

ACT Civil and Administrative Tribunal

Practice note number 4 of 2020

6 March 2020

Civil dispute applications made by a utility

The ACT Civil and Administrative Tribunal makes the following practice note under the *ACT Civil and Administrative Tribunal Procedures Rules 2020*.



Registrar K Soper

Dated 6 March 2020

Note The practice note begins below the line. The information above the line is a summary of the key issues only.

Civil Dispute applications made by a utility

This practice note sets out the requirements for civil dispute applications made to the ACT Civil and Administrative Tribunal (the tribunal) by a utility.

Key Points

- The *Utilities Act 2000* (the Utilities Act) requires that a utility gives a customer notice before commencing proceedings in the tribunal's civil jurisdiction.
- The notice must:
 - be given at least 7 days before the day the civil dispute application is made; and
 - include a statement about the customer's rights to make an application in relation to a debt or cause of action under Part 12 of the Utilities Act (Complaints to ACAT about utilities).
- A copy of the notice must be attached to the civil dispute application that is lodged with the Tribunal.

Framework

- This practice note is made under rule 7 of the *ACT Civil and Administrative Tribunal Procedures Rules 2020* (the Rules).
- The legislation that applies to this practice note is—
 - the *ACT Civil and Administrative Tribunal Act 2008* (the Act), Part 4 (Civil disputes);
 - the Utilities Act, specifically section 168 (complaints to the Tribunal about utilities) and Part 12; and
 - rule 16 of the Rules.

Note 1: A utility is a person licensed to provide a utility service in relation to electricity, gas and water (for more information, see the Utilities Act).

Note 2: A customer is defined in section 17 of the Utilities Act.

Application

- (1) This practice note commences on 6 March 2020.
- (2) This practice note applies if:

- (a) a utility commences a civil dispute application at the tribunal (under part 4 of the Act); and
- (b) The civil dispute application is about:
 - i. the recovery of a customer debt; or
 - ii. any other cause of action against a customer in relation to which an application to the tribunal can be made under part 12 of the Utilities Act (Complaints to the tribunal about utilities).

General Principle

- (3) Before a utility commences a civil dispute application against a customer (about something mentioned in paragraph (2)(b) above) the utility must give the customer written notice of their intention to do so.
- (4) The notice must –
 - (a) be given at least 7 days before the day the application is made; and
 - (b) must include a statement about the customer’s rights to make an application to the tribunal under part 12 of the Utilities Act (Complaints to ACAT about utilities).
- (5) A copy of the notice must be attached to the civil dispute application that is lodged by the utility with the tribunal.

Compliance

- (6) If this practice note is not complied with, the tribunal may—
 - (a) consider whether to reject the civil dispute application under Rule 16 of the Rules; or
 - (b) take any other action the tribunal considers appropriate.