save money on your bills, see https://www.actsmart.act.gov.au/.

Landlords are responsible for all rates and taxes associated with the property as well as owners' corporation levies and fees(if applicable).

A note for landlords:

> ACT law requires landlords to pay land tax on rented properties that are not their principal place of residence. Landlords must tell the Commissioner for ACT Revenue if they start renting out a residential property as generally it will be liable for land tax. High penalties may apply if a landlord fails to notify the Commissioner of the rental property. Further information about land tax is available at: https://www.revenue.act.gov.au/land-tax.

PETS

If you are a tenant currently living in a rental property and you want to get a pet, see the information on pets in the 'During Your Tenancy' section below.

I am looking for a rental property and I have a pet (or I want to get a pet). How do I make sure I will be allowed to keep my pet?

Landlords are not permitted to include terms in residential tenancy agreements that prohibit pets outright. However, landlords can require you to ask for their consent to have a pet.

If the landlord requires you to ask for their consent to have a pet, they must state this in the advertisement for the rental property. It is an offence for the landlord not to do this.

If the advertisement for a rental property does not say anything about pets, this should mean that you are allowed to have a pet. It would be prudent to double check the position with the landlord or real estate agent in case there is a mistake in the advertisement.

This advertising requirement is intended to help prospective tenants to decide whether to inspect or apply for a property and to start the conversation with the landlord or real estate agent about their pet.

You are not obliged to disclose that you have a pet during the application process for a property. However, if you are interested in a property that does not permit pets without the landlord's consent, **think carefully about how you will obtain consent before you sign the residential tenancy agreement. You will not be permitted to keep a pet on the property without the landlord's consent.**

Can the landlord refuse consent for my pet?

Landlords are not permitted to refuse consent for pets unless they have the approval of ACAT.

This is intended to be a case-by-case process, where ACAT will consider the circumstances of the tenant and landlord, the nature of the property and the type of pet. If necessary, the ACAT process can happen before you sign the residential tenancy agreement (as prospective tenants and prospective landlords are able to bring matters before ACAT under the Act).

The information on pets in the 'During Your Tenancy' section below contains more detail on how the ACAT process works.

Can the landlord put conditions on their consent?

A landlord may grant consent for the pet while imposing reasonable conditions about the how many pets you are allowed to keep on the property, or the cleaning and maintenance of the property. ACAT's approval is not required for these conditions to be imposed.

Do I have to pay more bond because of my pet?

A landlord cannot require you to pay extra bond, or allow additional inspections, because you have a pet.

What if the pet causes damage to the property?

You will always be responsible for any damage that your pet causes to the property, including if the cost of damage exceeds the amount of bond you have paid.

I am looking to rent a unit titled property. Are the rules on pets different?

If you are looking to rent in an apartment building that is unit titled, you and your landlord must comply with the rules under rental laws as well as unit title laws and owners' corporation's rules that apply to keeping pets. See further below the information on pets in unit titled properties in the 'During Your Tenancy' section.

I have a disability and I have an assistance animal. Will my animal be allowed?

Discrimination law in the ACT (the *Discrimination Act 1991*) prohibits landlords from discriminating against a tenant who has a disability, which includes their reliance on an assistance animal. This means that landlords cannot disadvantage prospective tenants by refusing their application for a rental property because of their assistance animal. A landlord might ask for evidence (e.g. a letter from a health practitioner) confirming the need for the animal. The same applies to owners' coproations in unit titled properties.

BOND

How much?

A landlord or real estate agent is **not** permitted to ask for or accept more than 4 weeks' rent as a bond. They cannot ask you to 'top up' or increase the bond in any way.

Some examples:

> Tenants cannot be asked to pay more than one bond. If you enter into successive agreements with the same landlord for the same property, the original bond remains valid.

> Tenants cannot be asked for extra bond money for any reason e.g. as a condition of consent to keep a pet.

Lodging the bond

The bond must be lodged with the ACT Revenue Office (which is part of the ACT Government). You need to agree with the landlord on whose responsibility it is to lodge the bond.

The usual practice is for the landlord or real estate agent to lodge the bond.

> Landlords or agents can lodge bonds online using the Rental Bonds Portal on the ACT Revenue Office website (rather than filling in and submitting a bond lodgement form) or by filling in a web form.

> It is an offence for landlords or agents to keep the bond and not lodge it.

> A private landlord must lodge the bond within two weeks of receiving it, or within two weeks of the start of the tenancy (whichever is later).

> An agent must lodge the bond within 4 weeks of receiving it, or within 4 weeks of the start of the tenancy (whichever is later).

If you and the landlord agree that you should lodge the bond directly, you can do that online using the Tenant Bond Lodgement Form on the ACT Revenue Office website. Tips for filling in the form include:

> If there is more than one tenant who has contributed to the bond, make sure that all individuals are clearly listed on the form as parties to the bond.

> Do not include children or tenants who have not contributed any money to the bond. ACT Revenue will generally refund the bond to the persons listed in equal shares. Written consent is required where the refund is not in equal shares.

> Provide contact numbers and email addresses for all persons listed as parties to the bond. This is important as ACT Revenue may need to contact you at the end of your tenancy about how to refund the bond.

> If the contact details for any of the parties to the bond change during the tenancy from those listed on the bond lodgement form, make sure you update those details with the ACT Revenue Office.

> **There are special rules for how to manage the bond when there is a change of co-tenants during a co-tenancy.** See the section on share housing below for more information about this.

More information about how to lodge a bond (for tenants and landlords) is available on the ACT Revenue Office website at: https://www.revenue.act.gov.au/rental-bonds.

Regardless of who lodges the bond, **make sure that you get a receipt** from the ACT Revenue Office **as proof that the bond has been lodged**.

Rental Bond Help Program

If you want to start a tenancy but your income is low to moderate and you cannot afford to pay the bond upfront, you may be eligible for the ACT Government's Rental Bond Help

Program. The Program offers to pay up to 100% of the rental bond for approved applicants, as a loan that is interest free and can be repaid over 24 months.

For more information, see the Housing ACT website at:
https://www.myaccount.act.gov.au/rentalbondhelp/s/

Alternatives to bonds

The law permits landlords and tenants to use guarantees or indemnities instead of, or in addition to, a bond in some circumstances. A guarantee or indemnity is basically a contractual promise by a third party (e.g. a parent of one of the tenants) that they will be liable for the tenant's compliance with their obligations under the lease. For example, if the tenant fails to pay rent, the landlord can seek payment from the person who provided the guarantee or indemnity. If acceptable to a landlord, this type of arrangement may be a useful option for a tenant who is not able to pay the bond upfront.

A guarantee or indemnity can only be used (it will only be legally enforceable) up to the maximum amount payable as a bond (i.e. 4 weeks' rent). This means:

- when used in addition to a bond, the guarantee or indemnity can only make up the difference (e.g. the tenant might pay a bond of 2 weeks' rent, and use a guarantee or indemnity to cover the other 2 weeks' rent), or
- when used instead of a bond, the guarantee or indemnity can only be for a maximum amount up to 4 weeks' rent.

Importantly, there are additional strict rules that apply if the guarantee or indemnity is being provided to the tenant on a commercial basis (by a company, rather than a relative or friend). Companies may only offer commercial alternatives to bonds in the ACT if the standard contract used for the product is registered with the ACT Government (the Commissioner for Fair Trading). The Government maintains a register (which is publicly available) of any commercial products that are approved in the ACT for sale as alternatives to bonds.

This regulatory scheme is intended to provide protection to renters from commercial contracts that may contain significant fees payable by tenants. If you are considering a commercial alternative to a bond, check that it is a registered product in the ACT (or it will not be legal), and you may wish to seek legal advice before signing a contract.

CONDITION REPORT

A landlord or real estate agent is required to give you two copies of the condition report no later than the day after you move in. Condition reports must be substantially the same as the form published by the ACT Government.[1] A copy of the form is available on the ACT Revenue website:
https://www.revenue.act.gov.au/__data/assets/pdf_file/0020/1093043/Condition-Report.pdf

You must:

[1] Schedule 1, *Residential Tenancies Act 1997,* Clause 21 (2) of the Standard Residential Tenancy Terms.

> Check to see if you agree with the report. If you disagree with the report, make comments on the report about which parts you disagree with and why.

> Send a signed copy (with your comments, if any) back to the landlord or agent. You must send the report back within two weeks.

You might wish to take photos of the condition of the property, and in particular any signs of damage or parts of the condition report with which you disagree. Photos or videos can be attached to the condition report when you send it back.

The condition report is used as evidence to resolve disputes at the end of the tenancy about any damage you may have caused (and whether you should get your bond back), so it is important that it accurately reflects the condition of the property.

If you do not sign and return a copy of the condition report within two weeks, you are taken to agree with the report.

If a new co-tenant is added to a tenancy agreement during the course of a tenancy, the existing co-tenants will also need to provide the joining co-tenant with a copy of the original condition report for the tenancy. See the section below on share housing for more information.

SMOKE ALARMS

Your landlord is responsible for making sure that smoke alarms are installed and are in working order at the start of the tenancy.

A smoke alarm must be installed:

> in each storey of the property that has a bedroom:
  ❖ in every corridor or hallway associated with a bedroom;
  ❖ or if there is no corridor or hallway, in every part of the property that divides a bedroom from the remainder of the property; and

> in each storey of the property that does not have a bedroom.

Each smoke alarm must comply with Australian Standard 3786, must be installed on or near the ceiling and may be battery operated or hard-wired.

LOOSE-FILL ASBESTOS

The law in the ACT aims to prevent tenants from renting properties that are known to contain loose-fill asbestos, because of the serious health and safety risks from these properties. The ACT Government operated a voluntary buyback scheme that ensured that most properties that were identified as being affected by loose-fill asbestos have been demolished and the land remediated. However, a very small number of affected properties remain.

The ACT Government maintains an online Register that lists the remaining affected properties. From 1 July 2020, **any residential tenancy agreement entered into for an**

affected property that is listed on the Register will be void (meaning it will be invalid). The same will apply for occupancy agreements, subletting and any other agreement to allow someone to live in an affected property.

The Government's Register is available at: http://www.asbestostaskforce.act.gov.au/the-list/the-register.

You can check the Register to see whether the property you are considering renting is affected by loose-fill asbestos. Affected properties are also required to prominently display an asbestos management plan which would be visible during inspections.

Anyone who enters into a tenancy agreement (or other agreement) to live in an affected property will be entitled to apply to ACAT for compensation.

RESIDENTIAL TENANCY DATABASES

A Residential Tenancy Database is a commercially owned database which contains information about people who have been tenants and who have breached their agreements. These are sometimes called tenancy 'black lists.' The information has been supplied by real estate agents and landlords.

Many tenantsmay worry that they will be placed on a tenancy database if they attempt to assert their rights during the course of their tenancy agreement. However, under ACT law, a listing can only be made about a tenant in a database:

> after a tenancy agreement ends (not during the agreement), and

> if the tenant has committed a serious breach of the agreement.

A serious breach of the agreement means that:

> the tenant owed the landlord more money than the bond at the end of the lease (e.g. for significant outstanding rent or damage), or

> ACAT or a court made an order terminating the residential tenancy agreement because of the breach.

The information listed must be accurate and up-to-date and relate only to the breach. Listings must be removed after 3 years.

The agent, landlord or database operator **must tell the tenant about the listing at the time it is proposed**, and give the tenant opportunity to object to the listing in whole or in part.

Some agents and landlords check tenancy databases before entering into a residential tenancy agreement with a prospective tenant. Landlords and agents must notify prospective tenants if their usual practice is to use tenancy databases (and if so, which databases and how the prospective tenant can obtain information from the database).

Landlords and agents must inform a prospective tenant if a search of a database reveals information about them. The prospective tenant must be told: the name of the

database, the name of the person who listed the information, and how the prospective tenant can have the listing removed or amended.

If you believe that information about you has been or will be listed in a tenancy database other than in accordance with the law, you may apply to ACAT for an order to prohibit, remove or amend a listing and for compensation.

The collection and use of information in tenancy databases is also governed by privacy laws.

DURING YOUR TENANCY

TENANT'S OBLIGATIONS

As a tenant you have the right to exclusive possession and 'quiet enjoyment' of your new home, which means your landlord cannot interfere with your use of the property in reasonable peace, comfort and privacy.

You also have obligations as a tenant. In particular:

> You can only use the property for a residential purpose (rather than using the property as a place of business) (unless otherwise agreed in writing with your landlord).

> You cannot use (or allow others to use) the property for any illegal purpose. Permitting illegal activity on the property may allow the landlord to terminate your residential tenancy agreement.

> You must not interfere with the neighbours' quiet enjoyment of their homes or use the property in a way that causes nuisance to the local community.

> You must not leave the property vacant for more than 3 weeks without informing your landlord or real estate agent.

> You must not sublet (allow someone else to live in) part or all of the property without the written consent of the landlord (see further below on subletting).

> If you want to leave a co-tenancy while your other co-tenants remain or if you want to add a new tenant to your tenancy agreement there are also steps you must follow to do this. See the section on share housing below for more information.

RENT INCREASES

There are rules in the Act about how often your rent can be increased and by how much. Your landlord or real estate agent must also follow certain requirements to give you proper notice of the proposed increase. Make sure you know your rights if your landlord or agent proposes to increase your rent.

The way the rent increase rules apply depends on whether you are in a fixed term or periodic residential tenancy agreement (see the 'Starting Your Tenancy' section above if you are unsure what type of agreement you have).

How often can my landlord increase the rent?

If you are in a fixed term agreement, your rent cannot be increased, unless the terms of the agreement provide for rent increases to occur. This is not common, but check your agreement to make sure this does not apply to you. Even where your agreement provides for an increase, the rent cannot be increased at intervals of less than 12 months from the start of the tenancy or from the date of the last rent increase.

If you are in a periodic agreement, your rent can only be increased once a year. This means your rent cannot be increased during the first year of your tenancy (only at the end of your first 12 months). If your tenancy continues, rent can only be increased once each year thereafter (from the date of the last rent increase).

By how much can my landlord increase the rent?

The rules in the Act aim to ensure that rent increases are not excessive (unless exceptional circumstances apply). The Act permits landlords to increase rent by a certain amount, which is known as the 'prescribed amount'. In very simplified terms, the prescribed amount is inflation plus 10%of the inflation amount. In effect, the prescribed amount acts as a threshold on rent increases.

- Any increase above the threshold is considered an excessive rent increase under the Act.
- Your landlord can only impose an excessive rent increase if you agree or ACAT approves the increase.
- If your landlord or agent proposes a rent increase, they must tell you whether the increase is above or below the permitted threshold (the 'prescribed amount'). See further below on notification requirements.
- You are under no obligation to agree to an excessive rent increase.
- If you do not agree to an excessive rent increase, you need only inform your landlord or agent. If the landlord wishes to pursue the increase, it is their responsibility to apply to ACAT to obtain approval for it. The landlord will need to show ACAT that the rent increase should not be considered excessive in all the circumstances of the case.

The **rules on excessive rent increases apply in periodic tenancies.** If you are approaching the end of a fixed term agreement, and you are considering entering a new fixed term agreement (e.g. for a second year in the property), the new rent payable will be a matter for negotiation between you and the landlord. For example, you may decide not to enter into a new fixed term agreement and remain on a periodic tenancy if you consider that the new rent payable is an excessive increase.

How do I work out the prescribed amount myself?

If you are in a periodic tenancy and you receive notice of a proposed rent increase, you might want to check for yourself whether the increase is above or below the permitted threshold (prescribed amount).

The formula is based on the Consumer Price Index (**CPI**) published by the Australian Bureau of Statistics (**ABS**). The CPI is a commonly used measure of inflation. The ABS publishes new CPI figures every quarter at: https://www.abs.gov.au/Price-Indexes-and-Inflation. You will need to find the CPI figures for the cost of rent in the ACT. These figures are called 'index numbers'. To find the index numbers for rent in the ACT, you will need to look for the CPI table which details specific expenditure classes for each capital city (usually in a detailed Excel spreadsheet available for download on the ABS website).

To calculate the **prescribed amount** use this formula:

$$\mathbf{110} \times \left(\frac{\boldsymbol{A}-\boldsymbol{B}}{\boldsymbol{B}}\right)$$

Where:

> *"A"* is the *index number* for rents in the ACT in the CPI figures most recently published by the ABS; and

> *"B"* is the *index number* for rents in the ACT in the CPI figures that applied when your rent last went up (or at the start of the tenancy, if this is your first rental increase). This number should be from at least 12 months ago.

For example:

> The index number for rents in Canberra in March 2020 was **109.3**. This is the number *"A".*

> The index number for rents in Canberra in March 2019 (assuming that your last rental increase was 12 months ago) was **106.3**. This is the number *"B".*

> Substituting these numbers into the formula will give you the **prescribed amount**:

$$\mathbf{110} \times \left(\frac{\mathbf{109.3}-\mathbf{106.3}}{\mathbf{106.3}}\right)$$

$$= \mathbf{3.1}$$

The **prescribed amount** is 3.1%. This means your rent can be increased by up to 3.1% before it will be considered an excessive rent increase.

If your rent is $600 per week, the rent may be increased by $18.60 per week (3.1% of $600) before it exceeds the prescribed amount threshold.

How much notice do I need to be given before a rent increase?

For any rental increase to be effective, **the landlord must give you 8 weeks' notice in writing**. The notice must state:

> the amount of the proposed increase

- whether the proposed increase is more than the 'prescribed amount' (whether the increase exceeds the permitted threshold for rent increases), and
- if the proposed increase is more than the prescribed amount – the notice must state that **if you do not agree to it, the landlord must seek ACAT's approval before the increase can take effect**.

This last requirement is intended to ensure that tenants know they do not need to agree to an excessive rent increase and that they have the right to review by ACAT of the landlord's proposal.

If you think that you have not been given proper notice of the rent increase in accordance with these requirements, you should raise this as soon as possible with your landlord or real estate agent, and/or seek legal advice. The rent increase will not be valid under the Act unless it complies with the notification requirements (or it is otherwise approved by ACAT).

Can I challenge a rent increase that is less than the threshold?

If your landlord wants to increase your rent by less than the threshold, they are permitted to do so unless you apply to ACAT to challenge the increase (and provided the other rules around rental increases are being followed e.g. you have been given proper notice and 12 months or more have passed since the last increase).

Be aware that if you challenge an increase that is less than the threshold, you will need to show ACAT that the increase should be considered excessive. You may wish to contact the Tenancy Advice Service ACT (1300 402 512 or TAS@legalaidact.org.au) before taking the matter to ACAT.

How will ACAT decide rent increase disputes?

In deciding whether to approve a rent increase, ACAT is required to consider:

- when the rent was last increased, and by how much
- the landlord's outgoings or costs in relation to the property
- the value of any services, or goods or fixtures the landlord provides to the tenant
- the state of repair of the property
- rental rates for comparable properties, and
- the value of any improvements to the property carried out lawfully by the tenant.

ACAT will consider any other relevant circumstances of the case and determine the matter taking into account the views of the tenant and of the landlord.

Can I move out if I am unhappy with the rent increase?

If you are unhappy with the proposed rent increase and either you do not wish to go to ACAT, or ACAT has approved the increase, you can decide to end your periodic tenancy and move out instead. You must give 3 weeks' written notice to the landlord.

RENT REDUCTIONS

If you are experiencing problems with your property that you cannot resolve with your landlord or agent, you can apply to ACAT for an order that your rent be reduced for a period of time to compensate you. You will need to show ACAT that your use or enjoyment of the property has significantly diminished because:

- you have lost the benefit of an appliance, furniture, facility or service supplied by the landlord (e.g. the landlord agreed to provide a washing machine and it is broken and not being fixed)
- the landlord has failed to maintain the property in a reasonable state of repair (for matters which are the responsibility of the landlord)
- the landlord has failed to provide or maintain locks or other security devices to ensure that the property is reasonably secure
- you have lost the use of all or part of the property (e.g. part of the garden cannot be used because of storm damage that has not been fixed within a reasonable time), or
- the landlord has substantially interfered with your quiet enjoyment of the property – this includes your right to use the property in reasonable peace, comfort and privacy and to exercise all of your rights as a tenant.

Remember, **you are not permitted to withhold rent** if you are in a dispute with your landlord. If you do withold rent, you will be in breach of your agreement and your landlord may seek to evict you. Instead, you must apply to ACAT for an order to reduce the rent. You should consider seeking legal advice before making an application.

INSPECTIONS

How often can the landlord inspect the property?

Landlords are entitled to conduct the following standard inspections.

- Your landlord may undertake a first inspection of the property during the first month of the agreement. This is to make sure that there are no problems and that you are using the property as a home rather than for some other purpose.
- In addition to the first inspection, your landlord may inspect the property twice within each twelve-month period.
- In addition to the first inspection and the two routine inspections, the landlord may inspect the property in the final month of the tenancy. This is to make sure that the property is in a state of repair ready for a new tenancy.

The effect of these rules is that it is normal in a 12 month fixed term agreement for you to have an inspection every quarter.

In a periodic tenancy, after the first year, your landlord may conduct inspections twice a year.

You do not have to agree to any other inspections, unless they are for prospective new tenants or purchasers of the property (see below). For example, landlords cannot require you to undertake additional inspections as a condition of having a pet. If a landlord or agent wants to 're-inspect' a property after raising issues in relation to the condition of the property, this will count towards the twice yearly inspection limit.

Similarly, your landlord cannot require additional inspections if you want to add or remove a co-tenant from the tenancy agreement. If a landlord or agent does want to conduct an inspection which coincides with a change of tenants, this inspection counts towards the 2 per year limit on inspections. See the section below on share housing for more information.

How much notice do I get before an inspection?

Your landlord must give you at least one weeks' notice in writing before any standard inspection.

Inspections for prospective tenants or purchasers

In addition to the standard inspections discussed above, if you are moving out and the landlord wants to find new tenants, you must provide reasonable access to the property to prospective tenants during the final 3 weeks of the tenancy. Your landlord must give you 24 hours' notice that access is required.

If the landlord is selling the property, you must provide reasonable access for inspections by prospective purchases. Your landlord must give you 48 hours' notice that access is required. Only two inspections for prospective purchasers per week are permitted.

If you live in a rental property that is on the market for sale for a considerable time and your landlord requires access to the property for inspections for more than 8 weeks, you have the right to terminate your agreement and move out early, if you wish. See further the section on 'Ending Your Tenancy'.

You can choose whether you wish to be present when other people are being shown around your home.

What time can inspections take place?

Inspections must take place at a time negotiated by you and the landlord. The agreed time should be reasonable, taking into account your work and other commitments as well as those of your landlord.

Unless you consent, the landlord is not entitled to enter the property for inspections before 8am or after 6pm or on Sundays or public holidays.

Your landlord is not entitled to use their copy of the keys to enter the property if you disagree about a suitable time. If there is a dispute about when it is reasonable to undertake the

inspection, you or the landlord may apply to ACAT for an order about when the inspection will take place.

REPAIRS AND MAINTENANCE

Your landlord is responsible for maintaining the property, keeping it in a reasonable state of repair, and ensuring it remains reasonably secure. You should not intentionally or negligently damage the property.

You are responsible for notifying the landlord if there is a need for a repair. This is important because if you do not notify your landlord about the need for repair and the problem gets worse, you may be considered liable for some of the damage. For example, if you do not notify your landlord about a water leak in the ceiling and the ceiling subsequently collapses, you may be considered to have contributed to the damage.

The landlord's obligations to carry out the repairs depend on whether the repair is classified as urgent or not under the Act.

Urgent repairs

The following are urgent repairs:

- a burst water service
- a blocked or broken toilet
- a serious roof leak
- a gas leak
- a dangerous electrical fault
- flooding or serious flood damage
- serious storm or fire damage
- a failure of gas, electricity or water supply to the property
- a failure of any refrigerator or laundry appliance supplied with the property, or any service for hot water, cooking, heating or cooling
- any fault or damage that makes the property unsafe or insecure, or is likely to cause injury to person or property, or
- a serious fault in any door, staircase, lift or other common area that prevents (or causes undue inconvenience to) the tenant accessing or using the property.

You must notify the landlord about the need for urgent repairs as soon as practicable.

There is no fixed timeframe within which an urgent repair must be completed. **The landlord must carry out an urgent repair as soon as necessary, having regard to the nature of the problem.**

You can arrange for an urgent repair to be carried out at the landlord's expense, but only if:

> your landlord cannot be contacted (you must have made reasonable attempts at contact), or they fail to perform the urgent repairs within a reasonable time
> the value of the urgent repairs does not exceed 5% of your annual rent (e.g. if your rent is $450 per week, then you can arrange urgent repairs up to the value of $1,170 (5% of 450 x 52 weeks), and
> you attempt first to contact the qualified tradesperson nominated by your landlord in your tenancy agreement. If your landlord has not nominated a tradesperson, or if that person cannot be contacted or is unavailable, you can contact any qualified tradesperson to undertake the repairs.

If you follow these requirements strictly, then you can have your landlord billed directly for the urgent repairs. If you arrange urgent repairs outside of these requirements, you will be liable for the cost.

Non-urgent repairs

Any repairs that are not an 'urgent' repair are ordinary repairs. The landlord must make these repairs within 4 weeks of being notified (unless otherwise agreed with you).

Repairs to common property in apartment buildings

If you live in a unit titled building and repairs are required to common property, notify your landlord as soon as possible. Your landlord must take steps to require the owners' corporation to undertake the repairs as quickly as possible.

Regular maintenance by the tenant

Your landlord is not required to undertake repairs or maintenance that an ordinary tenant would reasonably be expected to do themselves. Common examples of this include that as the tenant:

> You are responsible for replacing the battery in smoke alarms (your landlord is responsible for making sure that a smoke alarm is installed, and it is in working order).
> You are responsible for changing light bulbs unless some specialist expertise or equipment is required.
> You are responsible for standard upkeep of the garden e.g. mowing the lawn and weeding.

If your new home has a garden or a pool, make sure you are clear at the beginning of your tenancy what your responsibilities are for maintenance.

Access for repairs

You must give your landlord access to the property for making or inspecting routine repairs, on 1 week's notice (or less if agreed).

For urgent repairs, your landlord must give you reasonable notice (which depends on the circumstances) and enter the property at a reasonable time.

MODIFICATIONS (CHANGES TO THE PROPERTY)

As a tenant, you may want to make changes or modifications to the property to make it work better for you as a home. There are some basic rules about modifications you need to follow.

> **You cannot make any modifications without your landlord's written consent.** Written consent includes consent granted via email or in a mobile phone message. You should make sure you keep a record of your landlord's consent to the modification, in the event there is any dispute.

> You are responsible for the cost of modifications (unless your landlord agrees to share the costs, e.g. if the modification improves the property).

> You must make sure the modifications are undone at the end of your tenancy, so the property is in substantially the same condition as at the beginning of the tenancy, unless your landlord agrees to the modifications remaining in place.

> You are responsible for the cost of undoing the modifications. Your landlord is under no obligation to compensate you for the modifications even if they remain in place.

> Your landlord may require you to use a suitably qualified tradesperson to do the modifications (or to undo them at the end of the tenancy).

> Your landlord may impose other reasonable conditions on their consent to the modification.

The rules for obtaining consent from your landlord depend on what kind of modification you want to make.

If the modification is a 'special modification', your landlord cannot refuse consent without ACAT's approval (see further below). The landlord has 14 days to decide whether to apply to ACAT, otherwise they will be taken to consent.

For all other modifications, your landlord can only refuse consent if it is reasonable for them to do so in the circumstances. If your landlord refuses consent and you think this was unreasonable, then you may apply to ACAT to overturn your landlord's refusal.

Special modifications

Special modifications are any modifications in one of the following categories:

> **Minor modifications** – anything that can be removed or undone so that the property is restored to substantially the same condition as at the start of the tenancy, fair wear and tear excepted (e.g. putting up picture hooks, installing a shelf, affixing blinds to a window, planting a herb garden or painting a wall).

> **Safety modifications** – anything that promotes the safety of people on the property (e.g. furniture anchors or child safety gates).

> **Security modifications** – anything that improves the security of the property or people on the property (e.g. installing deadlocks or alarms).

> **Disability-related modifications** – anything that assists a tenant who has a disability (e.g. access ramps, safety rails). The tenant must provide a written recommendation of a health practitioner in support of their request.

> **Energy-efficiency modifications** – anything that improves the energy efficiency of the property (e.g. switching to energy efficient lighting or putting glazing film on windows).

> **Telecommunications modifications** – anything that enables access to telecommunication services (e.g. installing an internet, phone or cable television connection).

If you make a request to your landlord in writing for a special modification, your landlord must apply to ACAT within 14 days of receiving your request, if they wish to refuse consent.

If your landlord does not apply to ACAT, or if they do not respond to your request within 14 days, then they are taken to have consented to the request.

The following table summarises the rules on consent to modifications.

Type of modification	Can landlord refuse consent?
Special modification: > Minor modification > Safety modification > Security modification > Disability modification > Energy efficiency modification > Telecommunications modification	Landlord needs approval from ACAT to refuse consent. Landlord must apply to ACAT for this approval. If the tenant requests consent in writing (e.g. via email), and the landlord does not respond within 14 days, the landlord is taken to have consented.
General modification (anything that is not a special modification)	Landlord can refuse consent, without needing approval from ACAT, as long as the landlord's decision is reasonable. Tenant may apply to ACAT for an order allowing the modification if they believe the landlord has unreasonably refused consent.

How will ACAT decide modifications disputes?

In any dispute about whether a modification should be permitted (whether a special modification or otherwise), ACAT must consider:

- whether the landlord would suffer significant hardship if the modification were made
- whether the modification would be contrary to the law for any reason (e.g. it would not be permitted under planning or building laws)
- whether the modification is likely to require modifications to other residential properties or common areas (e.g. in apartment buildings), and
- whether the modification would result in additional maintenance costs for the landlord.

ACAT will consider any other relevant circumstances of the case and determine the matter fairly taking into account the views of the tenant and of the landlord.

CHANGING LOCKS

Except in an emergency, the landlord or tenant may only change the locks for the property with the consent of the other party. The person who changes the locks is responsible for the cost, unless both parties agree that the cost will be shared.

In the case of an emergency, the landlord or tenant can change the locks without the consent of the other party. The person who changed the locks must give the other party a copy of the new key as soon as possible.

In a situation of family or personal violence, a tenant (or someone else living at the property) who is a protected person under a protection order can change the locks at their own cost without the landlord's consent. The person must provide a copy of the new key to the landlord as soon as possible, unless doing so would affect their safety.

PETS

The law in the ACT on keeping pets in rental properties changed on 1 November 2019. The following information applies to:

- fixed term agreements that started after 1 November 2019, and
- periodic tenancies, regardless of when they started.

If you have a fixed term tenancy that started before 1 November 2019, see the information at the end of this section.

If you own a pet and are looking for a new rental property, see also the information on pets in the 'Starting Your Tenancy' section above.

I am living in a rental property. Am I allowed to have a pet?

You are allowed to have a pet, unless your landlord obtains the approval of ACAT to refuse your pet. This is intended to be a case-by-case process, where ACAT will consider the circumstances of the tenant and landlord, the nature of the property and the type of pet. This process allows for a balance between the rights of tenants and landlords.

The starting point is to check what your residential tenancy agreement says. Landlords are not permitted to include terms in the agreement that prohibit pets outright. However, your agreement can require you to ask for the landlord's consent to have a pet (look for rules on 'keeping animals on the premises').

Some landlords are comfortable with pets and do not require their tenants to notify them or seek their consent.

> If your agreement does not say that your landlord's consent is required for you to keep a pet on the property, then you can go ahead and get a pet.

> There is no requirement for you to seek the consent of (or even notify) your landlord.

Some landlords do not permit pets on their properties without the tenant seeking their written consent first. This requirement must be specifically included in the residential tenancy agreement.

> If your agreement says that you must seek your landlord's consent in writing before getting a pet, then you must ask for consent.

> **If you get a pet without consent when consent is required under your agreement, you will be in breach of your agreement.**

If your landlord requires you to seek consent for a pet, there is a process that must be followed.

> You must put the request in writing to your landlord (email or even a text message is fine). Keep a copy of your request. Make sure your request is as specific as possible – What pet would you like to get? How many? Are there any issues with cleaning or maintenance, or neighbours (e.g. in an apartment building), that you may need to think about? Your landlord may want to know how you will handle these issues.

> Your landlord must respond to your request within 14 days of receiving your request.

> If your landlord does not respond within 14 days, they are taken to have consented to your request. This means you can go ahead and get the pet. You should do your best (within reason) to check that your landlord has received your request (and when they received it) before getting a pet.

Your landlord has two options when responding to your request.

Your landlord can agree to your request, with or without conditions.

> Your landlord can impose reasonable conditions about the number of animals you are allowed to keep on the property, or the cleaning and maintenance of the property.

> If your landlord wants to impose other conditions (that do not relate to the number of animals or the cleaning and maintenance of the property), your landlord needs to apply to ACAT for approval of those conditions.

> If you think the conditions your landlord wants to impose are unreasonable, you can apply to ACAT to resolve the dispute.

If your landlord wants to refuse your request, they must first seek an order from ACAT approving their refusal.

> Your landlord must lodge the application with ACAT within 14 days of receiving your request, if they wish to take this route.

Your landlord may have been to ACAT before and ACAT may have agreed to refuse a previous tenant's request to a pet. This does not mean your landlord can refuse your pet outright. Your circumstances, or the type of pet you are requesting, may be different. Generally a landlord will need ACAT's approval on a case-by-case basis to refuse any request from a tenant for a pet. However, you should think about the reasons ACAT may have previously agreed that a pet should not be permitted in the property, and whether these apply in your case.

How will ACAT determine applications about pets?

ACAT will consider the matter independently. ACAT will take into account your views and those of the landlord, as well as the nature of the property and the pet in question.

ACAT may approve the landlord refusing consent to your pet if:

> the property is unsuitable for the pet

> keeping the pet would result in unreasonable damage to the property

> keeping the pet would be an unacceptable risk to public health or safety

> the landlord would suffer significant hardship from the tenant keeping the pet, or

> keeping the pet would be contrary to the law.

Key points to remember if you do get a pet

You have rights and obligations as a tenant in relation to your pet. In particular:

> **You will be responsible for any damage to the property caused by your pet, including if the amount of damage exceeds your bond.**

> Your landlord cannot require you to pay extra bond because you have a pet.

> Your landlord cannot require you to accept additional inspections because you have a pet.

I live in a unit titled property. Are the rules on pets any different?

The rules discussed above will still apply to tenants in unit titled properties insofar as you are dealing with your landlord. These rules govern the relationship between you and your landlord and protect your landlord's interest in the rental property.

However, you and your landlord must also comply with the rules on pets in the *Unit Titles (Management) Act 2011*. These rules govern the communal relationships involved (between you and the other residents in the apartment building) and protect the interests of all owners and residents in unit titled properties.

The owners' corporation's rules will govern the process you need to follow as a tenant to make sure you are permitted to keep your pet.

If your owners' corporation's rules have a 'pet friendly rule' that allows pets to be kept without seeking consent from the owner's corporation, then you can have a pet in accordance with that rule. The pet friendly rule may impose conditions (e.g. around the number of pets you may keep, cleaning or maintenance, supervision when using common property etc) so you should make sure you understand what the rule requires.

If your owners corporation's rules do not have a pet friendly rule, you will need to ask the owner's corporation for consent to keep your pet, even if you have already received the consent of your landlord. The owner's corporation must respond in writing. If you do not receive a response within 3 weeks of your request, the owner's corporation is taken to consent.

The owner's corporation may respond by granting consent (which may be subject to reasonable conditions), or by refusing consent. If consent is refused, the reasons must be stated. The owner's corporation may not unreasonably refuse consent.

If you think the decision of your owner's corporation is unreasonable, you may take the dispute to ACAT.

I have a disability and I need an assistance animal. Will my animal be allowed?

The ACT's discrimination laws (the *Discrimination Act 1991*) prohibit landlords from discriminating against a tenant who has a disability, which includes their reliance on an assistance animal. A tenant who needs to get an assistance animal because of their disability should still notify their landlord in writing. A landlord might ask for evidence (e.g. a letter from a health practitioner) confirming the need for the animal. Landlords cannot lawfully refuse a tenant's genuine request for an assistance animal. The same applies to owners' corporations in unit titled properties.

My fixed term tenancy began before 1 November 2019. What are the rules?

Check the rules in your tenancy agreement.

If the agreement does not mention pets at all, you are permitted to have a pet and you do not require your landlord's permission.

If your agreement requires your landlord's permission to keep a pet, you need to seek permission and your landlord may refuse.

If your agreement prohibits you from keeping pets on the property, you may not have a pet. You may wish to check with your landlord in case they agree to vary the terms of your agreement. You should get any such agreement in writing.

If you stay in the tenancy after the fixed term is ended, then the new rules in relation to pets will apply after the expiry of your fixed term.

SUBLETTING

Subletting is when you (as the tenant) allow someone else (other than a child or domestic partner) who is not named on the lease to live in all or part of the property, regardless of whether you stay living there or not.

You are not allowed to sublet the property without the written permission of the landlord. The landlord has the right to know (and to approve) who is living in the property.

Subletting without permission is a ground for the landlord to seek to terminate your agreement.

Further, the subletting arrangement will be legally unenforceable, meaning the person to whom the property is sublet will not have any rights as a tenant.

If you wish to sublet the property, make sure you get your landlord's agreement in writing. This may be in any form (e.g. via email or mobile phone message), but make sure to keep a copy of the record in case there is any dispute later on.

The agreement should be as specific as possible about the identity of the person to whom you are subletting and the key terms (e.g. for how long and whether you will still be living in the property).

SHARE HOUSING: "CO-TENANCIES" AT LAW

Living in a share house can be a great way to share the costs and responsibilities of renting as well as making life more social. Share housing can be different from other tenancies though, as it can be more transient, with people moving in and out of the house over time.

In any situation where there is more than one tenant listed on the agreement, each tenant will be known as a 'co-tenant' and the agreement can be called a 'co-tenancy.' For example, co-tenancies include share houses as well as couples living together where both members of the couple are on the tenancy agreement. Although this section of the Renting Book refers to sharehouses, the same rules will apply to couples (or just two people living together) where both people are listed as tenants on the tenancy agreement.

What are my rights and responsibilities as a co-tenant?

In a co-tenancy, you all share the same rights and obligations under the lease towards the landlord. This means that you all have the security and stability that comes with having the legal right to live in the property as a tenant: a co-tenant can't be made to leave the property unless the lease allows it. You also have the right to 'exclusive possession' and 'quiet enjoyment' of the property. This means that the tenants can decide who they want to allow to come to the property without interference from the landlord (except in circumstances where the lease creates a specific right to access, such as for the purpose of repairs or inspections). However, being a tenant also comes with responsibilities, and all co-tenants are equally responsible for the property under the law. If one co-tenant breaches the agreement, the other co-tenants are liable to the landlord for the breach. For example, if one co-tenant stops paying

rent or damages the property, the landlord may seek to have the other co-tenants pay the outstanding rent or pay for the property damage.

While it may be unlikely that you end up having to pay for something your housemate did (or didn't) do, be aware that this is part of the risk you assume when deciding to live with others in a co-tenancy.

An advantage of a co-tenancy is that the law clearly regulates your relationship, through the rules outlined in this section of the Renting Book.

How do I become a co-tenant?

Where you are one of several tenants under a residential tenancy agreement, you are all called co-tenants.

You are a co-tenant if:

> you are part of the original group starting up the share house, and your name is on the lease, or

> you join an existing share house, and you follow the correct process to join as a co-tenant.

Are there any other options?

It is possible for you to live in a share house without being a co-tenant, as the law also recognises other types of arrangements. In particular, you could be a head tenant or sub-tenant, or have a 'licence' to live in the property. These alternatives to a co-tenancies are outlined at the end of this section of the Renting Book. They have advantages and disadvantages, depending on what is important to you.

It is important that **you know your legal status** at the beginning when you move into a share house, as this can significantly affect your legal rights and obligations.

KEY POINTS

These are the key points you should know about how the law regulates share houses that are co-tenancies:

> **People cannot move in or out of the share house without requesting the consent of the other housemates and of the landlord.**

> There are rules about whether the landlord and other housemates can refuse consent. In short:

- ❖ Any of the housemates or the landlord can refuse a person moving out during a fixed term agreement.
- ❖ The housemates or the landlord can only refuse a person moving out during a periodic agreement if this is reasonable and if they obtain an ACAT order endorsing the refusal.
- ❖ Any of the housemates can refuse a new person moving in.
- ❖ The landlord can only refuse a new person moving in if this is reasonable.

- If the housemates and/or the landlord disagree about a person moving in or out, the dispute may be taken to ACAT for an independent decision.
- If the consent processes are properly followed, then people can move in and out of the share house without terminating the tenancy agreement with the landlord. The original agreement is treated as continuing, just with different tenants. This is good news because it means that:
    - **new condition reports do not need to be done**, and
    - **the landlord or agent cannot require the tenants to move out or undergo additional inspections** just because the housemates in the share house are changing.
- Landlords must not require or accept any money for consenting to requests for people to move in and out of the share house.
- **If a new person moves in without the consent process being followed:**
    - **that person will have no rights as a tenant under the law, and**
    - **the other housemates will be in breach of their agreement**. As with unlawful subletting, having a new person move in without seeking the landlord's consent is a ground for the landlord to seek to terminate the lease.
- **When people move in and out, the housemates are responsible for dealing with the bond.**
    - The housemates work out whether the person leaving owes any money (e.g. for unpaid rent or damage) and deduct this from their share of the bond.
    - The person moving in pays their share of the bond to the housemates (or to the person leaving, as the case may be).
    - The housemates must notify the ACT Revenue Office of the changes in the share house, so that the legal record of who is a party to the bond can be updated.
- If a legal dispute about any aspect of the tenancy arises between the housemates, or between the landlord and the housemates, and it can't be resolved, the dispute can be taken to ACAT for independent resolution.

A HOUSEMATE WANTS TO MOVE OUT (LEAVING A CO-TENANCY)

It is part of life in a share house that for various reasons people may want to move on. However, the decision of one housemate to move out affects the interests of the other housemates as well as of the landlord. Because of this, the law requires the leaving housemate to ask for their consent before they can end their co-tenancy and move out.

- **The housemate who wants to leave must seek consent in writing from the landlord and the other housemates.**
- **The housemate must give a minimum of 21 days' notice before they plan to move out** (in practice, of course, the more notice the better.)

> There is no particular form required to seek consent as long as it is in writing (e.g. the housemate could seek consent via email, text message, social media etc).

> All parties should keep records of their messages to each other.

> If there is more than one other housemate, a response is required from each housemate. This does not mean that each person must reply separately, but if one housemate replies on behalf of some or all of the others, this should be made clear in the response.

Can the landlord or other housemates refuse consent?

The way the consent process works depends on whether the housemate is proposing to leave during a fixed term or a periodic agreement. Basically, it is easier to leave during a periodic tenancy (this is consistent with the general position at law that it is easier to end periodic tenancies than fixed-term tenancies).

If you are in doubt about whether your tenancy is fixed term or periodic, see the information above in 'Starting Your Tenancy'.

Consent process for housemate moving out

Type of agreement	Can the other parties refuse consent?
The housemate wants to move out during a **fixed term agreement.**	The landlord or the other housemates can **refuse consent for any (lawful) reason**. If the landlord or one of the other housemates refuses consent, the co-tenant who wants to move out may apply to ACAT for an order permitting them to do so.
The housemate wants to move out during a **periodic agreement.**	The landlord or the other housemates can **only refuse consent if**: > it is reasonable for them to do so, and > **they apply for** (and obtain) **an order from ACAT** allowing them to refuse consent. If the landlord or any of the other housemates want to refuse consent**, they have to apply to ACAT within 21 days** of receiving the co-tenant's request to move out. If the application to ACAT is not made within 21 days, the landlord or other housemate/s are taken to have consented. ACAT will decide whether the person who refused consent to the housemate moving out was acting reasonably.

What happens if consent is granted?

If:

> the landlord and the other housemates grant consent, or

> ACAT makes an order approving the housemate leaving,

then **the housemate can move out and the residential tenancy agreement continues between the landlord and the remaining housemates.**

The housemate's rights and obligations as a co-tenant under the residential tenancy agreement will end on the day that they move out (or another date agreed by the parties or ordered by ACAT). In particular, from that date the housemate is no longer liable to pay rent or for any damage to the property. The continuing housemates will also need to make arrangements to pay out the leaving housemate's share of the bond (see more on this below).

What if the landlord or the other housemates don't respond to the request for consent?

If the landlord or any of the other housemates **do not respond within 21 days** of receiving the request for consent, they are **taken to have consented**.

The housemate who is seeking consent should try (within reason) to make sure that the landlord and the other housemates have received the request.

What happens if ACAT approves the other parties refusing consent?

If the residential tenancy agreement is for a **fixed term**, and the housemate cannot obtain consent to move out (even after taking the dispute to ACAT), they can still move out in practice. However, they will remain legally liable for their obligations as a co-tenant under the agreement for the rest of the fixed term, unless they negotiate a different outcome with their landlord and/or housemates. In this circumstance, the other parties will be under a general duty to mitigate their losses, in particular by trying to find a new co-tenant or by accepting the extra cost associated with the outgoing tenant leaving (if they do not want to find a replacement tenant).

If the residential tenancy agreement is **periodic,** and ACAT has made an order refusing consent for the housemate to move out, then the housemate can still move out, but they would need to issue a new 'notice of intention to vacate' giving the landlord 21 days' notice of their intention to leave the tenancy. Legally the effect of this would be to terminate the entire tenancy agreement for all of the remaining housemates. The landlord and the remaining housemates would need to sign a new agreement (and finalise a new condition report etc). If this doesn't happen, but the remaining housemates stay on and keep paying rent, it's very likely that a new tenancy will be implied.

In practice, the housemate who wants to leave may wish to discuss these options with the remaining co-tenants and the landlord early to decide whether it would be better to issue a notice of intention to vacate (ending the tenancy agreement for all parties) or if it is better to

seek the consent of the other parties for the leaving housemate to move out and allow the agreement to continue for the remaining housemates.

Example: Kelly wants to move out of her share house

Peter, Saffron, and Kelly are co-tenants, and Jasper is their landlord. They have a fixed term tenancy with 8 months still remaining in the fixed term. Kelly would like to leave the tenancy as she would like to accept a job in Queensland. Kelly seeks consent in writing from Peter, Saffron, and Jasper, giving them 21 days notice in writing before the date that she would like to move out.

Any one of Peter, Saffron or Jasper may refuse consent for any lawful reason, and Peter chooses to exercise this right (while the others consent). Peter refuses because he is concerned that he will not be able to afford an increase in his rent if he and Saffron can't find a replacement tenant for Kelly.

Kelly applies to the ACAT for an order that she may leave the tenancy. ACAT directs everyone to attend mediation, and the parties voluntarily come to an agreement that they will consent following a pathway similar to a 'break lease clause' situation, meaning that Kelly will cover the rent for a period, giving Peter and Saffron time to find a new tenant.

A NEW PERSON WANTS TO MOVE IN (JOINING A CO-TENANCY)

Great! You've found a suitable new housemate. If someone new wants to move into the property as a co-tenant, the following rules apply.

- **One of the existing housemates must seek consent in writing from the landlord and from any other housemates.**
- **The housemate seeking consent on behalf of the new person must give a minimum of 14 days' notice before the new person wants to move in.** (In practice, of course, the more notice the better.)
- There is no particular form required to seek consent as long as it is in writing e.g. the housemate could seek consent via email, text message, social media etc.
- All parties should keep records of their messages to each other.
- If there is more than one other housemate, a response is required from each housemate. This does not mean that each person must reply separately, but if one housemate replies on behalf of some or all of the others, this should be made clear in the response.
- **If a new person moves in without the consent process being followed:**
  - **that person will have no rights as a tenant under the law, and**
  - **the other housemates will be in breach of their agreement.** As with unlawful subletting, having a new person move in without seeking the landlord's consent is a ground for the landlord to seek to terminate the lease.

Can the landlord or other housemates refuse consent?

The rules on consent are different for the landlord and the other housemates.

Can the other parties refuse consent to a new person moving in?	
Landlord	The landlord can **only refuse consent if it is reasonable for them to do so**. If they refuse consent, **the landlord must provide their reasons in writing** to the housemate seeking consent and the new person. **The housemate seeking consent may apply for an order from ACAT approving the new person moving in (**as long as the other housemates have consented and it is only the landlord who has not). **The new person can move in as a co-tenant from the date this application is made.** ACAT will decide whether the landlord's decision was reasonable.
Other housemates	**Any other housemate can refuse consent for any (lawful) reason.** This is because the law recognises that the other housemates should have a say in who they live with and should not be forced to live with a new co-tenant if they do not wish to.

These rules are the same for fixed term and periodic tenancies.

These rules do not apply to share houses in crisis accommodation or social housing (see below for the rules in these situations).

What happens if consent is granted?

If:

> the other housemates and the landlord consent, or

> ACAT makes an order preventing the landlord from refusing consent,

then **the existing tenancy will continue with the new person as a co-tenant.**

The date the new person becomes a co-tenant will be either: the date they move in, the date that the application (if any) to ACAT challenging the landlord's refusal is made, or another date agreed between the parties or ordered by ACAT.

What if the landlord or the other housemates don't respond to the request for consent?

If the landlord or any of the other housemates **do not respond within 14 days** after receiving the request for consent**, they are taken to have consented**. This rule is designed to ensure that the landlord or other housemates cannot prevent someone new from moving in simply by ignoring the request.

The housemate who is seeking consent on behalf of the new person should try (within reason) to make sure that the landlord and the other housemates have received the request.

What is the process for challenging the landlord's refusal to consent in ACAT?

If the other housemates consent but the landlord does not, the housemate seeking consent can apply for an ACAT order to approve the incoming co-tenant moving in. This is known as a '**declaration application'**.

The incoming co-tenant will be able to move in from the date of the ACAT application and becomes a co-tenant from that date. They will need to pay rent and bond from this date and will also need to be given a copy of the condition report. This approach recognises that the ACAT process may take time to resolve and it may be difficult for the new housemate to make other temporary housing arrangements while waiting for the outcome.

ACAT must decide whether the landlord acted reasonably in refusing consent. ACAT will take into account all of the circumstances, but under the law it must consider whether:

> The property would be overcrowded if the new person were to move in.

> The new person is listed on a residential tenancy database (for further information on databases, see 'Starting Your Tenancy' above).

> The new person is suitable for the tenancy, if the tenancy exists for a particular purpose. For example, it may be reasonable for a landlord operating a housing support program for women at risk of homelessness, or men leaving prison, to refuse consent to a new person who is not within this class of people.

> The property is provided by an employer in connection with a person's employment, in which case it may be reasonable to only permit employees to live there.

ACAT can also take into account other matters that it considers relevant.

It is expected that landlords will only withhold consent where there are genuine, objective reasons for doing so, rather than mere personal preferences. Landlords should also not unreasonably withhold consent in exchange for benefits (e.g. an increase in rent).

If ACAT decides that the landlord's decision to refuse consent was unreasonable, then the new person continues being a co-tenant and may remain in the property.

If ACAT finds that the landlord's decision to refuse consent was reasonable, then the new person will stop being a co-tenant and must leave the property within 21 days.

Note: the law provides procedural protections for landlords in the event that a housemate applies to ACAT, thereby making the new person a co-tenant, and then withdraws the

application (which would technically prevent ACAT from deciding the matter). In that event, the landlord can apply for an order that the new person must stop being a co-tenant and leave the property.

Example: Aparna wants to move into the share house

Rafael, Mai, and Rami are co-tenants, and James is their landlord. The housemates would all like Aparna to join the tenancy. Any one of Rafael, Mai, or Rami may seek consent from the others and from James, so Rafael takes on that task. Rafael seeks consent in writing for Aparna to join the tenancy, giving the others at least 14 days to respond before she proposes to move in.

Mai and Rami may refuse consent for any lawful reason, but they reply in writing within 14 days to confirm their consent.

James must not unreasonably refuse consent. He wishes to refuse consent. He provides his refusal and reasons in writing (as he is required to do). He says that his reason is because he is worried about overcrowding in the property.

Rafael, Mai, and Rami disagree that the property would be overcrowded as it has four bedrooms and two bathrooms. As Mai and Rami have both consented, Rafael applies to ACAT for an order that James' refusal was unreasonable. ACAT must consider if the property would be overcrowded with Aparna as a co-tenant.

Aparna becomes a co-tenant and can move in on the day that Rafael makes the application to ACAT.

If ACAT considers that James' refusal was reasonable, it may order that Aparna is to stop being a party to the residential tenancy agreement, and Aparna will have to leave the property within 21 days of the order.

If ACAT considers that James' refusal was unreasonable, it can make a declaration to this effect. In this case, ACAT orders that James was unreasonable to refuse, having regard to the size of the property and the number of bedrooms and bathrooms. Aparna will remain a co-tenant.

What are the rules for new people moving into social housing or crisis accommodation?

A new person can only move in as a co-tenant to a share house that is in social housing or declared crisis accommodation if the other co-tenants and the landlord agree. This means that rules in relation to challenging the landlord's refusal to consent to a new housemate do not apply in relation to social housing or crisis accommodation. This is to ensure that social housing and crisis accommodation can continue to be allocated on a needs basis.

Social housing means Government-provided housing (through Housing ACT) or housing provided by a registered community housing provider under a Government-approved program.

CHANGES IN HOUSEMATES: WHAT ABOUT THE BOND?

Key point: the housemates must work out the bond

When there is a change of housemates in the share house:

> **There is no need for the bond to be paid out and then repaid by all the co-tenants.**

> This is because the original tenancy with the landlord is continuing, just with different co-tenants, and so the original bond remains valid.

> **The housemates must work out among themselves how much should be paid to any outgoing housemate, and how much must be paid by any incoming housemate.**

> This includes working out whether the person leaving is responsible for any damage to the property.

This system is designed to allow the housemates to manage their liabilities privately, without the agent or landlord becoming involved. Importantly, this means:

> Landlords or agents cannot require the housemates to move out and then move back in again before a new person can move in.

> **Landlords or agents cannot insist on:**

- **doing an inspection of the property, or**
- **requiring a new condition report**

as a condition of agreeing to a person moving in or out. The landlord or agent need only do a final inspection and condition report at the end of the tenancy, when everyone is moving out.

> **The remaining housemates (and any new housemate) will be liable for any damage done to the property by outgoing housemates.**

In practice, if the housemates are concerned about damage to the property by an outgoing housemate, they have the option of repairing the damage at that time, using the money deducted from the bond payment to the outgoing housemate (such that it will no longer be a bond issue down the track). An example is provided below of how this might work.

The rules that the housemates must follow in managing the bond are set out below. These rules apply equally to fixed term and periodic tenancies.

A housemate is moving out

> **The other housemates must pay the person leaving their share of the bond (within 14 days of the person moving out) but may deduct any money reasonably owing by the person.**

> This includes any unpaid rent or the cost of any damage the person has caused to the property that would ordinarily come out of the bond (i.e. damage that is not just fair wear and tear).

- **The other housemates must then notify the ACT Revenue Office** that the person is leaving and has been paid their share of the bond.
- The ACT Revenue Office will then ensure that the person who has moved out is no longer recorded as having any interest in the bond.
- If there is a dispute between the housemates about how much the person leaving should be paid out, the person leaving can apply to ACAT to resolve the dispute (this can still be done after they have moved out).
- The housemates should keep written records of the payment made and the reasons for any deductions, as well as the notification to the ACT Revenue Office.

A new housemate is moving in

- **The new housemate must pay to the other housemates their share of the bond within 14 days of moving in.**
- **The new housemate must notify the ACT Revenue Office** that they have moved in and paid their share of the bond.
- The ACT Revenue Office will then ensure that the person who has moved in is recorded as having an interest in the bond.
- The housemates should keep written records of the payment made as well as the notification to the ACT Revenue Office.
- **The new housemate must be given a copy of the original condition report** no later than the day after they move in.
- **The new housemate will become liable for damage done to the property by existing or former housemates.** Because of this, they should review the original condition report carefully and compare it to the existing condition of the property. If the new housemate thinks that there has been damage to the property since the tenancy commenced (that has not been accounted for in the amount of bond they were asked to pay when moving in) they should raise this with the existing housemates.
- **If there is a dispute about how much money the new housemate is being asked to pay in bond, this dispute can be taken to ACAT.**

Help! What if my sharehouse is ending but my name isn't on the bond record?

Sometimes a share house can last for years with multiple changes in housemates, and everyone loses track of who owned the dusty boxes in the garage. It can happen that when the share house is being dissolved (the entire tenancy is ending), and it comes time to pay out the bond, the names of the tenants in the share house at that time do not match ACT Revenue's Office records about who has an interest in the bond.

In that case, the ACT Revenue Office will refer the matter to ACAT. ACAT will determine who is entitled to be paid out a share of the bond. This ensures that if the housemates at some point have failed to notify the ACT Revenue Office about people moving in and out of the share house, the problem can be fixed and the bond can be paid out correctly.

Example: Jonah is moving out and Azima is moving in. How do they manage the bond?

Jonah lives in a share house with Margot and Yuko as co-tenants. They paid a bond at the beginning of their tenancy of $3600, in equal shares of $1200 each. Jonah has decided to move out, and he will be replaced in the house by Margot's friend Azima. The landlord and all the housemates have consented in writing to these changes.

A while ago, Jonah damaged the wall in his bedroom while moving furniture. The housemates agree that the significant chips in the wall are not fair wear and tear and will likely be deducted from their bond at the end of the tenancy when everyone moves out.

Before Jonah moves out, he arranges a quote from a painter for patching and painting the damaged wall. The quote is for $200.

Within 14 days of Jonah moving out, Margot and Yuko pay him $1000 (his share of the bond less the estimated cost of the damage to the wall).

Margot and Yuko then have two choices:

1. Within 14 days of moving in, Azima pays Margot and Yuko $1200 as her share of the bond. Margot and Yuko recoup their payment to Jonah and use the additional $200 to pay for the tradesperson to fix the wall. The housemates notify the ACT Revenue Office that Jonah has moved out and Azima has moved in, so that the official bond record can be updated.

OR

2. Within 14 days of moving in, Azima pays Margot and Yuko $1000 as her share of the bond (or Margot and Yuko agree to Azima paying this money directly to Jonah). Azima is aware that at the end of the tenancy, when a deduction is made for damage to the property, the $200 would likely be deducted from the bond and that when the bond is paid out, she would receive $1000, while Margot and Yuko would receive $1200 each from the total bond (assuming no additional deductions are required). The housemates notify the ACT Revenue Office that Jonah has moved out and Azima has moved in, so that the official bond record can be updated.

DISPUTES BETWEEN HOUSEMATES: GOING TO ACAT

If major disputes (relating to right and obligations under the tenancy agreement) arise between housemates in a share house that cannot be resolved amicably, any one of the housemates can take the dispute to ACAT and seek orders in relation to bond or an order that one of the other housemates should be removed as a co-tenant from the tenancy agreement. In effect, this means the person will be required to move out.

This is a serious step. This ability to apply to ACAT might be used, for example, if one housemate is jeopardising the entire tenancy agreement because they are repeatedly not paying their share of rent or intentionally damaging the property, or using the premises for illegal activities.

ACAT will usually direct the housemates to attend mediation, and will always hear from all of the housemates (who wish to participate in the proceedings) before making any final decision.

Remember, housemates can always seek legal advice before going to ACAT.

WHAT IF I'M NOT A CO-TENANT?

The rules discussed above apply to share houses that are co-tenancies. However, you can set up or join a share house without being (or becoming) a co-tenant. The main alternatives are briefly mentioned here.

Your legal status is important, so it is best to have clear records in writing at the beginning, when you move into the share house, that show what you and other housemates and the landlord intend your status to be.

If you think your living arrangement may fall into one of these alternative categories, and you are unsure about your rights and obligations, you should seek legal advice.

Head tenant / sub-tenant

If one person has their name on the lease and assumes all the responsibilities of the tenancy towards the landlord, and then rents out rooms in the property to others, this person becomes a "head tenant" and the other residents are "sub-tenants". This is called sub-letting.

The head tenant can only sub-let if the landlord consents in writing. Failure to seek the landlord's consent is a breach of the residential tenancy agreement and the landlord may seek to terminate the tenancy. The person who moves in under an unauthorised subletting arrangement will have no rights as a tenant and may be evicted.

Provided the subletting is authorised by the landlord, then being the head tenant means you get to choose the sub-tenants. However, being a head tenant carries significant responsibilities. **The head tenant is basically a landlord towards the sub-tenants.** The head tenant must comply with all the rights and obligations of a landlord under the Act (e.g. collecting and paying rent on time, depositing the sub-tenants' bond payments, arranging (through the main landlord) for repairs to be done, etc).

The sub-tenants have no legal relationship with the main landlord (only with the head tenant). This means that if one of the sub-tenants breaches the residential tenancy agreement (e.g. stops paying rent or damages the property), then the head tenant is ultimately liable for this breach to the main landlord.

Being a sub-tenant means you are not liable for the actions of the head tenant or other housemates. However, there are possible disadvantages. For example, if the head tenant moves out, then any sub-tenancies will automatically end. To remain in the property, the sub-tenant would need to start a new tenancy agreement with the main landlord or another person as head tenant. Also, the head tenant could potentially seek to terminate your tenancy if they have a lawful reason to do so (the grounds for terminating tenancies are discussed later in the Renting Book).

Occupants

An occupant is someone who pays money for the right to live in a property as their home, but who is not a tenant and their accommodation instead falls within one of several categories. The categories of occupancy typically include:

- people living in the owner's home while the owner also lives there
- student accommodation on (or associated with) the campus of an educational institution
- people renting a bedroom in shared properties where facilities or domestic services are provided to the residents
- some types of emergency or crisis accommodation, or accommodation provided under a housing support program
- accommodation provided through a club of which the person is a member, and
- accommodation (or site rental) in a residential park.

Occupany agreements are subject to a different legal framework to residential tenancy agreements and so the Renting Book does not apply. Instead, there are specific provisions under the Act that set out the rights and obligations of occupants.

Note: it is not possible to have an occupancy agreement that sits under a residential tenancy agreement (i.e. a tenant cannot set up an occupancy agreement instead of a co-tenancy or sub-tenancy).

Licensees

A person who is paying money for their accommodation (e.g. a room in a house), but is not a tenant or occupant, will usually be what is known as a 'licensee'. The term comes from the idea that the person has a legal 'licence' to live in the property because of the contractual arrangement reached between them and the person who owns or controls the property. Being a licensee may be suitable for people who want very short term or flexible accommodation. However, a licensee has no rights under residential tenancy law or occupancy law, and so they tend to have little control over their living arrangements – for example, they are vulnerable to increases in costs and to eviction. Licensees are not covered by residential tenancy law and so the Renting Book does not apply.

DISPUTES AND BREACHES OF THE AGREEMENT

This section of the Renting Book discusses what might happen if either a tenant or landlord breaches (fails to comply with) the residential tenancy agreement. For example:

- the landlord does not carry out repairs as required under the Act
- the landlord frequently attends the property without notice or consent from the tenant e.g. to do gardening or to conduct an inspection
- the landlord has refused requests to make modifications to the property or to keep a pet, without the approval of ACAT
- the tenant fails to pay rent on time
- the tenant causes significant damage to the property
- the tenant has a pet without asking the landlord for consent, if the agreement requires that consent be requested,
- the tenant unlawfully sub-lets the property (without the landlord's consent)
- the tenant continually interferes with the quiet enjoyment of their neighbours, or
- the tenant is breaching the owners' corporation's rules in an apartment building.

If the tenant and landlord cannot resolve the breach, it can lead to the residential tenancy agreement being terminated.

There are a number of ways in which a residential tenancy agreement can end without there being any breach of the agreement. These are discussed in the next section on 'Ending Your Tenancy'.

For both tenants and landlords, you should always consider getting legal advice before taking steps to terminate a tenancy, especially for a breach. Be aware that the other party can take the dispute to ACAT. You could be liable for compensation if ACAT decides that there has not been any breach of the agreement or if termination procedures were not correctly followed.

The rules outlined in this section apply to both fixed term and periodic tenancies.

LANDLORD IN BREACH: OPTIONS FOR TENANTS

If you think that your landlord is breaching your residential tenancy agreement, your main options as a tenant are as follows:

- Try to resolve the dispute informally by communicating with your landlord or real estate agent to reach an agreed outcome.

> Apply to ACAT for an order reducing your rent temporarily to compensate you for the breach.
> Issue a formal notice to the landlord requiring them to fix the breach within two weeks. This is called a ‘notice to remedy’. If the landlord doesn’t fix the breach, and you want to move out of the property, you may then issue a ‘notice of intention to vacate’. This allows you to end the tenancy within a further two weeks.
> Apply to ACAT for an order terminating the tenancy.
> If you are on a periodic tenancy and you are at the point where you wish to leave the property, you have an additional option: you can always end your agreement by giving 3 weeks’ notice to the landlord (see further below the section ‘Ending Your Tenancy’).

You may end up using more than one of these options.

Resolving disputes by agreement

Discussing the issue with your landlord or agent will usually be the best option initially. Many issues can be resolved constructively this way, provided that both parties can communicate respectfully.

If you and your landlord or agent agree on any actions to resolve the dispute, make sure these are recorded in writing (e.g. via email) so that both parties are clear about next steps. Such records may also be needed later as evidence if another dispute occurs.

Rent reductions by order of ACAT

If you are interested in this option, see the information on rent reductions in the ‘During Your Tenancy’ section above. Remember the basic point is that an ACAT order is needed for this option: you cannot just decide to withhold rent – if you do you will be in breach of your agreement and your landlord may seek to evict you.

Issuing a notice to remedy / notice to vacate

If more informal methods have not worked or are not appropriate, and you are not interested in a rent reduction, you can issue a **notice to remedy** to your landlord.

The notice to remedy is basically a formal letter that gives the landlord **two weeks** to fix the breach of the residential tenancy agreement (if it is capable of being fixed).

> You cannot give your landlord less than two weeks to remedy a breach, but you could give a longer timeframe at your discretion.
> Your notice to remedy must clearly identify what the breach is and what needs to be done to fix it.

The main aim of the notice to remedy is to get the breach fixed (e.g. to get the necessary repair finalised) so that you don’t need to leave the property. However, it is also a step you

must take before you can end the tenancy because of the breach: you cannot give a notice of intention to vacate unless you have first given a notice to remedy.

If your landlord fixes the breach within the two week period, your tenancy continues. You cannot choose to vacate the property anyway.

If your landlord does not fix the breach within two weeks (or if the breach is not capable of being fixed), you can then issue **a notice of intention to vacate**. The notice to vacate is basically a formal letter that tells the landlord you will be leaving the property.

> Your notice to vacate must state the date on which the tenancy will end (the date you will move out).
> You must give **two weeks**’ notice at a minimum (you could give more notice if you wish).
> You must keep paying rent to the date you leave the property.

If your landlord fixes the breach within the two week period from the date of your notice of intention to vacate, you can choose whether you want to stay in the property and continue the tenancy, or you can terminate your tenancy from the date stated in your notice. Make sure to let your landlord or agent know your decision.

Some general tips for both notices to remedy and notices of intention to vacate:

> Notices do not have to be in any particular form. The Tenancy Advice Service ACT makes sample notices available on its website that you may wish to use: https://www.legalaidact.org.au/tasact.
> Make sure you use your best efforts so that you will be able to prove that the landlord or agent received your notice. Check your residential tenancy agreement which will have an address for you to serve notices on your landlord or agent (this may be a physical address and/or an email address). Use that address, unless you are confident of reaching your landlord through another means (e.g. if your landlord frequently communicates with you via another email address).

If you go down the route of issuing these notices to your landlord, **there is no need for you to get an order from ACAT terminating your tenancy**. Your tenancy will end on the date specified in your notice of intention to vacate. There is no need to pay a ‘break lease’ fee or compensation to your landlord if you terminate your tenancy in these circumstances.

However, be aware that your landlord may challenge your notice/s in ACAT if they disagree that there has been any breach of the agreement.

Applying to ACAT for termination

You can apply to ACAT to terminate your agreement without first issuing a notice to remedy to the landlord. ACAT will only make an order if it is satisfied that the breach justifies termination (meaning the breach is sufficiently serious). ACAT can order that the landlord

remedy the breach instead of terminating the agreement. You may wish to seek legal advice before pursuing an ACAT order.

TENANT IN BREACH: FAILURE TO PAY RENT

If you cannot pay your rent, consider speaking with your landlord or agent as soon as possible. You may be able to negotiate a payment agreement to allow you to catch up on your arrears. Make sure you record any agreement in writing.

If you fail to pay rent, your landlord may take steps to make you pay the outstanding rent or vacate the property if you do not pay. **There is a process that the landlord must follow**. The key steps are:

Notice to remedy

> The landlord must first issue you a written **notice to remedy** requiring you to pay the outstanding rent. The landlord can only give you this notice after the rent has been unpaid for one week.

> If you pay the outstanding rent within 7 days, then the landlord may not take further action and your tenancy will continue. The notice must state this.

Note that if your landlord has previously given you two notices to remedy in relation to unpaid rent, and you fail to pay rent a third time, then your landlord does not need to issue a further notice to remedy and can simply issue you a notice to vacate after rent is unpaid for a week.

Notice to vacate / termination notice

> If you do not pay the outstanding rent within 7 days, the landlord may serve you with a **notice to vacate** that requires you to leave the property. This is also called a termination notice.

> The landlord must give you a minimum of two weeks' notice (from the date of the notice).

> **If you move out of the property, your tenancy is terminated** on the date you move out. You will not owe any additional rent after you move out in accordance with a notice to vacate. However, your landlord may use the bond towards your unpaid rent. If you owe more than the amount of bond (in rent or due to property damage) your landlord may seek an order from ACAT in relation to your bond or that you pay any amount exceeding the bond.

> You may be liable for compensation to your landlord (in addition to the unpaid rent) if you do not comply with a valid notice to vacate.

> **If you do not move out of the property, your landlord can apply to ACAT for an order terminating the tenancy and requiring you to leave.** This type of order is called a '**termination and possession order**'. You **cannot** be made to leave a tenancy without an ACAT order and ACAT has some discretion as to whether they make a termination and possession order (see further below). This means you may not be required to leave your rental property (even though you have breached your agreement) if ACAT considers it appropriate in the circumstances to let you stay.

ACAT order

You will be informed if your landlord makes an application to ACAT and you will have the opportunity to respond in ACAT.

ACAT may decide to do one of the following:

> make a termination and possession order, in which case **your tenancy will be terminated** and you are required to move out on the date specified in the order;

> make a **payment order** which allows you to remain in the tenancy but requires you to pay the outstanding rent, if ACAT is satisfied that you are reasonably likely to make the payment; or

> if you have paid the outstanding rent, **ACAT can decide not to make any order**, if ACAT considers that you are reasonably likely to pay rent on time in future and that not making any order is just and appropriate.

However, if you have repeatedly failed to pay your rent and your landlord has made more than 2 previous applications for a termination and possession order (for your failure to pay rent) in the past 12-month period, ACAT can decide to make a payment order that you pay future rent as it falls due (even if you do not owe any rent at the time ACAT makes its order). In order to make a payment order in these circumstances, ACAT must still be satisfied that you are reasonably likely to comply with the order and that it is just and appropriate to do so.

If a payment order is made and you do not comply with it, your landlord can apply again to ACAT for a termination and possession order. If you have breached a payment order your landlord doesn't need to issue you with a new notice to remedy or notice to vacate before they apply back to ACAT for a termination and posession order.

If your tenancy is terminated, ACAT can also make orders in relation to your bond. If you owe more money than the amount of your bond, ACAT can also make an order that you pay any outstanding amount to your landlord.

Tenancy Termination by ACAT

> If ACAT decides to end your tenancy by making a termination and possession order they can end the tenancy on the same day as the ACAT hearing or they can suspend the order to end your tenancy for **up to 3 weeks**.

> In deciding how much time to give you before your tenancy is ended ACAT will consider your situation and that of the landlord. They cannot suspend the order for longer than 3 weeks.

Warrant for eviction through ACAT

> If ACAT makes a termination and possession order, and you do not move out, your landlord may apply to ACAT for a warrant for your eviction, which can ultimately be enforced by the police.

You should consider seeking legal advice if your landlord issues you with notices in relation to unpaid rent and you are not able to pay the rent.

OTHER BREACHES BY TENANT

If your landlord thinks you have breached your residential tenancy agreement in any way other than a failure to pay rent, (for example, you have caused considerable property damage or have engaged in anti-social behaviour towards your neighbours) your landlord may take steps to make you fix the breach, or terminate your tenancy if you do not. The process is similar to that outlined above for a failure to pay rent.

> The landlord may issue you with a **written notice to remedy** requiring you to fix the breach. **You must be given at least two weeks to fix the breach**. The notice should clearly state what the breach is and what you must do to fix it.

> If you fix the breach within two weeks (or otherwise come to an agreement with your landlord about the dispute – make sure you get it in writing), then your tenancy will continue.

> If you do not fix the breach within two weeks, your landlord may issue you a **notice to vacate** which requires you to move out. This is also called a 'termination notice'. **You must be given at least two weeks' notice**.

> **If you move out of the property after receiving the notice to vacate, your tenancy is terminated** on the date you move out.

> You may be liable for compensation to your landlord if you do not comply with a valid notice to vacate.

> If you do not move out of the property, your landlord can apply to ACAT for an order terminating the tenancy and requiring you to leave. This type of order is called a '**termination and possession order**'.

> You will be informed if your landlord makes an application to ACAT and you will have the opportunity to respond in ACAT.

ACAT may decide to do one of the following:

> make a termination and possession order, if ACAT is satisfied that you have breached the agreement in a sufficiently serious way to justify terminating it,

> refuse to make the order, if ACAT considers that you have not breached your agreement (or that the breach was not so serious as to justify terminating your tenancy because of it), that you have fixed the breach, or that you will do so (and you undertake to do so), or

> make a **performance order** which allows the tenancy to continue but requires you to comply with the terms of your agreement (for example by maintaining the property in good condition or by not interfering with the quiet enjoyment of your neighbours).

If ACAT makes a termination and possession order, they can suspend this order for **up to 3 weeks**. If you do not move out, your landlord may apply to ACAT for a warrant for your eviction, which can ultimately be enforced by the police.

This process must be followed strictly by the landlord, unless your landlord has previously given you two notices to remedy. If that has happened, and you breach the agreement a third time, then your landlord can simply issue you with a notice to vacate.

If ACAT makes a performance order and you breach that order, then your landlord may apply again to ACAT for a termination and possession order without having to first issue you with a new notice to remedy or notice to vacate. Here again, ACAT will be able to decide whether to issue a termination and possession order or to refuse to make the order (if you have remedied (or fixed) the breach or if you undertake to do so. If ACAT makes a termination and possession order, they can suspend this order for up to 3 weeks.

ENDING YOUR TENANCY

If you want to leave your rental home, or the landlord wants you to leave, it is very important that you know your rights and responsibilities and follow the correct procedures under the Act. Disputes can arise easily if either party does not manage the situation in accordance with the law.

The previous section on 'Disputes and Breaches of the Agreement' discusses how a tenancy can end because one of the parties has not complied with the residential tenancy agreement.

This section discusses the most common ways a tenancy can end where neither party is at fault. The rules that apply depend on whether your agreement is for a fixed term or periodic and the reason for ending the tenancy.

In addition to the situations discussed below, remember:

- a tenant and landlord can always end a tenancy (whether the agreement is fixed term or periodic) at any time and without any compensation if both parties agree in writing to do this
- under the rules relating to co-tenancies it is possible for just one co-tenant to leave a tenancy agreement without the tenancy agreement ending for the other parties. If you would like to leave but your housemates would like to remain see the section on share housing for more information.

See also at the end of this section where some 'Less Common Scenarios for Ending an Agreement' are noted.

YOUR FIXED TERM AGREEMENT IS ENDING

If you have a fixed term agreement that is coming to its end, and **you want to move out** rather than signing a new lease or staying on with a periodic tenancy:

- You must give the landlord a 'notice of intention to vacate' with at least **3 weeks' notice** before the date you plan to move out (which cannot be before the end of the agreement).

If you have a fixed term agreement that is coming to its end, and **your landlord wants you to move out at the end of the fixed term** rather than signing a new agreement or allowing your tenancy to become periodic:

- Your landlord must give you a written '**notice to vacate'** with **26 weeks' notice** before the fixed term agreement ends.
- If you receive a notice to vacate, you can decide to leave the property before the end of the fixed term agreement.
- You must give 3 weeks' notice to the landlord, unless you plan to leave within the last two weeks of your fixed term agreement, in which case you must only give 4 days' notice.

See below on 'Requirements for Notices' for how to give a notice of intention to vacate (from the tenant) or a notice to vacate (from the landlord).

See below on 'Landlord ending a fixed term agreement early' for additional circumstances in which your landlord maybe able to terminate your tenancy during a fixed term agreement.

TERMINATING YOUR FIXED TERM AGREEMENT EARLY

If you want to **terminate your fixed term agreement early**, there are limited situations where you can do this without having to pay compensation to the landlord. The more common of these situations are summarised in the table below.

In some of these situations, you can terminate your agreement simply by giving your landlord a 'notice of intention to vacate' that informs them you will move out on a certain date. See below on 'Requirements for Notices' for how to give a notice of intention to vacate. You must make sure you give your landlord the minimum required notice period.

In other situations, an ACAT order is required to end your agreement. You need to apply for the order, rather than issuing a notice to your landlord. ACAT will hear from you and from the landlord and decide whether to make an order ending your tenancy.

Remember that the co-tenancy rules also allow a single co-tenant to leave a fixed term agreement without bringing the tenancy to an end for the remaining parties. This requires consent from both the landlord and remaining co-tenant(s). See the section on share housing for more information.

You may wish to seek legal advice and/or discuss your situation with your landlord before going to ACAT.

When can you terminate your agreement early without paying compensation?

Reason for tenant wishing to leave	Notice of intention to vacate required?	ACAT order required?	Required notice period?
A court has made a protection order (interim or final) to protect you from **family or personal violence** and that order affects your living arrangements. ACAT has flexible powers to deal with the situation appropriately. For example, ACAT may either end the lease so you can move out, or end the lease and require the landlord to enter into a new lease with you, so that you can stay in the property and others may be required to move out.	×	✓	Determined by ACAT

You are experiencing **significant hardship** that justifies you breaking your lease (this could be related to your health, safety, finances or other reasons).	✗	✓	Determined by ACAT
You have accepted an offer to move into **social housing or into an aged care facility** and you wish to end your lease to take up that offer.	✓	✗	**14 days**
Your landlord wishes to **sell the property:** • within the first 6 months of your agreement and did not tell you this before you signed the agreement, **or** • at any time during your agreement, and the sale process requires access to the property for inspections for more than 8 weeks.	✓	✗	**14 days**
You have been **posted away from Canberra** for work. You must provide evidence of the posting e.g. a letter from your employer. This option applies only if your agreement contains the 'fair clause for posted people'.	✓	✗	**8 weeks**

If none of the above situations apply – you may still wish to **break your lease early and pay compensation to the landlord.**

Paying compensation for breaking your lease early

If you end your fixed term agreement early, other than for a reason permitted under the Act (as listed above), you will generally need to compensate your landlord. If you have a 'break lease clause' in your residential tenancy agreement, this caps the amount you have to pay (the 'break fee').

There are two steps for calculating the break fee. First, work out whether you are more than half-way through your fixed term (e.g. whether 6 months has passed on a 12 month lease).

> If you are **less than half-way** through your fixed term, your break fee is a maximum of **6 weeks' rent.**

> If you are **more than half-way** through your fixed term, your break fee is a maximum of **4 weeks' rent.**

Second, your break fee will be lower if your landlord finds a new tenant to move in within a defined period after you vacate the property.

> If you are less than half-way through your fixed term, the defined period is 6 weeks.

> If you are more than half-way through your fixed term, the defined period is 4 weeks.

If your landlord has a new tenant move in during the defined period, then the break fee you have to pay is:

> **reduced** by the rent payable by the new tenant during the defined period (at the rate paid by the new tenant, even if higher than your rent), but

> **includes** the landlord's reasonable administrative costs of re-letting the property (e.g. advertising) up to a capped limit (**unless** you vacate the property less than 4 weeks before the fixed term ends, in which case the landlord cannot claim administrative costs).

The capped limit for the landlord's administrative costs is:

> one week's rent, if you are less than half-way through your fixed term, or

> two-thirds of one week's rent, if you are more than half-way through your fixed term.

Your landlord can only claim the amount of administrative costs actually spent (if they spend less than the capped amount, they cannot claim it regardless).

The landlord also cannot claim administrative costs if this would make the break fee exceed the maximum amount of 4 weeks' or 6 weeks' rent.

An example follows:

> Mark is a tenant who wants to break his fixed term agreement early. His agreement is for 12 months and it has a break lease clause. His rent is $600 per week. He has 4 months remaining on his agreement (so he is more than half-way through his fixed term).

> Mark's break fee will be a maximum of 4 weeks' rent, so $2400.

> Mark's landlord, Kate, finds a new tenant, Heather, who moves in 3 weeks after Mark moves out. This is within the defined period (of 4 weeks) under the break lease clause rules.

> Kate increases the rent for Heather to $610 per week. Heather will pay $610 in rent for the one week that remains of the defined period.

> Kate spends $550 on advertising and other fees associated with reletting the property.

> The break fee payable by Mark will be $2400 – $610 + $550 = $2340.

A fact sheet with more examples of how the break lease clause works is available on the Justice and Community Safety Directorate website at: https://justice.act.gov.au/safer-communities/protection-rights/residential-tenancy-and-occupancy-reforms.

The break lease clause rules are designed to be fair to both landlords and tenants. They ensure that landlords cannot claim compensation for lost rent while a new tenant is paying rent, while compensating the landlord for costs incurred in having to re-let the property early.

To activate your break lease clause, you must notify your landlord of your intention to vacate on a particular date. You must pay rent up to that date as well as the break fee. See below on ‘Requirements for Notices’ for how to give a notice of intention to vacate.

Note that these break lease rules apply to residential tenancy agreements of 3 years or less. If your agreement is for more than 3 years, check the Act and your agreement and seek legal advice as necessary.

If you **do not have a break lease clause** in your agreement, and you wish to end your fixed term agreement early, you can still do this by notifying your landlord. Your landlord may apply to ACAT for compensation. **ACAT may order you to keep paying rent** until the date when your agreement would normally end, or for up to 25 weeks (whichever is the lesser amount). However, in this situation, **your landlord is still only able to claim compensation for the actual losses they incur and they must actively try to reduce those losses** – this is called ‘mitigating loss’.

Mitigating Loss

In any situation where either the landlord or tenant might be able to claim compensation for loss from the other, the person who intends to claim compensation must take active steps to try to reduce their loss (this is called the **duty to mitigate**). If they do not do this, then they will not be entitled to all or part of the compensation that they are seeking.

Any compensation claimed is also limited to the actual amount lost. This means that if you break your lease (reglardless of whether you have a break lease clause), as soon as new tenants are found (who will pay the same amount, or a higher amount of rent than what you were paying) then your landlord will no longer be suffering any loss and so will be unable to claim compensation from you.

The **duty to mitigate** means that your landlord must try to find replacement tenants as soon as possible to try to reduce the amount that you will owe them in compensation.

If your landlord does not try to find replacement tenants (for example if they do not advertise the property or if they unreasonably refuse replacement tenants) then they may not be able to claim the full amount of compensation that might otherwise have been owed to them.

TERMINATING YOUR PERIODIC AGREEMENT

You can end a **periodic residential tenancy agreement by giving 3 weeks’ notice** of your intention to vacate to the landlord. You do not need to provide any reason for wanting to end the agreement. See below on ‘Requirements for Notices’ for how to give a notice of intention to vacate.

You do not need an order from ACAT to end your agreement.

Remember that the co-tenancy rules also allow a single co-tenant to leave a periodic tenancy without bringing the tenancy to an end for the remaining parties. This requires consent from both the landlord and remaining co-tenant(s). See the section on share housing for more information.

LANDLORD ENDING A FIXED TERM AGREEMENT EARLY

A landlord can usually **end a fixed term residential tenancy agreement early** if:

> **You have breached the terms of your tenancy agreement** and you move out in accordance with a notice to vacate issued by your landlord or where ACAT makes a termination and possession order to end the tenancy (see above section on breaches).

> The **landlord is experiencing significant hardship and ACAT makes an order allowing them to end the agreement**. Examples of hardship might include if the landlord is facing bankruptcy or homelessness. ACAT will only make the order if the landlord's hardship is greater than the hardship that the tenant would suffer from the early termination of the tenancy. ACAT will determine the notice period required to the tenant.

> The **landlord has been posted back to Canberra for their work**. This option only applies if you have the 'fair clause for posted people' in your agreement. The landlord must give the tenant 8 weeks' notice and evidence of the posting (e.g. a letter from their employer).

See further below on 'Less common scenarios for ending an agreement'.

LANDLORD ENDING A PERIODIC AGREEMENT

Aside from circumstances where the tenant has breached the agreement (see above section on breach), **a landlord can end a periodic residential tenancy agreement** in the situations listed in the following table.

Landlord's reason for ending the tenancy	Notice period required
The **landlord** genuinely intends to **live in the property.** A **relative or someone with a close relationship** with the landlord genuinely intends to **live in the property.** See clause 96 of the Standard Terms for how this category of people is defined.	**8 weeks** A statutory declaration from the landlord is also required.
The landlord genuinely intends to **sell the property**	**8 weeks**
The landlord genuinely intends to **rebuild, renovate or make major repairs** to the property, which cannot reasonably be carried out with the tenant living there	**12 weeks**
The landlord wishes to end the tenancy for **no reason** (sometimes called a 'no cause termination')	**26 weeks**

The landlord does not need an ACAT order in these circumstances. The landlord must give the tenant a notice to vacate that complies with the minimum notice period.

If you receive a notice to vacate from your landlord for one of the above reasons, you can decide to leave the property earlier than the date set by the landlord, by giving your landlord notice of your intention to vacate:

- with 4 days' notice, if you leave at any time during the last two weeks of the landlord's notice period, or
- with 3 weeks' notice at any other time.

If you consider that your landlord is requiring you to vacate your property under one of these grounds for reasons that are not genuine, you may apply to ACAT to dispute the notice (or for compensation if you have moved out in accordance with the notice). You may wish to seek legal advice in relation to this option.

If you do not move out in accordance with the notice to vacate issued to you by your landlord, then they can apply to ACAT for a termination and possession order which is an order to end the tenancy.

REQUIREMENTS FOR NOTICES

Where a tenant issues a notice of intention to vacate to the landlord, or a landlord issues a notice to vacate to the tenant, there is no set form to use but the following basic requirements must be met.

The notice must be in writing (it could be, for example, an email). The content of the notice must include:

- the address of the property
- adequate detail of the reason/s for issuing the notice (where there are reasons related to one of the grounds for termination under the Act)
- for a notice issued by a tenant: the date on which the tenant intends to vacate the premises (the date must meet any minimum notice period requirements), or
- for a notice issued by a landlord: the date on which the tenant must vacate the property (the date must meet any minimum notice period requirements), and
- a statement that the tenancy will end on that date.

Notices of intention to vacate and notices to vacate are also called termination notices.

The Tenancy Advice Service ACT makes sample notices available for use on its website (https://www.legalaidact.org.au/tasact).

Make sure you use your best efforts so that you will be able to prove that the landlord or agent received your notice. Check your residential tenancy agreement which will have an address for you to serve notices on your landlord or agent (this may be a physical address and/or an email address). Use that address, unless you are confident of reaching your

landlord through another means (e.g. if your landlord frequently communicates with you via another email address).

LESS COMMON SCENARIOS FOR ENDING AN AGREEMENT

There are a range of other less common situations where a residential tenancy agreement (whether fixed term or periodic) can be ended either by the tenant or the landlord. These include:

> The property is not fit for habitation (e.g. an internal wall has collapsed or the roof has blown off).

> The tenant lived in the property as part of an employment agreement that has ended and the landlord needs to use the property for another employee.

> The property is used as crisis accommodation and the landlord needs to use it for someone other than the current tenant.

> The landlord or the tenant entered into the agreement because of a false or misleading statement made by the other party.

> The landlord or the tenant has caused (or recklessly permitted) serious danger to the property, the property of the other party, or injury to the other party or a member of their family.

> The tenant abandons the property (moves out and stops paying rent). The landlord may apply to ACAT for compensation.

> A person other than the landlord becomes legally entitled to possess the property (e.g. the person inherits the property following the landlord's death or the bank forecloses on the property following a mortgage default by the landlord).

> The property has been identified by the Government as being affected by loose-fill asbestos (it is listed on the relevant Government register and/or it is eligible for the Government's buyback program). See further the information on Loose-Fill Asbestos in 'Starting Your Tenancy' above.

> The property is unavailable due to some action by the Government (e.g. part of a suburb has been evacuated).

> The tenant or landlord is unable or unwilling to perform their obligations under the tenancy agreement (this is known as **repudiation**).

If any of these situations may apply to you, check the Act for the specific rules that apply to ending tenancies on these grounds, and seek legal advice as necessary. In some cases an ACAT order will be necessary to terminate the tenancy.

END OF TENANCY PROCEDURES

This section discusses the things you need to take care of when moving out of your rental property. See also the ‘End of Tenancy Checklist’ at the beginning of the Renting Book.

FINAL INSPECTION AND CONDITION REPORT

You and the landlord must carry out an inspection of the property at the end of the residential tenancy agreement. The purpose of the inspection is to check that the property is in the same state of cleanliness and repair as at the beginning of the tenancy (fair wear and tear excepted). This **inspection must be done jointly,** unless you or the landlord agree not to be there (or you fail to attend).

You are not required to use professional cleaning services at the end of a tenancy. The only exception is that you may be required to get the carpets professionally cleaned, if this requirement is stated in your residential tenancy agreement and your landlord has provided evidence that this was done at the start of your tenancy.

You and the landlord must **complete and sign a condition report** based on the inspection. A template condition report is available from the ACT Revenue Office website: https://www.revenue.act.gov.au/__data/assets/pdf_file/0020/1093043/Condition-Report.pdf.

The report may be signed by only one party only if the other party has been provided with a reasonable opportunity to be present and has chosen not to be present.

The condition report will be evidence of the state of the property so it is important you check it and agree with it. If you do not agree with aspects of the report, you should note this on the report when you sign it. You may wish to take photos of any damage to the property that is raised as an issue at the final inspection. Make sure you keep a copy of the final condition report.

If your landlord suggests that you are responsible for any damage to the property, you must be given a reasonable opportunity to fix it. If you and your landlord agree on any steps to be taken, record this in writing.

You should return all the keys at the final inspection. If you do not return your keys you may be considered to still be in posession of the property and your landlord may claim compensation for lost rent.

GETTING YOUR BOND BACK

Note: This section discusses how to get your bond back at the end of a tenancy agreement. If you are a co-tenant who is leaving a tenancy agreement while your other co-tenants are remaining in the property, a different process for getting your bond back applies. See the section on share housing for more information.

What can the bond be used for?

The landlord can generally only make deductions from the bond for:

> Damage to the property caused by the tenant (other than ‘fair wear and tear’).
> Replacing keys or changing locks if the tenant fails to return all sets of keys.
> Any rent owing – note that this only applies if the tenant moves out with rent owing. The tenant cannot decide to use the bond to cover their final weeks of rent.
> Any fuel (e.g. wood or gas) supplied to the property at the beginning or during the tenancy.

There is no fixed rule or definition about what is ‘fair wear and tear’. Relevant considerations include how the damage occurred (was it through normal, everyday use of the property, e.g. carpet faded from sunlight or marked in a high traffic area like the entrance) and the severity of the damage (e.g. whether a wall has scuff marks or a hole in it).

If you and your landlord cannot agree on whether something is fair wear and tear, or damage requiring repairs that can be deducted from your bond, you may wish to seek legal advice about your position.

How do I get my bond back?

To get your bond back, a bond refund application needs to be made to the ACT Revenue Office. Either you or the landlord, or both of you jointly, can make this application. This is usually done after the tenancy ends. The exact procedure depends on who is making the application and whether there is any dispute about the bond.

Under the Act, once your tenancy ends, the landlord must give you a bond release application form signed by them. The ACT Revenue Office also allows your landlord to request the refund online. You will be notified by email or phone if the landlord is claiming all or part of your bond, so it is important for you to keep your contact details up to date with Rental Bonds. You can submit your contact details on the ACT Revenue Office website under Rental Bonds Forms.

> **If the landlord proposes to refund the full amount of the bond**, they must give you the application form within **3 working days** after your tenancy ends.
> **If the landlord proposes to make a claim on the bond** (make deductions from the bond), the form must include the details of the reasons for the deduction/s and the estimated costs of repairs. In this case, the landlord must give you the application form within **10 working days** after your tenancy ends. This additional time allows the landlord to obtain quotes as necessary to inform their claim on the bond.
> **If you agree with your landlord’s proposed approach to the bond**, you (and any other tenants) may sign the application form. Make sure anyone who was named as a tenant when the bond was lodged at the beginning of your tenancy signs the form.
> Either you or the landlord can give the signed form to the ACT Revenue Office. Landlords must lodge bond refund applications through the online Rental Bonds Portal.

> The ACT Revenue Office will deposit the bond refund payable to you in accordance with the form into your nominated bank account (and pay out any amount owing to your landlord, if there are any deductions).

If you do not agree with your landlord's proposed approach to the bond, do not sign the bond application form given to you.

Your landlord should proceed to request the bond refund from the ACT Revenue Office. The ACT Revenue Office will notify you of the landlord's proposed approach to the bond. **You will be given 14 days to respond to inform the ACT Revenue Office if you wish to dispute the bond refund**. If you dispute the refund, the ACT Revenue Office will refer the dispute to ACAT. ACAT will contact you to resolve the dispute.

You can also lodge your own bond refund form with the ACT Revenue Office. The ACT Revenue Office will notify any tenants who have not signed the form and the landlord of your proposed approach to the bond. If one of these parties notifies the ACT Revenue Office within 14 days that they dispute the proposed refund, the ACT Revenue Office will refer the dispute to ACAT.

You can find information about the bond refund process on the ACT Revenue Office website: https://www.revenue.act.gov.au/rental-bonds.

What happens if my landlord does not give me a signed bond application form to fill in?

If your landlord does not give you a signed bond application form within the timeframes required, **you can go ahead and make an application to the ACT Revenue Office to refund your bond without waiting for your landlord or agent to give you a form.** The ACT Revenue Office can receive and process the application without the consent of your landlord.

The ACT Revenue Office will notify any tenants who have not signed the form and the landlord of your proposed approach to the bond. If one of these parties notifies the ACT Revenue Office within 14 days that they dispute the proposed refund, the ACT Revenue Office will refer the dispute to ACAT.

How is the bond refund distributed when there is more than one tenant?

If more than one tenant was named as a party to the bond when it was lodged at the beginning of the tenancy, the ACT Revenue Office will assume that the bond (or that part of the bond) owing to the tenants is to be distributed in equal shares.

If the tenants want the bond to be paid out other than in equal shares, they must advise the ACT Revenue Office. A signed statement and signed photo identification from all of the tenants will be required before the bond can be paid out in unequal shares.

Tip: make sure your contact details are up-to-date with ACT Revenue

If the contact details you provided to the ACT Revenue Office (e.g. your name or your email address) have changed since the start of your tenancy, make sure you advise the ACT Revenue Office as soon as possible.

If the ACT Revenue Office cannot contact you because your details are out of date, this may delay the refund of your bond or potentially even result in deductions from the bond being paid out to the landlord because you did not dispute their application.

If there has been a change of co-tenants during the tenancy agreement it is particularly important to ensure that the ACT Revenue Office has the correct contact details for the tenants who are part of the tenancy agreement when the agreement ends.

What happens if the names of the tenants on the tenancy agreement don't match the names listed with the ACT Revenue Office?

If at the end of the tenancy agreeement there is a discrepancy between the tenants on the tenancy agreement and the names listed with the ACT Revenue Office, then the ACT Revenue Office can refer the matter to ACAT. ACAT will then decide who the bond should be released to.

UTILITIES AND MAIL

It is your responsibility to arrange to get any utilities that are connected in your name (e.g. gas, electricity) disconnected by the date on which you will move out of the property. You will be responsible for paying those bills.

If there are any metered services to the property that are in the landlord's name (e.g. water), the landlord must arrange to get a final meter reading by the day after you move out of the property. If the landlord does not get the meter reading done by that date, the landlord is responsible for paying the bill since the date of the last reading.

You should also update your mailing address with any organisations that send you mail. You may wish to consider paying for a mail redirection through Australia Post for a period of time.

GOODS LEFT IN THE PROPERTY

You are responsible for removing all your goods from the property when you move out.

If you accidentally leave any goods behind in the property, and you want to collect them, contact your landlord or agent as soon as possible.

Under ACT law, goods left behind in a rental property become 'uncollected goods'. There are procedures a landlord must follow under the *Uncollected Goods Act 1996* to dispose of or sell the goods. More information about uncollected goods is available from the Access Canberra website: https://www.accesscanberra.act.gov.au/.

Be aware that if you leave goods behind you may be charged for the cost of their storage and disposal.

Landlords may wish to seek legal advice before disposing of or selling any goods left behind in a rental property by a former tenant, especially if the goods are of value.

DISPUTES: GOING TO ACAT

ACAT is a Tribunal – an independent body which decides disputes and makes other decisions based on the law. ACAT aims to resolve matters in a quick, informal and inexpensive way.

If you are in a dispute with your landlord, agent or the owners' coporation in a unit titled property and you cannot reach an agreement to resolve it, you may wish to take the dispute to ACAT. Co-tenants who have a dispute between themselves (related to their tenancy agreement) can also take the dispute to ACAT. See the section on share housing for more information.

As well as resolving disputes, ACAT also makes other decisions about tenancies.
In particular, it decides applications from tenants and landlords for endorsement of additional terms in their residential tenancy agreements (see 'Starting Your Tenancy' section above).

This section answers some basic questions about ACAT. You can find more information on ACAT's website at: https://www.acat.act.gov.au/. You can contact ACAT on (02) 6207 1740 or tribunal@act.gov.au.

Who can make an application to ACAT?

Both tenants and landlords can make applications to ACAT. Tenants can apply to ACAT to resolve a dispute between them and their landlord or to resolve a dispute between co-tenants.

Is there a fee?

An application fee will usually apply, although in some circumstances applicants may be exempt from fees or fees may be waived due to financial hardship.

Do I need a lawyer?

You do not need a lawyer to represent you in ACAT. However, it can be beneficial for you to seek legal advice before going to ACAT, or at an early stage of your matter being before ACAT. This can help you understand how ACAT might decide your matter based on the law and what information is most relevant for you to provide to ACAT.

Note that ACAT cannot give you legal advice about your dispute, but its members and staff can provide information about its processes. For some options for legal advice providers, see the 'Need More Help?' section below.

How does the ACAT process work?

ACAT has different processes depending on the type of residential tenancy dispute.

Applications to terminate a lease are scheduled for hearing within two weeks.

For other types of residential tenancy disputes, ACAT may require tenants and landlords to attend a mediation or 'preliminary conference' as the first step, so the parties can try to

resolve their dispute by agreement in a facilitated professional environment. Many matters can be resolved at this stage.

If the parties cannot reach an agreement, ACAT will hold a hearing about the dispute. The parties will have the opportunity to present evidence and to explain their positions.

ACAT will then make a decision based on the law – meaning ACAT will apply the rules in the Act to your case. Previous decisions of ACAT may provide some guidance on how ACAT might decide your case. You can find published decisions of ACAT on the ACAT website or in an online searchable database on the Australasian Legal Information Institute website at: https://www.austlii.edu.au/.

ACAT has flexible powers to make a wide range of orders to resolve tenancy disputes fairly and appropriately. Some examples include orders that:

- endorse additional terms in a lease that are inconsistent with the Standard Terms, if both the tenant and landlord agree
- determine how a bond is to be refunded if the tenant and landlord are in dispute about damage to the property at the end of a lease
- allow a landlord access to inspect a property
- require a tenant to pay outstanding rent
- require compensation to be paid to a tenant or landlord if the other party has breached the Act
- allow a landlord to refuse consent to a tenant keeping a pet or making a special modification to the property
- require the landlord or tenant to act in accordance with the terms of the tenancy agreement (**a performance order**)
- terminate a residential tenancy agreement, or
- (if necessary) issue a warrant for the tenant's eviction.

Tenants and landlords are legally required to comply with ACAT's orders. In some circumstances, failure to comply with an ACAT order (such as a payment order or performance order) may be grounds of terminating the tenancy. Non-compliance may also result in ACAT imposing a penalty of up to $5,000. Further contraventions of ACAT orders may be criminal offences and attract higher penalties.

PENALTIES

Tenants and landlords should be aware that the Act includes serious penalties for non-compliance with its rules. For example:

> It is an offence to include false or misleading statements about the energy efficiency rating of a rental property in an advertisement. The offence carries a maximum fine of 5 penalty units (currently $800 for individuals or $4,050 for corporations).

> It is an offence for a landlord to fail to lodge a bond within the required timeframe. The offence carries a maximum fine of 20 penalty units (currently $3200 for individuals or $16,200 for corporations).

> Non-compliance with an ACAT order may result in ACAT imposing a penalty of up to $5,000. Further contraventions of ACAT orders may be criminal offences and attract higher penalties.

Know your rights and obligations and if in doubt, seek advice.

NEED MORE HELP?

WHERE TO GET LEGAL ADVICE

You are always entitled to seek legal advice, and landlords are prohibited from retaliating (taking action against you) if you seek to enforce your rights.

TENANCY ADVICE SERVICE ACT

The Tenancy Advice Service ACT is operated by Legal Aid ACT. It is funded by the ACT Government to provide legal advice to tenants in the ACT.

You can contact them on 1300 402 512 or TAS@legalaidact.org.au. Legal advice from this service is free and confidential. It is not means-tested (the service is available to all ACT tenants regardless of income).

For more information, and a range of online resources for tenants, see: https://www.legalaidact.org.au/tasact

CANBERRA COMMUNITY LAW

If you are a tenant in public housing (from Housing ACT), crisis accommodation or social housing (provided by a community housing provider), or if you want to find out if you are eligible for these services, the Housing Law service at Canberra Community Law can provide you with free and confidential legal advice. You can contact them on (02) 6218 7900 or info@canberracommunitylaw.org.au.

For more information, and a range of online resources for public housing tenants, see:

https://www.canberracommunitylaw.org.au/

ACT LAW SOCIETY LEGAL ADVICE BUREAU

The Legal Advice Bureau at the Law Society is a free and confidential service and can provide advice in 15 minute consultation sessions to both tenants and landlords. For further information see https://www.actlawsociety.asn.au/for-the-public/legal-help/legal-advice-bureau. Appointments can be made by calling (02) 6274 0300.

THE ACT CIVIL AND ADMINISTRATIVE TRIBUNAL (ACAT)

ACAT is an independent body which resolves tenancy disputes and makes other decisions on application by tenants or landlords. ACAT does not give legal advice but can provide information about its processes. See the section above on ‘Disputes: Going to ACAT’ for more information. You can contact ACAT on (02) 6207 1740 or tribunal@act.gov.au.

ACT REVENUE OFFICE (BONDS)

The ACT Revenue Office is responsible for the receipt and management of residential tenancy rental bonds in the ACT. For more information on bonds, and to contact the ACT Revenue Office, visit: https://www.revenue.act.gov.au/rental-bonds.

HOUSING ACT TENANTS

Housing ACT operates this helpline for public housing tenants only. You can contact the helpline on 133 427 housing.customerservice@act.gov.au.

SUPPORT FOR TENANTS IN HOUSING STRESS

There are services available in the ACT for tenants who may be facing difficulties in paying their rent or bills or are otherwise at risk of losing their tenancy or facing homelessness. These include:

> **Onelink** assists people who are homeless or at risk of homelessness (1800 176 468, info@onelink.org.au, www.onelink.org.au/)

> The **Supportive Tenancy Service** helps tenants who are worried about losing their tenancy as well as people who face barriers to securing a tenancy in the first place. Referrals to the Supportive Tenancy Service are made by contacting Onelink.

> The **Care Financial Counselling Service** assists people who may want help managing their expenses to make ends meet (02 6257 1788, admin@carefcs.org, www.carefcs.org/financial-counselling)

RENTAL BOND HELP PROGRAM

If you want to start a tenancy but your income is low to moderate and you cannot afford to pay the bond upfront, you may be eligible for the ACT Government's Rental Bond Help Program. The Program offers to pay up to 100% of the rental bond for approved applicants, as a loan that is interest free and can be repaid over 24 months.

For more information, see the Housing ACT website at: https://www.myaccount.act.gov.au/rentalbondhelp/s/

CONFLICT RESOLUTION SERVICE

Conflict Resolution Service (CRS) is a nationally accredited mediation service that resolves conflict professionally, competently and compassionately. CRS have experience working with neighbours, landlords and residential tenants to provide a safe, structured, and confidential environment for discussion between parties. For more information contact CRS on (02) 6189 0590 or visit www.crs.org.au.

REGULATION OF REAL ESTATE AGENTS AND SALESPEOPLE

ACCESS CANBERRA

Real estate agents are licensed and salespeople are registered under ACT law. The *Agents Act 2003* imposes certain professional obligations on them. If a landlord or tenant thinks that a real estate agent or salesperson may have engaged in sufficiently serious unprofessional conduct, they may wish to make a complaint about the agent to Access Canberra.

Access Canberra is responsible for regulating real estate agents and salespeople and has powers to investigate complaints and take action in respect of an agent's licence or salesperon's registration if appropriate. You can report a complaint about an agent or salesperson to Access Canberra online at: https://www.accesscanberra.act.gov.au/ or call 13 22 81.

REAL ESTATE INSTITUTE OF THE ACT (REIACT)

REIACT is an industry body that represents the views of the real estate profession in the ACT. You can contact REIACT on (02) 6282 4544 or admin@reiact.com.au.

JUSTICE AND COMMUNITY SAFETY DIRECTORATE

AUTHORISED BY THE DIRECTOR-GENERAL OF THE
JUSTICE AND COMMUNITY SAFETY DIRECTORATE

2021