

Tenancy: ACT Tenancy Law Basics

This factsheet explains some basic information on tenancy in the ACT. Please see our other factsheets for more detailed information about these issues.

Private Housing

Types of tenancy arrangements

It is important that tenants are informed about the different types of tenancy arrangements available.

Joint Tenancy (Co-Tenancy)

This is where two or more tenants accept a tenancy agreement. Tenants in a joint tenancy are 'joint and severally' liable for meeting their responsibilities in their tenancy agreement. This means they must fulfil their individual obligations to the agreement, but are also responsible for compliance as a group. For example, if a tenant damages the property, co-tenants may also be liable for costs, even if they did not cause the damage.

Sub-Tenancy

This is where the tenant lets out all or part of the premises to another party. This is only possible with consent of the lessor. If the tenant sub-lets to a sub-tenant, this creates a second tenancy agreement and the tenant now functions as a lessor to the sub-tenant. The head-tenant is responsible for collecting rent, issuing rent receipts and depositing bonds; and the sub-tenant is responsible for complying with the tenancy agreement. See our factsheet on **Sub-letting** for more information.

Residential tenancy agreement

The residential tenancy agreement is the agreement between the tenant and the lessor. As it contains the terms governing the arrangement, it should be reviewed by both the tenant and the lessor carefully.

Fixed term tenancy vs periodic tenancy

The residential tenancy agreement may be fixed term or periodic. A fixed term agreement states the period of the tenancy, and the tenant is entitled to stay at the property for the specified time. A periodic agreement does not specify the length of the tenancy, and the tenant or lessor can give notice at any time to end their agreement. The relevant notice periods are contained in the Standard Tenancy Terms.

Compliance with the Standard Tenancy Terms

The residential tenancy agreement automatically includes and should comply with the Standard Tenancy Terms ('STT'). If the tenancy agreement includes a term inconsistent with the STT, the lessor is obliged to notify the tenant, and the tenant does not have to accept it. ACAT must formally endorse a non-compliant term before it forms part of the tenancy agreement.

Paying a bond

The lessor will usually require that a bond is paid by the tenant, which must then be lodged with the ACT Revenue Office: Rental Bonds. Any bond required by the lessor cannot exceed the equivalent of 4 weeks' rent.

Moving in

It is a good idea for the tenant to take dated photos of the premises, check that all amenities function properly and all locks work. The tenant should accurately complete a condition report detailing the state of the premises – having a clear report of its condition at the start of the tenancy minimises disputes over things like property damage and cleanliness upon moving out.

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Ending a tenancy

If a tenant wishes to end the tenancy at or after the end of the fixed term, they can do so by giving at least 3 weeks' notice in writing to the lessor or their agent specifying the date they intend to vacate.

A tenant may terminate a periodic tenancy agreement by giving the lessor or their agent at least 3 weeks' written notice of intention to vacate.

If a tenant is in a fixed term agreement and wishes to terminate the tenancy agreement early, they can do so at any time by entering into a mutual written agreement with their lessor. ACT tenancy laws also provide several other grounds allowing early termination. See our **Ending a Tenancy** factsheet for more information.

If there are no grounds for terminating a fixed term agreement and a tenant decides to leave the agreement, they have 'broken the lease', and may be required to pay the lessor compensation. See our **Ending a Tenancy** factsheet for more information.

Property Damage

Tenants are responsible for any damage caused to the premises, regardless of whether it is an accident. However, they are not responsible for damages caused by fair wear and tear or damage caused by incidents outside of their control (e.g. a tree falling on the roof from a neighbour's yard). If tenants are found to have caused damage to property not arising from fair wear and tear, the lessor may claim the bond money for the cost of repair. Joint tenants may also be liable for the cost of damage caused by a housemate.

Evictions

Joint tenants or head-tenants can only be evicted by their lessor or agent in accordance with ACT tenancy law. However, sub-tenants can be evicted either by their head-tenant, or by virtue of their head-tenant's eviction. Proper notice of eviction is required.

Social Housing

The ACT Government offers Social Housing, which incorporates Public Housing, Community Housing and Affordable Housing. These are low-cost housing options for people on low to moderate incomes, or for groups who have housing needs not adequately met by other forms of housing.

To qualify for social housing, you must be over 16 years old, lawfully in Australia, a resident for 6 months immediately before the assessment date and fall within the income barrier. Please read more about the different types of housing and eligibility criteria at: communityservices.act.gov.au/hcs.

If you live in social housing, you are still a tenant and must comply with your legal obligations under your tenancy agreement.

If you are having difficulty obtaining or maintaining social housing, contact Canberra Community Law at (02) 6218 7900 for assistance.

If you have any questions arising out of the information provided in this fact sheet, contact the **Tenancy Advice Service** at:

1300 402 512 or TAS@legalaidact.org.au