

**ACT Civil and Administrative Tribunal**

**Practice Note Number 3 of 2023**

**12 October 2023**



## **New Civil Dispute Process**

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

A handwritten signature in black ink, appearing to read 'K Carter'.

Registrar K Carter

Dated 12 October 2023

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

### Key points

- ACAT is extending a trial of a new and more streamlined pathway for civil dispute applications, initially set out by Practice Note 1 of 2023 (Civil Process Trial) and Practice Note 2 of 2023 (Civil Process Trial) to take place between **Wednesday 10 May 2023** until **Monday 23 October 2023** ('the original trial period'). This practice note repeals Practice Note 2 of 2023 and extends the original trial period to take place from Wednesday 10 May 2023 until a termination date as declared by the tribunal ('the trial period').
- ACAT intends to adopt the trial pathway as the new pathway of civil disputes, and will amend the ACT Civil and Administrative Tribunal Procedures Rules 2020 (the Rules) to facilitate the changes in rules and procedures. Until the commencement of the amended ACAT Rules, this practice note will apply to all civil dispute applications lodged in the trial period unless declared otherwise by the tribunal.

*Note* see Amendment History.

- This practice note sets out the specific rules and procedures that will apply during the trial period.
  - a) all new civil dispute applications lodged will be listed for an initial directions hearing, which will take place after the Response – Civil Dispute is due;
  - b) the specific rules for registry processing of default judgment (Rule 116) and acceptance and non-acceptance of admission of liability (Rule 109 and 110) will be suspended, but only for new civil dispute applications lodged; and
  - c) registry will not process the issue of default judgements and consent orders for admission of liability for new civil dispute applications lodged. These applications can be made orally by the parties at the directions hearing.

### Framework

- This practice note is made under rule 7 of the *ACT Civil and Administrative Tribunal Procedures Rules 2020*.
- This practice note applies unless the tribunal excuses a person from complying with it or makes a direction that overrides it.
- This practice note interacts with—
  - The *ACT Civil and Administrative Tribunal Act 2008* (the Act), section 17 (Civil dispute applications);

- The ACT Civil and Administrative Tribunal Procedures Rules 2020 (the Rules), Chapter 3, Part 3.2, Division 3.2.1 (Civil disputes (other than fence disputes));
- The Rules Chapter 3, Part 3.2, Rule 99(3) to (5); and
- The Rules Chapter 2, Part 2.7, Rule 60 (Directions) and Rule 61 (Failure to attend a directions hearing).

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## Part 1: Application

- (1) This practice note repeals Practice Note 2 of 2023 (Civil Process Trial).
- (2) This practice note commences on **12 October 2023** and applies to all new **civil dispute applications** lodged at the tribunal on or after **10 May 2023** until a date declared by the tribunal (Civil Process Trial period).

*Note*                      The meaning of civil dispute application is defined in the Act, section 16 (Meaning of civil dispute and civil dispute application – Act).

- (3) This practice note does not apply to civil dispute applications lodged before 10 May 2023. Those applications will continue to progress through ACAT via the existing civil dispute processes as prescribed by the Act and the Rules.
- (4) The tribunal may extend or terminate the Civil Process Trial period. A decision to extend or terminate will be notified on the tribunal website ([www.acat.act.gov.au](http://www.acat.act.gov.au)) ten days before the date of termination declared by the tribunal.
- (5) To adopt the trial pathway as the new civil dispute process pathway, the tribunal intends to amend the Rules to repeal the relevant rules set out in Part 3 of this practice note. Until the commencement of the amended Rules, the Civil Process Trial period will continue, and this practice note will apply to all new civil dispute applications lodged during the trial period.

## Part 2: Trial pathway for civil dispute applications

- (6) New civil dispute applications lodged at the tribunal on or after 10 May 2023 will be listed for a short directions hearing before a tribunal Member or Registrar.
- (7) At the directions hearing, the tribunal Member or Registrar can make orders about what should happen next, including orders about:
  - (a) serving the application on the respondent/s in a different way;
  - (b) correcting any issues with the name or identity of the parties;
  - (c) requiring the respondent/s to file a response if not already filed;
  - (d) entering default judgment for failure to lodge a response or attend the directions hearing;

- (e) deciding whether ACAT has jurisdiction to hear the application;
  - (f) referring the application to a conference or a hearing;
  - (g) entering consent orders for admission of liability;
  - (h) directions for the parties to file and serve documents to prepare for the next steps; or
  - (i) deciding the final outcome of the application such as entering judgment or consent orders.
- (8) The tribunal may also make any other orders it considers appropriate for the proceedings.
- (9) If the application is not finalised at the directions hearing, the tribunal will inform the parties about the next steps.

*Note 1*                The tribunal may list the proceedings for a preliminary conference or hearing.

*Note 2*                The Act, section 37 applies.

### **Part 3: Dispensing of ACAT Rules**

- (10) Rule 99(3) – (5) temporarily disappplies the following Rules to all new civil dispute applications lodged at the tribunal in the Civil Process Trial period.
- (a) Rule 109 Acceptance of admission of liability;
  - (b) Rule 110 Non-acceptance of admission of liability; and
  - (c) Rule 116 Default judgement.
- (11) To remove any doubt, Chapter 2 (General Rules) and the remainder of Part 3.2 of the Rules continue to apply to all new civil dispute applications lodged in the Civil Process Trial period.

### **Part 4: Information for tribunal users**

- (12) A person who lodges or is planning to lodge a civil dispute application in the Civil Process Trial period should check the tribunal website ([www.acat.act.gov.au](http://www.acat.act.gov.au)) or contact the tribunal for information about the specific procedures and pathways that are in place for the duration of the trial.

#### **Amendment history**

<b>3 May 2023</b>	<i>Practice Note Number 1 of 2023 Civil Process Trial made</i>
<b>27 July 2023</b>	<i>Practice Note Number 1 of 2023 Civil Process Trial was repealed and replaced by Practice Note 2 of 2023 Civil Process Trial</i>
<b>12 October 2023</b>	<i>Practice Note Number 2 of 2023 Civil Process Trial was repealed and replaced by Practice Note 3 of 2023 New Civil Process.</i>