

## Factsheet: Protection Orders and Ending a Lease/Signing a New Lease

### **There are new provisions in the *Residential Tenancies Act 1997* for protected people**

Changes to the *Residential Tenancy Act 1997* commence on **24 August 2017**. The changes allow a protected person to ask ACAT to make orders about their tenancy arrangements in certain circumstances.

### **Who can apply to ACAT for orders?**

A protected person is a person who is under a protection order that has been made by the ACT Magistrates Court. A protected person can apply to ACAT for orders about their tenancy agreement or rental home.

### **What orders can ACAT make?**

ACAT can make orders to:

- ❖ end an existing tenancy agreement. This means that the protected person can leave the tenancy; or
- ❖ require a landlord (or lessor) to enter into a new tenancy agreement with the protected person and any other person named in the ACAT application. This means that the protected person can stay at the rented premises; and
- ❖ decide the liabilities of the protected person, the respondent and any other tenants to the existing tenancy about the bond.

ACAT can only make orders if certain circumstances apply.

A protected person, tenant or person living at the premises can also change the existing locks at their own costs without the agreement of the other party. If the locks are changed, a copy of the key to the changed locks must be provided to the other party as soon as possible.

### **When can a protected person apply for orders?**

A protected person can ask ACAT for orders if all of the following circumstances apply:

1. The Magistrates Court has made a protection order. The order can be an interim or final order;
2. The respondent to the protection order is a party to the tenancy agreement (has signed the lease).
3. The protected person is either:

- a party to the tenancy agreement (has also signed the lease); or
  - has been living in the property as their home, but has not signed the lease;  
and
4. Either:
- the protection order prohibits the respondent from being at the premises or within a certain distance of the protected person; or
  - the respondent to the protection order has given an undertaking (or promise) to the Magistrates Court to leave the premises.

### **Who are the parties in ACAT?**

The protected person is the applicant in the ACAT case.

The other parties to the application to ACAT are:

- ❖ The lessor or landlord (first respondent);
- ❖ The respondent to the protection order at the Magistrate's Court (second respondent); and
- ❖ Any other existing tenants (third respondent).

### **How to apply to ACAT**

If you are a protected person and want to ask ACAT for orders about your residential tenancy agreement, you need to:

1. fill in an application form. The application form is available from the ACAT website: [www.acat.gov.au](http://www.acat.gov.au) or be telephoning ACAT on 6207 1740;
2. attach the protection order to the application form;
3. pay the applicable fee. If you cannot afford the fee you can apply to have the fee waived by filling in a form called a Request for Exemption from Paying Fees for ACT Courts or ACAT Matter;
4. make at least three copies of the application;
5. give the completed application form, the protection order and the fee to ACAT either by post to GPO Box 370 Canberra ACT 2601 or in person at ACT Civil and Administrative Tribunal, ACT Health Building Level 4, 1 Moore Street Canberra City ACT.

After ACAT gets the completed application it gives the application a hearing date and sends the application with a letter to each of the other parties telling them the hearing date.

**What happens at ACAT?**

The application is provided to the ACAT registry. A copy of the protection order must be attached. You can send the application in the mail, or provide it to the ACAT front counter.



ACAT gives a copy of the application to the parties, and tells them the hearing date and time.



The parties are able to provide to the Tribunal any documents 7 days before the hearing. The Tribunal will give copies to all parties.



The hearing will take place at Level 4, 1 Moore Street, Canberra City.



An ACAT Member will hear and decide the case. A decision will often be made on the day. If not, the decision will be reserved and you will be notified when the decision is ready.

### **Things to Remember – Applicant/Protected Person**

- ❖ If you have any requirements for attending the hearing at ACAT, you need to tell us about those early. For example, we have a remote witness room.
- ❖ You must clearly mark on your application any contact details that are confidential or that you do not want given to other parties. You do need to provide ACAT with a way that we can contact you. This can be an email address, telephone number or a friend or family member. If you want all of your details kept confidential (such as your name), you will need to apply to ACAT for a suppression order. Please speak to the ACAT Registry about how to apply for a suppression order.
- ❖ If you do not have a postal address for a party to the proceedings, you can ask ACAT for an order that the application provided to a person in another way, for example, by email. This is called a substituted service application. Please speak to registry staff about how to apply for a substituted service order.

### **Things to Remember – All Parties**

- ❖ The *Residential Tenancies Act 1997* sets out when ACAT can make an order, when the orders take effect and what is to be included in any new lease.
- ❖ All parties should attend the hearing at ACAT.
- ❖ There is a Guide about what to expect at an ACAT hearing, available at:  
[http://acat.act.gov.au/about\\_acat/guide-to-parties-what-to-expect-at-hearing](http://acat.act.gov.au/about_acat/guide-to-parties-what-to-expect-at-hearing).
- ❖ All parties can obtain legal advice and it is best to get legal advice early. The ACAT website has a list of free legal advice providers:  
[http://acat.act.gov.au/about\\_acat/legal\\_advice\\_assistance](http://acat.act.gov.au/about_acat/legal_advice_assistance).