



Australian Capital Territory

# ACT Civil and Administrative Tribunal Procedures Rules 2024

Notifiable instrument NI2024-485

---

The ACT Civil and Administrative Tribunal makes the following rules under the *ACT Civil and Administrative Tribunal Act 2008*, section 24.

Dated 29 August 2024

Mary-Therese Daniel  
President

Heidi Robinson  
Presidential Member

Dr Juliet Lucy  
Presidential Member





Australian Capital Territory

# ACT Civil and Administrative Tribunal Procedures Rules 2024

Notifiable instrument NI2024-485

made under the

[ACT Civil and Administrative Tribunal Act 2008](#)

## Contents

---

	Page
<b>Chapter 1</b>	<b>Preliminary</b>
1	Name of rules 1
2	Commencement 1
3	Dictionary 1
4	Notes 1
5	Application of rules 2

---

	Page
6	2
7	2
<b>Chapter 2</b>	<b>General rules</b>
<b>Part 2.1</b>	<b>Documents</b>
9	4
10	4
11	5
12	5
13	6
14	7
14A	7
15	8
16	8
17	9
<b>Part 2.2</b>	<b>Service</b>
18	10
19	10
20	11
21	13
23	14
24	15
25	15
26	16
27	17
28	17
29	18
30	18
<b>Part 2.3</b>	<b>Amendments</b>
31	19

---

	Page	
32	Application—pt 2.3	19
33	When amendment must be made	19
34	How to amend	20
<b>Part 2.4</b>	<b>Starting proceedings</b>	
35	Applications to start proceedings	21
36	Moving proceedings between tribunal jurisdictions	23
37	Responding to an application	23
38	Extension of time for making application	24
<b>Part 2.5</b>	<b>Participating in proceedings</b>	
<b>Division 2.5.1</b>	<b>Including and removing parties</b>	
39	Necessary parties	26
40	Removing parties	27
<b>Division 2.5.2</b>	<b>Authorised representatives</b>	
41	Appointing an authorised representative	27
42	What an authorised representative may do	29
43	Knowledge and authority	29
44	Changing authorised representative	30
45	Removal of authorised representative	30
<b>Division 2.5.3</b>	<b>Litigation guardians</b>	
46	Meaning of <i>person with a legal disability</i>	31
47	Person with a legal disability must have litigation guardian	31
48	Litigation guardians	32
49	Appointing a litigation guardian for an application	33
50	Removing or replacing a litigation guardian	34
51	Litigation guardian—liability for costs	35
<b>Part 2.6</b>	<b>Preliminary conferences and mediation</b>	
52	Application and purpose—pt 2.6	36
53	Participating in preliminary conferences or mediation	36
54	Confidentiality of preliminary conferences	37
55	Confidentiality of mediations	37

	Page
56	38
Failure to attend a preliminary conference or mediation	
<b>Part 2.7 Conduct of proceedings</b>	
57	39
Application—pt 2.7	
58	39
Procedural requirements for applications	
59	39
Failure to comply with procedural requirements	
60	40
Directions	
61	40
Failure to attend a directions hearing	
62	41
Interim and other orders	
63	43
Adjournment	
64	43
Taking part other than in person	
65	43
Hearing on the papers	
66	44
Orders in chambers	
67	44
Discontinuing proceedings	
68	45
Costs of discontinued proceedings	
69	45
Lapse of proceedings	
70	46
Setting aside final orders without appeal	
71	48
Fixing or assessing costs	
<b>Part 2.8 Subpoenas</b>	
72	50
Definitions—pt 2.8	
73	50
Application—pt 2.8	
74	51
Issuing subpoenas	
75	52
Form of subpoenas	
76	52
Service of subpoenas	
77	53
Permission to serve subpoena late	
78	54
Interstate subpoenas	
79	55
Compliance with subpoena	
80	56
Cost and expense of complying with subpoenas	
81	56
Access to and inspection of subpoenaed documents	
82	57
Uplifting a document or thing	
83	58
Objection to production, access, inspection or copying	
84	58
Setting aside subpoena or other relief	

	Page	
85	Use of subpoenaed material	59
86	Disposal of documents and things produced in response to subpoena	59
<b>Part 2.9 Supreme Court removals and referrals</b>		
87	Application—pt 2.9	60
88	Application for removal—time	60
89	Application for removal or referral—form	60
<b>Chapter 3 Specific rules</b>		
<b>Part 3.1 Appeals within tribunal</b>		
90	Application—pt 3.1	62
92	Application for appeal within tribunal—requirements	62
93	Application for appeal within tribunal—lodgment	63
94	Application for appeal within tribunal—time for lodging	64
95	Registrar to give documents to parties	64
96	Parties to appeal	65
97	Response to application for appeal not required	66
<b>Part 3.2 Civil disputes</b>		
<b>Division 3.2.1 Civil disputes (other than fence disputes)</b>		
<b>Subdivision 3.2.1.1 Preliminary</b>		
98	Definitions—div 3.2.1	67
99	Application—div 3.2.1	67
<b>Subdivision 3.2.1.2 Starting proceedings</b>		
100	Civil disputes—applications	68
101	Claim for contractual or statutory interest	70
102	Claim for interest—other	71
103	Claim for enforcement expenses	72
104	Civil dispute applications—lodgment	72
105	Civil dispute applications—service	72

---

	Page
<b>Subdivision 3.2.1.3 Responding to a civil dispute application</b>	
106 Civil dispute applications—response	73
107 Time for response	74
108 Admission of liability by respondent	75
111 Disputed civil dispute applications	75
112 Civil dispute applications—counterclaim	76
113 Civil dispute applications—set-offs	77
<b>Subdivision 3.2.1.4 Third parties to civil dispute</b>	
114 Civil dispute applications—joining a third party	78
115 Third-party notice—response	80
<b>Division 3.2.2 Fence disputes</b>	
117 Definitions—div 3.2.2	81
118 Application—div 3.2.2	82
119 Fence disputes—applications	82
120 Fence dispute applications—response not required	84
<b>Part 3.3 Applications under the Guardianship and Management of Property Act 1991 and Powers of Attorney Act 2006</b>	
121 Application—pt 3.3	85
121A Meaning of <i>protected person</i> —pt 3.3	85
122 Applications under this part—application	85
122A Applications under this part—parties	87
122B Applications under this part—lodgment	88
122C Applications under this part—service	88
122D Applications under this part—response not required	89
122E Change of contact details for protected person	89
122F Review of guardian and manager appointments	89
<b>Part 3.4 Applications under the Mental Health Act 2015</b>	
123 Meaning of <i>subject person</i> —pt 3.4	91
123A Application—pt 3.4	91



	Page
123B Applications under the Mental Health Act 2015—parties	91
124 Applications under the Mental Health Act 2015—lodgment	92
124A Applications under the Mental Health Act 2015—service	92
124B Applications under the Mental Health Act 2015—response not required	93
<b>Part 3.5 Applications for review of administrative decisions</b>	
125 Application—pt 3.5	94
126 Review of administrative decisions—application	94
127 Applications for review of administrative decision—response not required	96
128 Notifying interested people	96
129 Reasons for decision	97
130 Tribunal documents	97
131 Application to be joined as party	100
132 Exercise of powers by respondent in relation to reviewable decision after proceeding started	101
<b>Part 3.6 Applications for occupational discipline</b>	
133 Application—pt 3.6	103
134 Occupational discipline—applications	103
135 Applications for occupational discipline—response not required	104
136 Applications for occupational discipline—Legal Profession Act 2006	105
<b>Part 3.7 Referral of discrimination complaints</b>	
137 Definitions—pt 3.7	107
138 Application—pt 3.7	107
139 Complaint referred under Human Rights Commission Act 2005, s 53A	108
140 Human Rights Commission Act 2005, s 53B—late applications	109
141 Proceeding under pt 3.7—response not required	111
<b>Part 3.8 Applications under the Utilities Act 2000</b>	
142 Definitions—pt 3.8	112
143 Application—pt 3.8	113

## Contents

---

	Page
144	Complaints—hardship assistance— applications 113
145	Complaints—other relief 114
<b>Part 3.9 Residential tenancy disputes</b>	
146	Definitions—pt 3.9 116
147	Application—pt 3.9 116
148	Referrals under the Act, s 34F and 35 116
149	Tenancy and occupancy disputes—application 117
150	Tenancy and occupancy disputes—response 118
151	Orders relating to rental bonds and security deposits 118
<b>Chapter 4 Repeals</b>	
152	Legislation repealed 119
<b>Dictionary</b>	120

---

# Chapter 1 Preliminary

## 1 Name of rules

These rules are the *ACT Civil and Administrative Tribunal Procedures Rules 2024*.

## 2 Commencement

These rules commence on 1 October 2024.

*Note* The naming and commencement provisions automatically commence on the notification day (see [Legislation Act 2001](#), s 75 (1)).

## 3 Dictionary

- (1) The dictionary at the end of these rules is part of these rules.

*Note 1* The dictionary at the end of these rules defines certain terms used in the rules and includes references (*signpost definitions*) to other terms defined elsewhere in these rules.

For example, the signpost definition ‘*addressee*, for part 2.8 (Subpoenas)—see r 72.’ means that the term ‘addressee’ is defined in that rule.

*Note 2* A definition in the dictionary (including a signpost definition) applies to the entire rules unless the definition, or another provision of the rules, provides otherwise or the contrary intention otherwise appears (see [Legislation Act 2001](#), s 155 and s 156 (1)).

- (2) Words or phrases in these rules have the same meaning as in the [Act](#), unless otherwise defined in the dictionary.

## 4 Notes

A note included in these rules is explanatory and is not part of these rules.

*Note* See the [Legislation Act 2001](#), s 127 (1), (4) and (5) for the legal status of notes.

## 5 Application of rules

- (1) These rules apply to a proceeding in the ACT Civil and Administrative Tribunal unless—
  - (a) a territory law provides otherwise; or
  - (b) the tribunal orders otherwise.

*Note 1* The [Act](#), s 23 (Tribunal decides own procedure) applies.

*Note 2* The [Act](#), s 24 (3) provides that s 24 (Rule-making power) does not limit the power of the tribunal or a tribunal member to control proceedings.

- (2) These rules apply as follows:
  - (a) chapter 2 (*general rules*) applies to all proceedings, unless stated otherwise;
  - (b) a part in chapter 3 (*specific rules*) applies only to proceedings in the jurisdiction to which the part applies;
  - (c) if there is inconsistency between a general rule and a specific rule, the specific rule applies to the extent of the inconsistency.

## 6 Dispensing with rules

- (1) The tribunal may, by order, dispense with the application of a provision of these rules to a particular proceeding on any condition it considers appropriate.
- (2) The tribunal may make an order under subrule (1) on application by a party, another person or on its own initiative.

## 7 Practice notes

- (1) The registrar may make practice notes setting out the procedure or practice to be followed in a particular kind of proceeding or in relation to a particular issue.

- (2) A practice note must be consistent with these rules.

*Note* If the registrar makes a practice note in relation to a kind of proceeding or an issue, the practice note applies to the proceeding or issue in addition to these rules.

- (3) The tribunal or registrar may dispense with the application of a practice note to a particular proceeding.

## Chapter 2            General rules

### Part 2.1            Documents

#### 9            Application—pt 2.1

The rules in this part—

- (a) apply to all applications unless stated otherwise; and
- (b) apply to a document that is prepared for use in tribunal proceedings including—
  - (i) an application or other document starting proceedings; and
  - (ii) a document lodged by a party; and
  - (iii) correspondence sent to the tribunal.

*Note*        For the application of these rules, see r 5.

#### 10           Tribunal forms

- (1) A tribunal form may be—
  - (a) an approved form; or
  - (b) a template prepared for use in a proceeding if a form has not been approved for that use.

*Note 1*        The [Act](#), s 117 (2) provides that if the tribunal approves a form for a particular purpose, the approved form must be used for that purpose.

*Note 2*        Substantial compliance with an approved form is sufficient (see [Legislation Act 2001](#), s 255 (4)) unless the [Legislation Act 2001](#) s 255 (5) applies.

Under the [Legislation Act 2001](#), s 255 (5) if a form requires the following, the form is properly completed only if the requirement is complied with:

- (a) the form to be signed;
- (b) the form to be prepared in a particular way (for example, on paper of a particular size or quality or in a particular electronic form);

- (c) the form to be completed in a particular way;
- (d) particular information to be included in the form, or a particular document to be attached to or given with the form;
- (e) the form, information in the form, or a document attached to or given with the form, to be verified in a particular way (for example, by statutory declaration).

*Note 3* Tribunal forms are available on the tribunal website [www.acat.act.gov.au](http://www.acat.act.gov.au) or from the registry.

*Note 4* A company search must be lodged with the tribunal form Authority to Act for a Corporation (see r 41).

- (2) A tribunal form may be completed—
  - (a) in paper form; or
  - (b) in electronic form.

## 11 What information must a document contain?

- (1) A document lodged with the tribunal for a proceeding must state—
  - (a) if the tribunal has allocated a file number for the proceeding—the file number; and
  - (b) the name or suppression alias of the party lodging it.
- (2) If a document cannot comply with subrule (1), the person lodging the document must lodge a covering note with the document explaining why the document cannot comply.

*Note 1* If the registrar has made a practice note about communicating with the tribunal, the practice note applies to the document and the covering note.

*Note 2* If the tribunal has made an order under the [Act](#), s 39 (Hearings in private or partly in private), the document must comply with the order.

## 12 Lodgment of documents

- (1) A document may be lodged by—
  - (a) delivering it to the registry personally (*in person*); or
  - (b) sending it to the registry by pre-paid post (*by post*); or

- (c) sending it to the registry by email if the specific rules for the jurisdiction in which the document is lodged allow email lodgment and the email complies with the procedural requirements (*by email*); or

*Note* To lodge by email, a document must be sent to [tribunal@act.gov.au](mailto:tribunal@act.gov.au).

- (d) sending it to the registry by facsimile, if the specific rules for the jurisdiction in which the document is lodged allow facsimile lodgment and the facsimile complies with the procedural requirements (*by fax*); or
- (e) sending it electronically using the tribunal's electronic lodgment facility if the document complies with the procedural requirements (*online*).

*Note 1* R 6 (Dispensing with rules) applies.

*Note 2* The specific rules may provide for how documents may be lodged for a particular jurisdiction.

- (2) Also, the registrar may accept a document that is not lodged in accordance with subrule (1) if satisfied it is in the interests of justice to do so.

## 13 Number of copies

- (1) In these rules:

*required number of copies*, of a document, means—

- (a) if the document is lodged with the tribunal in person or by post for a proceeding—
- (i) the number of copies necessary to serve a copy on each other party in the proceeding; and
  - (ii) if the tribunal requires proof of service of the document— the number of copies necessary to prove service of the document; or



- (b) if the document is lodged with the tribunal by email, fax or online—nil.
- (2) The registrar may also require the original document or additional copies of the document to be lodged.

#### **14 Date of lodgment**

- (1) The registrar must record the date that a document is lodged.
- (2) The date of lodgment is—
  - (a) for a document lodged in person before 4:30 pm on a day the registry is open—that day; or
  - (b) for a document lodged by post—the day that it is received at the registry; or
  - (c) for a document lodged by email, fax or electronically using the tribunal’s electronic lodgment facility—
    - (i) before 4:30 pm on a day the registry is open—that day; or
    - (ii) on a day the registry is not open, or after 4:30 pm on a day the registry is open—the next day the registry is open.

#### **14A Signing documents electronically**

- (1) If a document must be signed by a person, the person may sign the document electronically by—
  - (a) affixing their signature to the document by electronic means; or
  - (b) if the document is a document lodged by the person using the tribunal’s electronic lodgment facility—writing their name in the document in the place where the signature is required.
- (2) This rule does not limit how a person may sign a document electronically.

## 15 Sealing and stamping documents

- (1) The tribunal must have a seal.
- (2) The registrar may seal a document—
  - (a) issued by the tribunal; or
  - (b) required to be sealed under these rules; or
  - (c) at their discretion.
- (3) The registrar may date stamp a document to—
  - (a) record the date that the document is lodged or received; or
  - (b) indicate that it is a copy of a lodged document.
- (4) The seal or date stamp of the tribunal may be affixed to a document electronically.
- (5) The registrar may issue a duplicate copy of a sealed or date stamped document if satisfied that—
  - (a) the document has been lost or destroyed; or
  - (b) it is appropriate in the circumstances.

### Example

The registrar may seal a written copy of an order provided to a party under the [Act](#), s 59 (Tribunal to record details of order and give copy to parties).

## 16 Rejecting documents for non-compliance

- (1) The registrar may reject a document that is lodged if—
  - (a) the document, or how it has been lodged, does not comply with the requirements of the [Act](#), these rules or a practice note; or
  - (b) there is a tribunal form for the document and the document does not substantially comply with the tribunal form; or

- (c) the document is lodged using the tribunal’s electronic lodgment facility and the document does not comply with the requirements of the electronic lodgment facility; or
- (d) the writing is illegible; or
- (e) a fee determined under the *Court Procedures Act 2004*, section 13 (Determination of fees) is payable and—
  - (i) the fee has not been paid; and
  - (ii) a request about fees has not been made to the tribunal or has been refused.

*Note 1* The *Act*, s 117 (Approved forms) and the *Legislation Act 2001*, s 255 (Forms) apply.

*Note 2* A Request for Exemption from Paying Fees form and Request about Payment of Fees form are available from the tribunal website [www.acat.act.gov.au](http://www.acat.act.gov.au) or the registry.

*Note 3* The *Act*, s 112 (Functions of registrar—other) applies.

- (2) A document that is rejected is taken not to have been lodged.

## **17 Rejecting documents for abuse of process etc**

- (1) This rule applies if a document that is lodged appears to the registrar on its face to be—
  - (a) an abuse of the tribunal’s process; or
  - (b) frivolous or vexatious.
- (2) The registrar may—
  - (a) reject the document; or
  - (b) refer the document to the president for directions about how to deal with it.
- (3) If the registrar refers the document to the president, the president may direct the registrar to—
  - (a) accept the document; or

- (b) reject the document.
- (4) A document that is rejected is taken not to have been lodged.

## **Part 2.2                      Service**

### **18                      Application—pt 2.2**

- (1) This part applies to a document that is required to be served, whether the word ‘serve’, ‘give,’ ‘notify’, ‘send’ or any other word is used.
- (2) A document must be served in accordance with these rules unless a territory law expressly provides otherwise.

### **19                      Who serves documents?**

- (1) The registrar must serve an application unless—
  - (a) the party lodging the document—
    - (i) undertakes to serve it; or
    - (ii) is required to serve it under these rules, a practice note or by order; or
  - (b) these rules provide for another form of service; or
  - (c) the registrar requires a person to serve the document.

*Note 1* For service of an application generally, see r 35 (8).

*Note 2* A rule or practice note for each jurisdiction may set out how the registrar serves an application for the jurisdiction.

*Note 3* Subpoenas must be served on the recipient in accordance with r 76.

- (2) The registrar must serve a sealed copy of a response to an application on every other party, unless—
  - (a) the party lodging the document—
    - (i) undertakes to serve it; or

- (ii) is required to serve it under these rules, a practice note or by order; or
  - (b) these rules provide for another form of service; or
  - (c) the registrar requires a person to serve the document.
- (3) If a person other than the registrar serves an application or response, the person must give the tribunal proof of service in accordance with rule 28.
- Note* A template affidavit of service is available on the tribunal website [www.acat.act.gov.au](http://www.acat.act.gov.au) or from the registry.
- (4) If a party lodges a document (other than an application or a response) in a proceeding, the party must serve a copy of the lodged document on each other party as soon as practicable after lodgment.

## 20 Service

- (1) In these rules:
- service*, of a document on a person means—
- (a) giving the document to the person personally; or
  - (b) posting the document to the person in accordance with rule 21; or
  - (c) giving the document to the person in a way agreed by the person; or
  - (d) if the person has instructed the person’s solicitor to accept service for the person—serving the document on the person’s solicitor; or
  - (e) leaving the document at the person’s address for service; or
  - (f) if the person’s address for service includes—
    - (i) an email address—emailing the document to the email address; or

- (ii) a fax number—faxing the document to the fax number; or
- (iii) another electronic means of communication—sending the document to the person by the electronic means or
- (g) if the person’s only address for service is a mobile phone number—sending a message to the person at the number—
  - (i) including the document; or
  - (ii) telling the person that the document has been lodged, and that the person may collect the document from the tribunal registry or ask the registrar to send the document to another address provided by the person; or
- (h) if the person does not have an address for service—
  - (i) posting the document addressed to the person, to the person’s last-known home or business address; or
  - (ii) leaving the document addressed to the person at the person’s last-known home or business address with someone who appears to be at least 16 years old and to live or be employed at the address; or
- (i) if the person is a corporation—serving the document on the corporation in a way mentioned in rule 23; or
- (j) giving it to the person in a way the tribunal directs.

**Example—par (c)**

A party may agree to receive an application by email.

**Example—par (g)**

The registrar may notify a person by mobile phone that an application has been made against the person.

*Note 1* For address for service, see r 29.

*Note 2* If the registrar makes a practice note about service by electronic means, the practice note applies.

*Note 3* The *Court Procedures Act 2004*, pt 4 (Crown proceedings) applies. For service on the Territory, see that *Act*, s 33 (Service generally).

*Note 4* For service on the Commonwealth or a State, see the *Judiciary Act 1903* (Cwlth), s 63.

- (2) If a person served with a document under subrule (1) (a) does not accept the document, it is sufficient to serve the document by leaving it at the person's feet.

*Note* Subpoenas must be served on the recipient in accordance with r 76.

## 21 Service by post

- (1) A document, including an application, may be served on a person (the *recipient*) by post—
- (a) if—
- (i) the recipient's address for service is an address in the ACT; and
  - (ii) the document is sent to the recipient by prepaid post in accordance with subrule (2); or
- (b) if—
- (i) the recipient's address for service is an address outside the ACT but within Australia; and
  - (ii) the document is served in accordance with the *Service and Execution of Process Act 1992* (Cwlth); and
  - (iii) the document is sent to the recipient by prepaid post in accordance with subrule (2).

- (2) The document must be sent in an envelope—
- (a) addressed to the recipient at the recipient’s address for service; and
  - (b) marked with the return address GPO Box 370, Canberra ACT 2601; but
  - (c) the return address must not be identified as the registry’s address.

## 23 Service on a corporation

A document may be served on a corporation—

- (a) by leaving it at, or sending it by post to, the corporation’s registered office; or
- (b) in a way provided under the *Corporations Act 2001* (Cwlth) or another applicable law.

*Note 1* **Meaning of corporation**

*Corporation* includes a body politic or corporate (see *Legislation Act 2001*, dict, pt 1).

*Note 2* **Corporations Act**

- the *Corporations Act 2001* (Cwlth), s 109X provides non-exhaustively for the service of documents on a company registered under that *Act*. That section does not apply to a document that may be served under the *Service and Execution of Process Act 1992* (Cwlth) (*SEPA*), s 9 (see s 9 (9))
- the *Corporations Act 2001* (Cwlth), s 601CX provides for service of documents on a body corporate registered under that *Act*, pt 5B.1. That section does not apply to a document that may be served under *SEPA*, s 9 (see s 9 (9)).

*Note 3* **Service and Execution of Process Act**

*SEPA*, s 9 provides exhaustively for service of documents under that *Act* on a company or registered body corporate (see also that *Act*, s 15 (3)). *SEPA*, s 10 provides non-exhaustively for service of documents under that *Act* on any other body corporate (but see that *Act*, s 15 (4) for an originating process). *SEPA*, s 15 (5) provides for service of an originating process under that *Act* on a body politic.



**Note 4 ACT legislation—general**

The *Legislation Act 2001*, pt 19.5 provides non-exhaustively for the service of documents on corporations generally (including territory agencies).

**Note 5 ACT legislation—specific**

- the *Associations Incorporation Act 1991*, s 122 provides non-exhaustively for the service of documents and process on an incorporated association under that Act.
- the *Community Title Act 2001*, s 59 provides for an address for service for a body corporate under that Act (see also *Legislation Act 2001*, s 246, def *business address*).
- the *Unit Titles (Management) Act 2011*, s 123 provides non-exhaustively for the service of documents on an owners corporation under that Act.

**24 Service outside the ACT**

- (1) This rule applies to service outside the ACT.
- (2) A document served outside the ACT but within Australia must be served in accordance with the *Service and Execution of Process Act 1992* (Cwlth).
- (3) If a party wants to serve an application or subpoena outside Australia, the party must request information about service outside Australia from the registrar.

*Note* If a document is required to be served overseas, the registrar may require the party lodging the document to serve it (see r 19 (1) (c)).

**25 Substituted service**

- (1) This rule applies if a document is required to be served in a particular way (the *prescribed way*).
- (2) The tribunal may order that the document is to be served in another way (the *substituted way*).

- (3) The tribunal may make an order under subrule (2) on application by a party or on its own initiative.

*Note* A request for substituted service can be made using an Application for Interim or Other Orders – General available on the tribunal website [www.acat.act.gov.au](http://www.acat.act.gov.au) or from the registry.

- (4) The tribunal may make the order if satisfied that—
- (a) it is impractical or not possible, for any reason, for the document to be served in the prescribed way; and
  - (b) the substituted way is reasonably likely to bring the document to the attention of the person to be served.
- (5) If the tribunal makes an order under subrule (2), it may provide that the document is taken to have been served on the happening of an event, at a stated time or at the end of a stated period.
- (6) The tribunal may make an order under subrule (2) even though the person to be served is not in the ACT or Australia or was not in the ACT or Australia when the proceeding started.
- (7) For any provision of these rules requiring service of a document on a person, service of the document on the person in the substituted way is taken to be service of the document on the person in the prescribed way.

## **26 When is a document taken to be served?**

A document is taken to be served at an address for service under these rules—

- (a) if the document is left with someone or at a place in accordance with these rules—
  - (i) if the document is left before 4:30 pm on a day—on that day; or
  - (ii) if the document is left at or after 4:30 pm on a day—on the next day; or

- (b) if the document is served by post in Australia in accordance with these rules—7 days after the day it is posted, unless the contrary is proved; or
- (c) if the document is faxed in accordance with these rules—
  - (i) if the document is sent before 4:30 pm on a day—on that day; or
  - (ii) if the document is sent at or after 4:30 pm on a day—on the next day; or
- (d) if the document is emailed to an email address in accordance with these rules—
  - (i) if the document is sent before 4:30 pm on a day—on that day; or
  - (ii) if the document is sent at or after 4:30 pm on a day—on the next day.

## **27 Dispensing with service**

The tribunal may order that a document is not required to be served.

## **28 Proof of service**

- (1) If a person serves an application or response on a party, the person must give the tribunal proof of service—
  - (a) in the form of an affidavit of service; or
  - (b) as specified by the tribunal or registrar.

*Note* A template affidavit of service is available on the tribunal website [www.acat.act.gov.au](http://www.acat.act.gov.au) or from the registry.

- (2) However, the tribunal may dispense with the requirement to prove service if the tribunal is satisfied that proof of service is not required.
- (3) The tribunal may require a person to provide proof of service of other documents.

## 29 Address for service of documents including correspondence

Unless the tribunal or registrar orders otherwise, a party's address for service must be—

- (a) the most recent address provided in the—
  - (i) application; or
  - (ii) response; or
  - (iii) notice of new contact details or representation given to the tribunal; or
- (b) if a party has an authorised representative—the address most recently provided for the authorised representative.

*Note 1* A Notice of New Contact or Representation Details is available on the tribunal website [www.acat.act.gov.au](http://www.acat.act.gov.au) or from the registry.

*Note 2* The [Act](#), s 38 (Hearings usually in public) applies. If a party does not want information provided to another party, the party must seek an order under the [Act](#), s 39 (Hearings in private or partly in private) (see r 62 (Interim and other orders)).

## 30 Change of contact details

A party whose contact details or address for service change while an application is before the tribunal must give the new contact details or address for service to the tribunal and each other party to the proceeding as soon as practicable.

*Note 1* A Notice of New Contact or Representation Details is available on the tribunal website [www.acat.act.gov.au](http://www.acat.act.gov.au) or from the registry.

*Note 2* If a party does not want information provided to another party, the party must seek an order under the [Act](#), s 39 (Hearings in private or partly in private) (see r 62 (Interim and other orders)).

## Part 2.3 Amendments

### 31 Meaning of *amendment*—pt 2.3

In this part:

*amendment* includes an amendment by omission, substitution or addition.

### 32 Application—pt 2.3

This part applies to applications and responses that have been lodged in a proceeding.

### 33 When amendment must be made

- (1) All necessary amendments to an application or response must be made to—
  - (a) decide the relevant issues in the proceeding; or
  - (b) correct any defect or error; or
  - (c) avoid multiple proceedings.

- (2) A party must apply to the tribunal to amend the application or response as soon as the need to amend becomes apparent.

*Note 1* The tribunal may order that a document be amended on its own initiative or on application by a party and may give leave to amend a document with the agreement of the parties (see the [Act](#), s 47).

*Note 2* If a party causes unreasonable delay or obstruction while the tribunal is dealing with an application, the tribunal may order the party to pay another party's reasonable costs caused by the delay or obstruction (see the [Act](#), s 48 (2) (b)).

- (3) If there is a mistake in the name or identity of a party, the tribunal may direct the making of amendments to correct the mistake, even if the effect of the amendments is to substitute another person as a party.

## **34 How to amend**

- (1) An amendment to a document may be made by—
  - (a) striking through the writing intended to be altered so that the original writing is still legible; and
  - (b) adding new words which are underlined.
- (2) An amended document must be signed or attested in the same way as the original document was signed or attested.
- (3) The amendment may be handwritten or made electronically.
- (4) However, if the amendment is handwritten, it must be—
  - (a) legible; and
  - (b) made in a way that—
    - (i) is permanent; and
    - (ii) can be photocopied to produce a legible copy.
- (5) A document must not be lodged if it contains an alteration that causes a material disfigurement.

## Part 2.4 Starting proceedings

### 35 Applications to start proceedings

- (1) The rules in this part apply to all applications unless stated otherwise.
- (2) An application to start a proceeding must be made using the tribunal form for the kind of application.

*Note 1* For the application of these rules, see r 5.

*Note 2* The registrar may reject a document that does not comply with the requirements of the [Act](#), these rules or a practice note (see r 16 (1) (a)).

*Note 3* Tribunal forms are available on the tribunal website [www.acat.act.gov.au](http://www.acat.act.gov.au), or from the registry.

- (3) However, the registrar may accept an application that is not made using the tribunal form for the application if the registrar is satisfied it is in the interests of justice to do so.

*Note 1* The registrar may take reasonably practical steps to help a person make an application to the tribunal as the registrar considers appropriate (see [Act](#), s 112 (1) (b)).

*Note 2* For an application under the [Utilities Act 2000](#), s 172 the applicant may also ask the registrar to put the application in writing for the person (see that [Act](#), s 173).

- (4) If an application is made by a referral, no application form is required.
- (5) If there is no tribunal form for the kind of application, the registrar may accept an application if it contains—
  - (a) the applicant’s name and contact details; and
  - (b) if the applicant has an Australian Company Number (ACN) or Australian Registered Body Number (ARBN)—that number and the address of its registered office; and
  - (c) the name of all other parties or sufficient information to enable each other party to be identified; and
  - (d) the contact details for each other party; and

- (e) the orders or remedy sought, and the reasons or grounds for the orders or remedy.

*Note* An applicant in a civil dispute must certify that the respondent's address provided is the most current address available and that the applicant believes that service of documents to the respondent's address provided will most likely result in the respondent receiving them (see r 100 (5) (Applications to start proceedings)).

- (6) An application must be—
- (a) signed and dated by the applicant; and
  - (b) lodged with the tribunal; and
  - (c) if the application is lodged in person or by post—lodged with the required number of copies; and
  - (d) accompanied by any determined fee, or a request about fees.

*Note 1* For rules about lodging documents, see r 12 (Lodgment of documents) and r 13 (Number of copies).

*Note 2* Fees are determined under the *Court Procedures Act 2004*, s 13 (Determination of fees) and are payable in advance under that Act, s 14 (1).

*Note 3* A Request for Exemption from Paying Fees form and a Request about Payment of Fees form are available on the tribunal website [www.acat.act.gov.au](http://www.acat.act.gov.au) or from the registry.

*Note 4* A lodged application is served on the respondent and may be available for public inspection. If a party does not want information in the lodged application to be made available to the respondent or the public, the party should apply to the tribunal for orders under the Act, s 39.

- (7) The registrar must seal a lodged application.
- (8) A sealed copy of the application must be served on all the other parties named in the application.

*Note* For service of applications, see r 19 (Who serves documents?), r 20 (Service) and r 21 (Service by post).



### **36 Moving proceedings between tribunal jurisdictions**

- (1) The tribunal may order that an application commenced in 1 jurisdiction of the tribunal is to be heard in a different jurisdiction of the tribunal.
- (2) The tribunal may make an order under subrule (1) on application by a party or on its own initiative.

*Note* An application to move a proceeding to a different jurisdiction may be made using an Application for Interim or Other Orders - General available on the tribunal website [www.acat.act.gov.au](http://www.acat.act.gov.au) or from the registry.

### **37 Responding to an application**

- (1) This rule applies to a person named as a respondent to an application.
- (2) The respondent must lodge a response within the time specified.

*Note 1* The [Act](#), an authorising law or these rules may specify a time for lodging a response, or the tribunal may specify a time for the respondent to lodge a response by order.

*Note 2* A response to a civil dispute application must be lodged within 21 days after the application is served (see r 107 (Time for response)).

- (3) The respondent may lodge a response using the response form for the application.

*Note* Response forms for various applications are available on the tribunal website [www.acat.act.gov.au](http://www.acat.act.gov.au) or from the registry.

- (4) If there is no response form for the application, the respondent may lodge—
  - (a) a notice of new contact details providing the respondent's correct name and contact details or if the respondent has an Australian Company Number (ACN) or Australian Registered Body Number (ARBN), that number and its registered office; and

- (b) a document stating whether the order or orders sought are agreed or opposed.
- (5) A response must be—
- (a) signed and dated by the respondent; and
  - (b) lodged with the tribunal; and
  - (c) if the response is lodged in person or by post—lodged with the required number of copies.
- Note 1* For rules about lodging documents, see r 12 (Lodgment of documents) and r 13 (Number of copies).
- Note 2* If the response is a response to a civil dispute and includes a counterclaim, the response must be accompanied by the determined fee for a counterclaim or a request for exemption from paying a fee, or a request to waive, defer, remit or refund a fee.
- Note 3* For service of a response to an application, see r 19 (2).
- Note 4* The [Act](#), s 38 (Hearings usually in public) applies. If a party does not want information provided to another party, the party must apply for an order under the [Act](#), s 39 (Hearings in private or partly in private) using an Application for Interim or Other Orders – General available on the tribunal website [www.acat.act.gov.au](http://www.acat.act.gov.au) or from the registry.
- (6) The registrar must seal a lodged response.
- (7) A sealed copy of the response must be served on all the other parties named in the application.

### **38 Extension of time for making application**

- (1) This rule applies if there is a time limit under the [Act](#), another law or these rules for making an application to the tribunal.
- (2) The tribunal may, by order, extend the time for making an application.

*Note* A request for extension of time may be made even though the time to be extended has already ended (see [Legislation Act 2001](#), s 151C).

- (3) The tribunal may make an order under subrule (2) on application by a party, another person or on its own initiative.

*Note* An application for an order under this part can be made using an Application for Interim or Other Orders - General available on the tribunal website [www.acat.act.gov.au](http://www.acat.act.gov.au) or from the registry.

- (4) The tribunal may extend the time for making an application for administrative review of a decision by up to 56 days—

(a) starting on the day after the day the time for making the application ends; and

(b) ending at 4:30 pm on the day the extension of time ends.

*Note* The [Act](#), pt 4A and div 6.3 apply to applications for administrative review of decisions.

- (5) This rule is subject to any express provision about the extension of time in these rules or any other law.

**Examples**

- 1 the [Planning Act 2023](#) prohibits the extension of time for some applications
- 2 the [Limitation Act 1985](#) provides for extension of time for some claims

## Part 2.5 Participating in proceedings

*Note* Under r 5 (2) (c) this part applies to all applications unless it is inconsistent with a specific rule.

### Division 2.5.1 Including and removing parties

#### 39 Necessary parties

- (1) Each person whose presence as a party is necessary to enable the tribunal to adjudicate effectively and completely on all issues in dispute in a proceeding must be included as a party to the proceeding.
- (2) An application must name a person as a respondent to the application if—
  - (a) the applicant is seeking orders requiring the person to do or not do something; or
  - (b) the person is entitled to be a joint applicant and has not been named or joined as an applicant.
- (3) The tribunal may order that a person be joined as a party or substituted for a party to the proceeding.
- (4) A person may be made an applicant only with the person's consent.
- (5) The tribunal may make an order under subrule (3) on application by a party, another person or on its own initiative.
- (6) If the tribunal orders the inclusion or substitution of someone as a party to the proceeding, it may make any order it considers appropriate about the conduct of the proceedings.

*Note 1* The [Act](#), s 29 (Parties to applications) applies.

*Note 2* An authorising law may specify the parties to an application. For example, the [Common Boundaries Act 1981](#), s 8 (Parties to applications) provides who are the parties to an application under that [Act](#).

*Note 3* For parties to an appeal, see also ch 3, pt 3.1 (Appeals within tribunal).

## 40 Removing parties

- (1) The tribunal may order that a person be removed as a party to a proceeding if the person—
  - (a) has been inappropriately or unnecessarily included as a party; or
  - (b) is no longer an appropriate or necessary party.
- (2) The tribunal may make an order under subrule (1)—
  - (a) at any stage of the proceeding; and
  - (b) on application by a party to the proceeding or on its own initiative; and
  - (c) whether the person to be removed is an applicant, a respondent or a third party.

*Note* An application for an order under this part can be made using an Application for Interim or Other Orders - General available on the tribunal website [www.acat.act.gov.au](http://www.acat.act.gov.au) or from the registry.

## Division 2.5.2 Authorised representatives

### 41 Appointing an authorised representative

- (1) This rule applies if a party in a proceeding is represented by someone else (an *authorised representative*).

*Note* See the [Act](#), s 30 (Representation).

- (2) If the authorised representative is an Australian legal practitioner, the representative must lodge a notice of new contact or representation details, unless the practitioner is appearing before the tribunal on a duty basis or on a direct brief.

*Note 1* *Australian legal practitioner* is defined in the dictionary.

*Note 2* A Notice of New Contact or Representation Details is available on the tribunal website [www.acat.act.gov.au](http://www.acat.act.gov.au) or from the registry.

(3) If the authorised representative represents a corporation and is not an Australian legal practitioner, the authorised representative must lodge with the tribunal—

- (a) an authority to act for the corporation executed by the corporation; and
- (b) a company search of the corporation.

*Note* An Authority to Act for a Corporation is available on the tribunal website [www.acat.act.gov.au](http://www.acat.act.gov.au) or from the registry.

(4) If the authorised representative holds a power of attorney, for the matters set out in rule 42 (1), made under the *Powers of Attorney Act 2006* or equivalent legislation for a party who is a person who does not have a legal disability, the representative must lodge the power of attorney with the tribunal.

*Note 1* A power of attorney for tribunal proceedings is available on the tribunal website [www.acat.act.gov.au](http://www.acat.act.gov.au) or from the registry.

*Note 2* For def of *person with a legal disability*, see r 46. For representation of a person with a legal disability, see div 2.5.3 (Litigation guardians).

*Note 3* Tribunal forms are available on the tribunal website [www.acat.act.gov.au](http://www.acat.act.gov.au) or from the registry.

(5) If subrules (2), (3) and (4) do not apply, the authorised representative must lodge with the tribunal an authority to act for an individual authorising the representative to represent the individual.

*Note* An Authority to Act for an Individual is available on the tribunal website [www.acat.act.gov.au](http://www.acat.act.gov.au) or from the registry.

(6) The tribunal may require a party or its authorised representative to produce the original document authorising the representation.

(7) A party and its authorised representative must retain a copy of the authority or other document under which the representative is appointed.

## **42 What an authorised representative may do**

- (1) An authorised representative may, on behalf of the party they represent in a proceeding, do anything that the party may do in the proceeding including the following:
  - (a) start, respond to, conduct and discontinue the proceeding;
  - (b) sign and lodge documents;
  - (c) attend preliminary conferences, mediations and hearings;
  - (d) discuss and enter into agreements resolving or finalising the proceeding;
  - (e) agree to consent orders;
  - (f) correspond with the tribunal and any other party about the proceeding.

*Note* For rules about address for service and correspondence if a party has an authorised representative, see r 29 (Address for service of documents including correspondence).

- (2) The tribunal may require a party to attend a preliminary conference, mediation or hearing in person, even if the party has an authorised representative.

## **43 Knowledge and authority**

An authorised representative must have full knowledge and authority to participate effectively in all parts of a proceeding, including a preliminary conference, mediation or hearing, and to discuss and agree to settlement and resolution of the dispute.

*Note 1* An authorised representative is under a duty to cooperate with the tribunal to give effect to the objects and principles of the [Act](#) (see the [Act](#), s 7A (Duties of parties, authorised representatives and others)).

*Note 2* For rules about the removal of authorised representatives, (see r 45 (Removal of authorised representative)).

#### **44 Changing authorised representative**

A party who appoints or changes an authorised representative during a proceeding must—

- (a) lodge a notice of new contact or representation details and give a copy to each other party in the proceeding within 1 day of lodgment; and
- (b) if the party is a corporation—lodge an authority to act for the corporation executed by the corporation.

*Note 1* A Notice of New Contact or Representation Details is available on the tribunal website [www.acat.act.gov.au](http://www.acat.act.gov.au) or from the registry.

*Note 2* For appointing an authorised representative, see r 41.

*Note 3* For rules about address for service and correspondence if a party has an authorised representative, see r 29.

#### **45 Removal of authorised representative**

- (1) The tribunal may by order, stop an authorised representative from taking any further part in a proceeding.
- (2) However, the tribunal may only make an order under subrule (1) if satisfied that—
  - (a) the authorised representative does not have sufficient knowledge of the issues in dispute in the proceeding to allow the authorised representative to effectively represent the party at a preliminary conference, mediation or hearing; or
  - (b) the authorised representative does not have sufficient authority to bind the party they represent; or



(c) the authorised representative's representation is inconsistent with the objects of the [Act](#), or these rules.

*Note 1* The tribunal must observe natural justice and procedural fairness (see the [Act](#), s 7 (Tribunal principles)).

*Note 2* The objects are in the [Act](#), s 6.

*Note 3* An authorised representative is under a duty to cooperate with the tribunal to give effect to the objects and principles of the [Act](#) (see the [Act](#), s 7A (a) (Duties of parties, authorised representatives and others)).

### **Division 2.5.3            Litigation guardians**

#### **46            Meaning of *person with a legal disability***

For these rules:

*person with a legal disability* means a child, or a person who is not legally competent to be a party to an application in a proceeding.

#### **47            Person with a legal disability must have litigation guardian**

- (1) This rule does not apply to any of the following:
  - (a) a proceeding under the [Mental Health Act 2015](#);
  - (b) a proceeding under the [Guardianship and Management of Property Act 1991](#);
  - (c) a proceeding under the [Powers of Attorney Act 2006](#);
  - (d) a referral from or order of a court under the [Crimes Act 1900](#);
  - (e) a proceeding by a child to recover an amount owing to the child in relation to the child's employment or a contract for services for work done by the child.
- (2) A person with a legal disability may be a party to an application only by the person's litigation guardian unless the [Act](#), an authorising law or these rules provide otherwise.

- (3) If a party to an application is, or becomes, a person with a legal disability and the party does not have a litigation guardian, the tribunal may—
- (a) by order, appoint a litigation guardian for the application; or
  - (b) stay the application until a litigation guardian is appointed; or
  - (c) if appropriate, continue to hear and determine the application.
- (4) If an application seeks orders in relation to a person with a legal disability, the tribunal may, by order—
- (a) appoint a litigation guardian for the person; and
  - (b) include the person by their litigation guardian as a party to the application.

#### **48            Litigation guardians**

- (1) A person is the *litigation guardian* of a person with a legal disability for an application if the person—
- (a) is authorised to do anything that the person in the application may do including the matters set out in rule 42 (1) (What an authorised representative may do) under—
    - (i) a territory law; or
    - (ii) an order of a court or tribunal; or
  - (b) is appointed as litigation guardian for the person for the application under rule 49.

**Examples—par (a) (i)**

- 1 The *Guardianship and Management of Property Act 1991*, s 7 (3) and (4) (g) provides that a person’s guardian or manager may be given the power by the ACAT to bring or continue legal proceedings for or in the name of the person.
- 2 The *Powers of Attorney Act 2006*, s 13 (2) provides that a principal may make an enduring power of attorney permitting the attorney to exercise powers if the principal becomes a person with impaired decision-making capacity.

- (2) A person who, under a territory law, is the litigation guardian of a person with a legal disability must lodge a statutory declaration—
  - (a) specifying the territory law; and
  - (b) setting out how the territory law applies to them.
- (3) A person who, under an order of a court or tribunal, is the litigation guardian of a person with a legal disability must lodge with the tribunal—
  - (a) a sealed copy of the order; and
  - (b) a statutory declaration stating that—
    - (i) they are the person specified in the order; and
    - (ii) the order remains in place and has not been revoked.

#### **49 Appointing a litigation guardian for an application**

- (1) The tribunal may by order appoint a person proposed for appointment as the litigation guardian of a person with a legal disability if the tribunal is satisfied that the person proposed—
  - (a) is not a person with a legal disability; and
  - (b) has no interest in the proceeding that conflicts, or might conflict, with the interests of the person with a legal disability; and
  - (c) has agreed to be the person's litigation guardian; and
  - (d) is a suitable person.
- (2) A person proposed for appointment as the litigation guardian of a person with a legal disability must lodge with the tribunal—
  - (a) an affidavit or statutory declaration by a solicitor for the person with the legal disability or by someone else with knowledge of the facts stating that the person proposed for appointment—
    - (i) has agreed to be the litigation guardian; and
    - (ii) is a suitable person to be the litigation guardian; and

- (iii) does not have an interest in the proceeding that may conflict with the interests of the person with a legal disability; and
- (b) the person’s written consent to be the litigation guardian of the person with a legal disability; and
- (c) if the person with a legal disability is an applicant—an undertaking by the person to pay any costs that the person with a legal disability might be required to pay.

*Note 1*    An Affidavit for a Person to Act as Litigation Guardian is available on the tribunal website [www.acat.act.gov.au](http://www.acat.act.gov.au) or from the registry.

*Note 2*    A Consent and Undertaking by Person to Act as Litigation Guardian is available on the tribunal website [www.acat.act.gov.au](http://www.acat.act.gov.au) or from the registry.

- (3) A party to a proceeding who seeks the appointment of a litigation guardian for another party to the proceeding may apply to the tribunal for orders appointing a litigation guardian under the *Guardianship and Management of Property Act 1991*.

## **50            Removing or replacing a litigation guardian**

- (1) If a party has a litigation guardian appointed under rule 49 (1), the tribunal may, by order—
  - (a) end the appointment of the litigation guardian if a litigation guardian is no longer required; or
  - (b) replace the litigation guardian with another litigation guardian.
- (2) The tribunal may make an order under subrule (1)—
  - (a) on application by a party to the proceeding; or
  - (b) on application by another person; or
  - (c) on its own initiative.

- (3) A party applying for an order under subrule (1) must serve the application on—
- (a) the person with a legal disability; and
  - (b) the litigation guardian; and
  - (c) if the application is to replace the litigation guardian with someone else—the proposed litigation guardian.

*Note* An application for costs can be made using an Application for Interim or Other Orders - General available on the tribunal website [www.acat.act.gov.au](http://www.acat.act.gov.au) or from the registry.

## **51 Litigation guardian—liability for costs**

- (1) A litigation guardian for a person with a legal disability in a proceeding is liable for any costs that the person might be required to pay in relation to the proceeding from the time they became a litigation guardian.
- (2) A litigation guardian for a person with a legal disability in a proceeding is indemnified by the estate of the person for expenses and costs reasonably charged or incurred.

*Note* A litigation guardian may also be personally liable for costs or expenses unreasonably incurred.

## Part 2.6 Preliminary conferences and mediation

### 52 Application and purpose—pt 2.6

- (1) The rules in this part apply to all applications unless stated otherwise.

*Note* For the application of these rules, see r 5.

- (2) To assist with the early resolution of applications, the tribunal may refer parties to a preliminary conference or a mediation at any time, including a dispute resolution process outside the tribunal.

*Note 1* The *Court Procedures Act 2004*, pt 5A (Mediation) applies to mediations under the *Act*, s 35 (Mediation for applications).

*Note 2* The *Act*, s 33 (Preliminary conferences) and s 34 (Admissibility of evidence given at preliminary conference) apply.

### 53 Participating in preliminary conferences or mediation

- (1) The participants in a preliminary conference or mediation are—
- (a) the parties; and
  - (b) an authorised representative of a party; and
  - (c) the tribunal member, registrar, deputy registrar or mediator; and
  - (d) anyone else with the consent of all the other participants.
- (2) Each party, including an authorised representative of a party, to a proceeding that has been referred to a preliminary conference or a mediation must take part genuinely and constructively, and act in good faith.
- (3) Each authorised representative attending a preliminary conference or mediation must—
- (a) have full knowledge of the issues in dispute; and

- (b) have authority to discuss and agree to settlement and resolution of the dispute.

#### 54 Confidentiality of preliminary conferences

A preliminary conference is a private process and not open to the public.

*Note* The [Act](#), s 34 (Admissibility of evidence given at preliminary conference) applies.

#### 55 Confidentiality of mediations

- (1) A mediation is a private process and is not open to the public.
- (2) If the tribunal refers an application to a mediation, subrule (3) and subrule (4) apply to the participants.
- (3) The participants must not disclose to anyone not involved in the mediation any mediation material unless required to do so by law.
- (4) Subject to subrule (7) the following are confidential and privileged, and must not be disclosed, relied on or be the subject of a subpoena in any proceeding in respect of the application:
  - (a) any settlement proposal made by a participant;
  - (b) anything that may show the willingness of a party to consider any settlement proposal;
  - (c) any statement, admission or concession made by a participant during the mediation;
  - (d) any mediation material.
- (5) If the parties reach agreement at a mediation, the terms of the agreement may be reduced to writing and signed by or on behalf of each party (the *settlement agreement*).
- (6) If the parties agree to and lodge the settlement agreement with the tribunal, the settlement agreement is no longer mediation material.

*Note* The [Act](#), s 55 (Powers of tribunal if parties reach agreement) applies.

- (7) A party may call evidence of the matters in subrule (4) in a proceeding to enforce the settlement agreement.

*Note* The *Court Procedures Act 2004*, s 52B (2) (Admissibility of information given at mediation) applies to mediations at the tribunal.

- (8) In this rule:

***mediation material*** means—

- (a) a communication made at a mediation; or
- (b) a document, whether used in a mediation or not, prepared—
  - (i) for or during a mediation; or
  - (ii) following a decision made or undertaking given in a mediation; or
- (c) a settlement agreement.

## **56 Failure to attend a preliminary conference or mediation**

- (1) This rule applies if, at the time set for a preliminary conference or mediation, a party does not attend either in person if required to attend in person, or by an authorised representative.
- (2) The tribunal may—
  - (a) order that the preliminary conference or mediation take place at another time; or
  - (b) adjourn the preliminary conference or mediation; or
  - (c) proceed with the preliminary conference or mediation in the absence of the party either generally or in relation to any relief claimed in the application; or
  - (d) if the party is the applicant—dismiss the application; or
  - (e) if the party is the respondent—decide the application; or
  - (f) take any other steps the tribunal considers appropriate.



## Part 2.7 Conduct of proceedings

### 57 Application—pt 2.7

The rules in this part apply to all applications unless stated otherwise.

*Note* For the application of these rules, see r 5.

### 58 Procedural requirements for applications

- (1) A proceeding for an application must be conducted in accordance with the procedural requirements in the [Act](#), the regulation, these rules, any practice notes and directions that apply to the application (the *procedural requirements*).
- (2) Parties to an application must comply with the procedural requirements for the application.

### 59 Failure to comply with procedural requirements

- (1) Failure to comply with a procedural requirement for an application is an irregularity and does not make a proceeding, or a document lodged, step taken or order made in the proceeding, void.
- (2) If there has been a failure to comply with a procedural requirement, the tribunal may make any order dealing with the proceeding or the application that it considers appropriate.

*Note* The [Act](#), s 56 (d) applies.

#### Examples

- 1 If the defaulting party in an application is the applicant, the tribunal may dismiss the application, extend the time to comply with the procedural requirement that has not been complied with or give further directions.
- 2 If the defaulting party in an application is the respondent, the tribunal may decide the application, extend the time to comply with the procedural requirement that has not been complied with or give further directions.
- (3) The tribunal may make an order under subrule (2) on application by a party or on its own initiative.

*Note* R 62 (Interim and other orders) applies to an application.

## 60 Directions

- (1) The tribunal may, at any stage of a proceeding, by order, give directions requiring a party to do whatever is necessary for the quick and fair conduct of the proceeding, consistent with achieving justice.

*Note* The [Act](#), s 6 (Objects of Act) and s 31 (Early resolution of applications) apply.

### Examples

- 1 setting a timetable for the steps that the parties must take before the hearing
  - 2 fixing the time, date, place and duration of the hearing
  - 3 referring all or part of the dispute to a preliminary conference or mediation
  - 4 requiring a party to the proceeding to produce a document or thing
- (2) The tribunal may give directions under subrule (1) on application by a party or on its own initiative.
- Note* An application for directions can be made using an Application for Interim or Other Orders - General available on the tribunal website [www.acat.act.gov.au](http://www.acat.act.gov.au) or from the registry.
- (3) If a direction is inconsistent with these rules or a practice note, the direction prevails.
- (4) The tribunal may at any time vary or revoke a direction made under this rule on application by a party or on its own initiative.

## 61 Failure to attend a directions hearing

- (1) This rule applies if, after receiving notice of a directions hearing, a party does not attend the directions hearing.

*Note* If the registrar has made a practice note about taking part in proceedings, the practice note applies.

- (2) The tribunal may do any of the following:
- (a) give any further directions or make any orders it considers appropriate;
  - (b) if the applicant has failed to attend—dismiss the application;

- (c) if the respondent has failed to attend—decide the application;
- (d) adjourn the directions hearing.

*Note 1* The [Act](#), s 47A (Procedure in absence of party), s 48 (Costs of proceedings) and s 56 (Other actions by tribunal) apply.

*Note 2* The [Act](#), s 74 (Failure to comply with order) applies to directions made by the tribunal under these rules.

- (3) The tribunal may make an order under subrule (2) on application by a party or on its own initiative.
- (4) In deciding whether to dismiss the application or proceeding, the tribunal must have regard to the [Act](#), section 6 (Objects of Act) and section 7 (Tribunal principles).

## 62 Interim and other orders

- (1) This rule applies to an application (an application for interim or other orders)—
  - (a) for orders under any of the following provisions:
    - (i) the [Act](#), section 32 (Dismissing or striking out applications);
    - (ii) the [Act](#), section 39 (Hearings in private or partly in private);
    - (iii) the [Act](#), section 53 (Interim orders);
    - (iv) the [Act](#), section 56 (Other actions by tribunal);
    - (v) rule 25 (Substituted service); and
  - (b) for which there is no tribunal form; and
  - (c) that cannot be made using the tribunal’s electronic lodgment facility.

*Note* Other applications for which there is no approved form include urgent hearings, directions, and summary dismissal or judgment applications.

- (2) A party must make the application using an Application for Interim or Other Orders - General.

*Note* An Application for Interim or Other Orders — General is available on the tribunal website [www.acat.act.gov.au](http://www.acat.act.gov.au) or from the registry.

- (3) An application for interim or other orders must—

- (a) state the orders sought; and
- (b) set out briefly but specifically the grounds and any legislation relied on; and
- (c) attach any documents or evidence to be relied on in support of the application; and
- (d) be signed and dated by the person lodging the application; and
- (e) be lodged with the tribunal.

*Note* For rules about lodging documents, see r 12 (Lodgment of documents) and r 13 (Number of copies).

- (4) However, the registrar may accept an application for interim or other orders that does not comply with subrule (2) or (3), if the registrar is satisfied it is in the interests of justice to do so.

*Note 1* The party making an application for interim or other orders must serve a copy of the application on each other party as soon as practicable after lodgment (see r 19 (4)).

*Note 2* An application under the [Act](#), s 39 (Hearings in private or partly in private) need not be served on each other party.

*Note 3* The [Act](#), s 7 requires the tribunal to observe natural justice and procedural fairness.

- (6) The tribunal may consider an oral application for interim or other orders if the tribunal considers it is appropriate, necessary or convenient to do so.

## 63 Adjourment

- (1) The tribunal may adjourn a preliminary conference, mediation, hearing or other tribunal proceeding to any time or date.
- (2) The tribunal may make an order under subrule (1) on application by a party or on its own initiative.
- (3) An application for an adjournment must be made using—
  - (a) if the application is made on the tribunal’s electronic lodgment facility—a tribunal form requesting an adjournment; or
  - (b) in any other case—an Application for Interim or Other Orders – General.

*Note 1* Tribunal forms are available on the tribunal website [www.acat.act.gov.au](http://www.acat.act.gov.au) or from the registry.

*Note 2* If the registrar has made a practice note about adjournments, the practice note applies to adjournments.

*Note 3* The [Act](#), s 6 (Objects of Act) and s 7 (Tribunal principles) apply.

## 64 Taking part other than in person

- (1) A person who seeks to take part in a proceeding, preliminary conference, mediation or hearing other than in person must ask the tribunal, in writing, for a direction under the [Act](#), section 45 (Taking part other than in person).
- (2) The tribunal or registrar may make a direction on application by a party or on its own initiative.

*Note* If the registrar has made a practice note about taking part in proceedings, the practice note applies.

## 65 Hearing on the papers

- (1) A party may apply to the tribunal for the hearing to be conducted solely on the basis of the documents lodged by the parties, with no oral evidence from witnesses or oral submissions (a *hearing on the papers*).

- (2) The tribunal may conduct a hearing on the papers if it is satisfied that—
- (a) it is in the public interest to do so; and
  - (b) the tribunal has sufficient information to make an informed decision on the application.

*Note 1* The [Act](#), s 54 (Decisions without hearing) and s 56 (Other actions by tribunal) apply.

*Note 2* An application for a hearing on the papers can be made using the Application for Interim or Other Orders - General available on the tribunal website [www.acat.act.gov.au](http://www.acat.act.gov.au) or from the registry.

## 66 Orders in chambers

Subject to the [Act](#) or an authorising law, the tribunal may make an order in a hearing or in chambers.

*Note 1* The [Act](#), s 7 (Tribunal principles) applies.

*Note 2* The [Act](#), s 61 (Making and effect of orders) applies. S 61 (2) provides that an order takes effect on the day that the order is made.

## 67 Discontinuing proceedings

- (1) An applicant, including a counterclaimant and an appellant, may apply to discontinue an application, counterclaim or appeal using a notice of discontinuance.

*Note* A Notice of Discontinuance is available on the tribunal website [www.acat.act.gov.au](http://www.acat.act.gov.au) or from the registry.

- (2) The tribunal may consider an oral application under subrule (1) if the tribunal considers it is appropriate, necessary or convenient to do so.
- (3) A notice of discontinuance must—
- (a) identify each respondent to the proceeding being discontinued; and
  - (b) be signed and dated; and

- (c) be lodged with the tribunal; and
  - (d) be given to every other party.
- (4) On application under subrule (1) or (2), the tribunal or the appeal tribunal may by order dismiss the application, counterclaim or appeal.
- (5) Unless the tribunal makes an order dismissing the application, counterclaim or appeal, the application, counterclaim or appeal continues.

## **68 Costs of discontinued proceedings**

If the tribunal makes an order under rule 67 dismissing an application, counterclaim or appeal, a party may apply for costs within 28 days after receiving a copy of the order dismissing the application, counterclaim or appeal.

*Note 1* The [Act](#), s 48 (Costs of proceedings) applies.

*Note 2* An application for costs may be made using the Application for Interim or Other Orders - General available on the tribunal website [www.acat.act.gov.au](http://www.acat.act.gov.au) or from the registry.

## **69 Lapse of proceedings**

- (1) An application lapses and is taken to be dismissed if no step is taken in the proceeding by a party for 6 months after the day the last step was taken.

*Note* The [Legislation Act 2001](#), s 151 applies to working out periods of time.

- (2) A party may ask the tribunal to reinstate an application dismissed under subrule (1).

*Note* A request to reinstate an application may be made using the Application for Interim or Other Orders - General available on the tribunal website [www.acat.act.gov.au](http://www.acat.act.gov.au) or from the registry.

- (3) The tribunal may reinstate the application if it is satisfied it is in the interests of justice to do so.

- (4) For any time limit (including a limitation period), an application that is reinstated is taken to have commenced on the day the application was lodged and is taken never to have been dismissed.
- (5) Subrule (1) does not apply to a proceeding if a decision in the proceeding has been reserved under the [Act](#), section 62 (Reserving decisions).

## **70 Setting aside final orders without appeal**

- (1) This rule applies to a final order—
  - (a) dismissing a discontinued application; or
  - (b) made by consent; or
  - (c) made in the absence of a party.

- (2) The tribunal may set aside a final order on application by a party or on its own initiative.

*Note 1* A request to set aside final orders can be made using the Application for Interim or Other Orders - General available on the tribunal website [www.acat.act.gov.au](http://www.acat.act.gov.au) or from the registry.

*Note 2* The [Act](#), s 56 (Other actions by tribunal) provides that the tribunal may amend or set aside a tribunal order if extraordinary circumstances make it appropriate to amend or set aside the order.

- (3) The tribunal may set aside a final order only if it is satisfied it is in the interests of justice to do so.
- (4) In considering whether to set aside a final order dismissing an application after a notice of discontinuance is lodged, the tribunal must take into account the following:
  - (a) whether the discontinuance was obtained by fraud, duress, suppression of relevant information or evidence or reliance upon false evidence;



- (b) whether any other party was responsible for the fraud, duress, suppression of relevant information or evidence or false evidence;
  - (c) any prejudice to any other party;
  - (d) anything else the tribunal considers relevant.
- (5) In considering whether to set aside a final order made by consent, the tribunal may take into account the following:
- (a) whether the consent was obtained by fraud, duress, suppression of relevant information or evidence or reliance on false evidence or information;
  - (b) whether any other party was responsible for the fraud, duress, suppression of relevant information or evidence or false evidence or information;
  - (c) any prejudice to any other party;
  - (d) any other issue the tribunal considers relevant.
- (6) In considering whether to set aside a final order made in the absence of a party, the tribunal must take into account the following:
- (a) the reason why the party was absent;
  - (b) whether it might have made a material difference to the outcome if the party had attended;
  - (c) anything else the tribunal considers relevant.
- (7) If the tribunal sets aside a final order under this rule, it may also make—
- (a) an order for the future conduct of the application including referring the application to a preliminary conference or mediation; and
  - (b) any other order the tribunal considers appropriate.

## 71 Fixing or assessing costs

- (1) If the tribunal makes a costs order under the [Act](#), section 48 (Costs of proceedings) or an authorising law, the tribunal may order—
  - (a) that the costs be paid as—
    - (i) a fixed amount; or
    - (ii) an amount to be assessed (the *assessed costs*); and
  - (b) which party, if any, pays the costs of the assessment.
- (2) An order for assessed costs may specify the scale or process for assessing costs.
- (3) If the tribunal makes an order for assessed costs, the registrar must assess the costs in accordance with the order and these rules.
- (4) At the end of a costs assessment the registrar must issue an order specifying—
  - (a) the assessed costs for the costs order; and
  - (b) the costs of the assessment.
- (5) If no order is made under subrule (2), the registrar may decide the scale and procedure to be followed to determine the assessed costs and the costs of the assessment.
- (6) Without limiting the registrar’s power to assess costs, the registrar may decide to do any of the following:
  - (a) conduct a hearing by any means, including on the papers;
  - (b) require a bill of costs to be prepared;
  - (c) require a list of objections to items in a bill of costs to be prepared;
  - (d) apply a scale of costs under the [Court Procedures Rules 2006](#);
  - (e) require the parties to attend a dispute resolution process;

- (f) assess the costs in an amount agreed by the parties to the costs order without proceeding to a full assessment.
- (7) The registrar may be informed of facts in any way the registrar considers appropriate.

## Part 2.8 Subpoenas

### 72 Definitions—pt 2.8

In this part:

*addressee* means the person to whom a subpoena is addressed.

*conduct money* means money or its equivalent to meet the reasonable expenses incurred in attending the tribunal in compliance with a subpoena.

#### Examples

- 1 pre-paid travel to and from the tribunal
- 2 cost of post or delivery of the material or thing to the tribunal

*issuing party* means the party who has asked the tribunal to issue a subpoena.

*last day for service* means the last day that a subpoena may be served on the addressee.

*return date* means the date and time that a person must appear before the tribunal to—

- (a) for a subpoena to produce—produce the material or thing; or
- (b) for a subpoena to attend—give evidence.

*subpoena to attend* means a subpoena requiring a person to appear before the tribunal to give evidence—see the [Act](#), section 41 (1) (b).

*subpoena to produce* means a subpoena requiring a person to produce a stated document or other thing relevant to the hearing—see the [Act](#), section 41 (1) (a).

### 73 Application—pt 2.8

The rules in this part apply to all subpoenas unless stated otherwise.

## 74 Issuing subpoenas

- (1) A subpoena is issued by the registrar.

*Note* The registrar may delegate this function (see the [Act](#), s 113).

- (2) A party may ask the registrar to issue a subpoena by—
- (a) completing the subpoena; and
  - (b) giving the registry the completed subpoena and the number of copies necessary to—
    - (i) serve the subpoena on the addressee; and
    - (ii) prove proof of service; and
    - (iii) give a copy of the subpoena to each other party; and
  - (c) paying the determined fee or giving the tribunal a request about fees.

*Note 1* The [Act](#), s 41 (Powers in relation to witnesses etc) applies.

*Note 2* A subpoena is available on the tribunal website [www.acat.act.gov.au](http://www.acat.act.gov.au), or from the registry.

*Note 3* The registrar may reject a document that does not comply with the [Act](#), these rules or a practice note (see r 16 (Rejecting documents for non-compliance)).

*Note 4* Fees determined under the [Court Procedures Act 2004](#), s 13 (Determination of fees) are payable in advance under that [Act](#), s 14 (1).

*Note 5* A Request for Exemption from Paying Fees form and a Request about Payment of Fees form are available on the tribunal website [www.acat.act.gov.au](http://www.acat.act.gov.au) or from the registry.

*Note 6* If the addressee is outside the ACT, there are additional requirements (see r 78 (Interstate subpoenas)).

- (3) If the registrar issues a subpoena, the registrar must—
- (a) seal the subpoena; and
  - (b) list the subpoena for a return date.

- (4) Unless the tribunal orders or otherwise directs, a subpoena must not be issued prior to an application being listed for hearing.

*Note* The registrar will notify the issuing party if a subpoena is not to be issued.

## 75 Form of subpoenas

*Note* A subpoena is available on the tribunal website [www.acat.act.gov.au](http://www.acat.act.gov.au), or from the registry.

- (1) A subpoena must not be addressed to more than 1 person.
- (2) A subpoena must identify the addressee by name or by description of position.

*Note* The *Legislation Act 2001*, dict, pt 1 defines *position* to include office.

- (3) A subpoena to produce must—
- (a) identify the document or thing to be produced; and
  - (b) state the date, time and place for production.
- (4) A subpoena must state the last day for service of the subpoena.
- (5) The last day for service of the subpoena in the ACT must be—
- (a) 5 days before the return date; or
  - (b) if the tribunal has set a different date—the date set.

*Note 1* The *Act*, s 41 (5) (a) requires a subpoena to give evidence to state the time and place at which the person must appear before the tribunal.

*Note 2* An issuing party can ask the tribunal for a different last day for service (see r 77 (Permission to serve subpoena late)).

*Note 3* The last day for service is different for subpoenas to be served outside the ACT (see r 78 (Interstate subpoenas)).

## 76 Service of subpoenas

- (1) A subpoena must be served on the addressee by—
- (a) serving the subpoena on the addressee personally; or

- (b) giving the subpoena to the addressee in a way agreed by the addressee; or
- (c) if the addressee has instructed the addressee's solicitor to accept service for the addressee—serving the subpoena on the addressee's solicitor, or
- (d) if the addressee is a corporation—serving the subpoena on the corporation in a way mentioned in rule 23.

*Note* For service of subpoenas interstate, see r 78.

- (2) If an addressee served with a subpoena under subrule (1) (a) does not accept the subpoena, it is sufficient to serve the subpoena by leaving it at the addressee's feet.
- (3) The issuing party must serve the subpoena on the addressee.
- (4) Subrule (1) does not apply if the tribunal orders otherwise.

**Example**

The tribunal may order that a subpoena be served by post.

- (5) If subrule (4) applies, service is effected when the subpoena has been served by the other means or in accordance with the tribunal's order.
- (6) A subpoena must be served on or before the last day for service.

*Note* For last day of service, see r 75(5).

- (7) The issuing party must give a copy of the subpoena to each other party—
  - (a) as soon as practicable after the subpoena has been served on the addressee; and
  - (b) within a reasonable time before the return date.

**77 Permission to serve subpoena late**

- (1) A party may apply for permission for a subpoena to be served later than 5 days before the return date.

- (2) A request for permission to serve late does not need to be served on any other party unless the tribunal orders otherwise.
- (3) If the tribunal gives permission under subrule (1), the tribunal must set a date for the last date for service of the subpoena.
- (4) Unless the tribunal orders otherwise, a request under this rule may be dealt with without a hearing and in the absence of the parties.

*Note* A request for permission for late service may be made using the Application for Interim or Other Orders - General available on the tribunal website [www.acat.act.gov.au](http://www.acat.act.gov.au) or from the registry. The application must—

- (a) attach a draft subpoena; and
- (b) include the following information:
  - for a subpoena to attend—why the addressee needs to give evidence, why the subpoena was not issued in enough time to be served at least 5 days before the return date, whether the addressee has been told about the hearing and if so, whether the addressee can attend the hearing, the earliest date that the subpoena can be served, and any other relevant information
  - for a subpoena to produce—why the document or thing is required, why the subpoena was not issued in enough time to be served at least 5 days before the return date, whether the addressee has been told about the subpoena and if so, whether the addressee is able to produce the document or thing before the return date, the earliest date that the subpoena can be served, and any other relevant information.

## 78 Interstate subpoenas

- (1) This rule applies to a subpoena issued by the tribunal which is to be served outside the ACT.
- (2) A request for leave under the *Service and Execution of Process Act 1992* (Cwlth) for service of a subpoena outside the ACT must comply with the *Court Procedures Rules 2006*, rule 6615.



## 79 Compliance with subpoena

- (1) An addressee is not required to comply with a subpoena unless—
    - (a) conduct money has been provided a reasonable time before the return date; and
    - (b) the subpoena is served on or before the last date for service.
  - (2) Despite subrule (1) an addressee must comply with the subpoena even if it has not been correctly served on the addressee if the addressee has, by the last date for service, actual knowledge of the subpoena and its requirements.
  - (3) The addressee must comply with a subpoena to produce—
    - (a) by attending on the return date and producing to the tribunal—
      - (i) the subpoena or a copy of the subpoena; and
      - (ii) the document or thing; or
    - (b) by delivering or sending to the tribunal so that it is received no later than 2 days before the return date—
      - (i) the subpoena or a copy of the subpoena; and
      - (ii) the document or thing.
- Note* For a subpoena that is both to attend and produce, the production of the document or thing in accordance with subrule (3) does not discharge the addressee from the obligation to attend to give evidence.
- (4) The registrar may, if asked by the addressee, give a receipt for a document or thing produced under subrule (3) (b).
  - (5) For a subpoena to produce, unless the subpoena specifically requires the original to be produced, the addressee may produce a copy of any document required to be produced by the subpoena.
  - (6) For subrule (5) a copy of the document may be—
    - (a) a photocopy; or

(b) any electronic format that the tribunal accepts.

- (7) For a subpoena to produce, an addressee must tell the registrar whether the document or thing produced need not be returned and may be destroyed.

*Note 1* The addressee must complete the declaration by addressee which is in the Subpoena about whether documents or things produced must be returned or destroyed.

*Note 2* For the disposal of a document or thing produced in response to a subpoena, see r 86 (Disposal of documents and things produced in response to subpoena).

## **80 Cost and expense of complying with subpoenas**

- (1) This rule applies if the addressee is not a party.
- (2) The tribunal may order the issuing party to pay the addressee's reasonable costs or expenses incurred in complying with the subpoena.
- (3) The addressee may apply in writing or orally at the return date for the addressee's costs and expenses to be paid.
- (4) If an order is made under subrule (2) the tribunal may fix the amount or direct that it be assessed in accordance with rule 71 (Fixing or assessing costs).
- (5) An amount fixed under this rule is separate from and in addition to—
  - (a) any conduct money paid to the addressee; and
  - (b) any witness expenses payable to the addressee.

## **81 Access to and inspection of subpoenaed documents**

- (1) This rule applies to a document or thing produced in response to a subpoena to produce.
- (2) The tribunal may, in response to a request, tell a party in general terms what has been produced.

- (3) A party may seek permission under the [Act](#), section 41 (3) to inspect, or make a copy of, a document or thing either—
- (a) in writing before the return date; or
  - (b) orally at the return date.
- Note 1* The [Act](#), s 41 (3) provides that the tribunal may give a party leave to inspect, or make a copy of, a document produced under subpoena.
- Note 2* A request for permission may be made using the Application for Interim or Other Orders - General available on the tribunal website [www.acat.act.gov.au](http://www.acat.act.gov.au) or from the registry.
- Note 3* Parties must consult with the addressee and each other about access to documents or things produced in response to a subpoena.
- (4) The tribunal may make an order for access, inspection and copying of documents or things produced on application by a party or on its own initiative.
- (5) Unless the tribunal orders otherwise, inspection of a document or thing must take place at the registry.
- (6) A party may inspect a document or thing produced in response to a subpoena only—
- (a) in accordance with these rules; or
  - (b) if the tribunal otherwise orders, in accordance with those orders.

## 82 Uplifting a document or thing

- (1) This rule applies to a document or thing produced in response to a subpoena to produce.
- (2) A legal practitioner who is an authorised representative for a party may apply for permission to uplift the document or thing from the registry.
- (3) The registrar may—
- (a) allow the document or thing to be uplifted from the registry on any condition the registrar considers appropriate; or

- (b) not allow the document or thing to be uplifted.
- (4) If a legal practitioner removes a document or thing from the registry, the legal practitioner is taken to have undertaken to the tribunal that—
  - (a) the document or thing will be kept in the personal custody of the legal practitioner; and
  - (b) the document or thing will be returned to the registry in the same condition, order and packaging in which it was removed; and
  - (c) the legal practitioner will comply with any condition to which the permission is subject.

### **83 Objection to production, access, inspection or copying**

- (1) If an addressee, party or someone else with sufficient interest objects to a document or thing produced under a subpoena being inspected, the person must tell the tribunal at the return date or in writing before the return date what the objection is and the reason for the objection.
- (2) If the tribunal receives an objection under subrule (1) the registrar must not allow any or any further inspection of the document or thing until the objection is heard.

### **84 Setting aside subpoena or other relief**

- (1) If an addressee objects to producing a document or thing in response to a subpoena, the addressee must tell the tribunal at the return date or in writing before the return date what the objection is and the reason for the objection.
- (2) The [Act](#), section 41 (6) provides that on application by a party or someone else having a sufficient interest, the tribunal may set aside a subpoena completely or partly.

*Note* An application can be made using the Application for Interim or Other Orders - General available on the tribunal website [www.acat.act.gov.au](http://www.acat.act.gov.au) or from the registry.

- (3) If the tribunal receives an application under the [Act](#), section 41 (6) the registrar must not allow any or any further access to any document or thing produced under the subpoena to which objection is taken until the objection is heard.

**85 Use of subpoenaed material**

Unless the tribunal orders otherwise, a document or thing produced under a subpoena must be used only in the proceeding in which the subpoena has been issued.

**86 Disposal of documents and things produced in response to subpoena**

Unless the tribunal orders otherwise, after a proceeding including all appeal periods is finalised the registrar may—

- (a) destroy the document or thing if the addressee has, in accordance with rule 79 (7) (Compliance with subpoena), told the registrar, in writing, that a document or thing produced may be destroyed; or
- (b) if the addressee has not told the registrar, in writing, that a document or thing produced may be destroyed—
  - (i) return the document or thing to the addressee; or
  - (ii) inform the addressee that the document or thing may be collected within a specified time; or
  - (iii) take any other steps the registrar considers appropriate, including destroying the document or thing.

## Part 2.9 Supreme Court removals and referrals

### 87 Application—pt 2.9

- (1) The rules in this part apply to all applications unless stated otherwise.
- (2) This part applies to an application—
  - (a) under the [Act](#), section 83 (Removal of applications from tribunal to Supreme Court); and
  - (b) under the [Act](#), section 84 (Referral of questions of law to Supreme Court).

*Note* For the application of these rules, see r 5.

### 88 Application for removal—time

An application to have an appeal removed to the Supreme Court must be lodged within—

- (a) 28 days after the date the appeal is commenced; or
- (b) if the tribunal orders another time—that time.

*Note* An application for further time may be made before or after the 28-day period (see [Legislation Act 2001](#), s 151C).

### 89 Application for removal or referral—form

- (1) An application for removal or referral to the Supreme Court must—
  - (a) be made, in writing, using an application for removal or referral to Supreme Court; and
  - (b) state the reason for the request; and
  - (c) if the application is a referral of a question of law—set out the question in a form that requires a yes or no answer; and

- (d) be signed and dated by the party or parties making the request; and
- (e) be lodged with the tribunal; and
- (f) if the application is lodged in person or by post—be lodged with the required number of copies; and
- (g) be accompanied by the determined fee (if any) or a request about fees.

*Note 1* The *Court Procedures Rules 2006*, div 2.14.1B (Removal of applications from ACAT to Supreme Court) applies to a request under the *Act*, s 83 (Removal of applications from tribunal to Supreme Court).

*Note 2* The *Court Procedures Rules 2006*, div 5.7.1 (Questions referred—Supreme Court) applies to a referral under the *Act*, s 84 (Referral of questions of law to Supreme Court).

*Note 3* An Application for Removal or Referral to Supreme Court is available on the tribunal website [www.acat.act.gov.au](http://www.acat.act.gov.au), or from the registry.

*Note 4* For rules about lodging documents, see r 12 (Lodgment of documents) and r 13 (Number of copies).

*Note 5* The tribunal may require additional copies to be lodged in some circumstances.

*Note 6* Fees determined under the *Court Procedures Act 2004*, s 13 (Determination of fees) are payable in advance under that *Act*, s 14 (1).

*Note 7* A Request for Exemption from Paying Fees form and a Request about Payment of Fees form are available on the tribunal website [www.acat.act.gov.au](http://www.acat.act.gov.au) or from the registry.

*Note 8* There is no fee for a referral under the *Act*, s 84 (Referral of questions of law to Supreme Court).

- (2) The party making the application for removal or referral must serve a sealed copy of the request on all other parties.

*Note* For service of applications, see r 19 (Who serves documents?), r 20 (Service) and r 21 (Service by post).

## Chapter 3 Specific rules

### Part 3.1 Appeals within tribunal

#### 90 Application—pt 3.1

- (1) The rules in this part apply to appeals within the tribunal under the [Act](#), section 79 (3) from a tribunal decision on an original application.
- (2) If a rule in this part is inconsistent with the rules in chapter 2 (General rules) the rule in this part applies to the extent of the inconsistency.

*Note 1* For the application of these rules, see r 5.

*Note 2* An appeal within the tribunal is heard by an appeal tribunal constituted under the [Act](#), s 81 (Constitution of appeal tribunal).

*Note 3* **Appeal tribunal**—see the [Act](#), dictionary.

*Note 4* **Application** includes an application for appeal—see the [Act](#), dictionary.

*Note 5* **Original application**—see the [Act](#), s 79 (Appeals within tribunal).

#### 92 Application for appeal within tribunal—requirements

An application for appeal within the tribunal must—

- (a) be made using the application for appeal; and
- (b) set out briefly but specifically the error in the decision under appeal; and
- (c) set out the orders sought; and
- (d) attach a copy of the orders of the tribunal in the original proceeding if available; and
- (e) be signed and dated; and
- (f) be lodged with the tribunal; and
- (g) if the application is lodged in person or by post—be lodged with the required number of copies; and



(h) be accompanied by the determined fee, or a request about fees.

*Note 1* An Application for Appeal is available on the tribunal website [www.acat.act.gov.au](http://www.acat.act.gov.au), or from the registry.

*Note 2* For rules about starting proceedings, see pt 2.4 (Starting proceedings).

*Note 3* For rules about authorised representatives, see div 2.5.2 (Authorised representatives).

*Note 4* The registrar may require additional copies of the Application for Appeal to be lodged if, for example, there is more than 1 applicant or respondent (see r 13).

*Note 5* A fee may be determined under the *Court Procedures Act 2004*, s 13 for proceedings in the tribunal and is payable in advance under that *Act*, s 14 (1).

*Note 6* A Request for Exemption from Paying Fees form and Request about Payment of Fees form are available on the tribunal website [www.acat.act.gov.au](http://www.acat.act.gov.au) or from the registry.

## **93 Application for appeal within tribunal—lodgment**

An application for appeal within the tribunal may be lodged—

- (a) in person; or
- (b) by post; or
- (c) by email; or
- (d) online.

*Note 1* For rules about lodging documents, see r 12 (Lodgment of documents) and r 13 (Number of copies).

*Note 2* For rules about rejecting documents, see r 16 (Rejecting documents for non-compliance).

## 94 Application for appeal within tribunal—time for lodging

An application for appeal within the tribunal must be lodged no later than 28 days after the day the orders of the tribunal in the original application were made, or any further time that the tribunal allows.

*Note 1* An application for further time may be made before or after the 28-day period (see [Legislation Act 2001](#), s 151C).

*Note 2* For rules about extending time, see r 38 (Extension of time for making application).

## 95 Registrar to give documents to parties

- (1) The registrar must—
  - (a) serve a sealed copy of the application for appeal on each party; and
  - (b) tell each party that if a party intends to apply to have the appeal removed to the Supreme Court, that party must, not later than 28 days after the day the application for appeal is served, lodge an application to have the appeal removed to the Supreme Court either alone or jointly.

*Note 1* An application for further time to have an appeal removed may be made before or after the 28-day period (see [Legislation Act 2001](#), s 151C).

*Note 2* Part 2.9 (Supreme Court removals and referrals) applies.

*Note 3* An Application for Removal or Referral to the Supreme Court is available on the tribunal website [www.acat.act.gov.au](http://www.acat.act.gov.au), or from the registry.

- (2) The registrar may serve the application for appeal on a party by email, by emailing the application to the email address provided by the party in the original application.

*Note 1* For service, see r 20.

*Note 2* **Original application**—see the [Act](#), s 79 (Appeals within tribunal).

- (3) The registrar need not act under subrule (1) if the president—
- (a) gives the appellant written notice under the [Act](#), section 80 (1);  
or
  - (b) has not decided whether to take action under the [Act](#), section 80 (2).

*Note* The president may dismiss an application for appeal if the president has given notice that the subject matter of an appeal is substantially similar to other appeals rejected by the tribunal and the president proposes to dismiss the appeal, and the president has considered any representations by the appellant in response to the notice (see [Act](#), s 80).

## 96 Parties to appeal

- (1) The applicant in an application for appeal is the person making the application.
- (2) Each other party to the original application being appealed is a respondent.
- (3) A person must be included as a respondent to an appeal if the person—
  - (a) appeared, or was granted leave to appear, before the tribunal in the original proceeding (the *original proceeding*) in which the order appealed from was made; and
  - (b) would be directly affected by the order sought in the application for appeal or is interested in maintaining the order appealed from.
- (4) If an unincorporated organisation or association appeared, or was granted leave to appear, in the original proceeding—
  - (a) a reference in subrule (3) to the person appearing is a reference to an authorised representative for the organisation or association; and

- (b) subrule (3) is taken to require that the interests of the organisation or association, found out from its objects or purposes, would be directly affected by the order sought by the application for appeal or by the maintenance of the order appealed from.

*Note* The [Act](#), s 29 (Parties to applications) and div 2.5.1 (Including and removing parties) applies.

## **97 Response to application for appeal not required**

A respondent to an application for appeal is not required to lodge a response to the application unless directed by the tribunal.

## **Part 3.2**                      **Civil disputes**

### **Division 3.2.1**              **Civil disputes (other than fence disputes)**

#### **Subdivision 3.2.1.1**    **Preliminary**

#### **98**                      **Definitions—div 3.2.1**

In this division:

*contractual interest* means interest pursuant to a contract or arising from a debt if the contract terms set a rate of interest.

*enforcement expenses* means expenses incurred enforcing a contract and includes expenses under the *Unit Titles (Management) Act 2011*, section 31 (Recovery of expenditure resulting from member or unit occupier's fault).

*Note*        The *Act*, s 15 (Definitions—pt 4) defines the different kinds of civil dispute applications.

#### **99**                      **Application—div 3.2.1**

- (1) The rules in this division—
  - (a) apply to a civil dispute application; but
  - (b) do not apply to a fence dispute application.
- (2) If the rules in this division are inconsistent with the rules in chapter 2 (General rules), the rules in this division apply to the extent of the inconsistency.

*Note 1*        The *Act*, pt 4 (Civil disputes) applies.

*Note 2*        For the application of these rules, see r 5.

## **Subdivision 3.2.1.2 Starting proceedings**

### **100 Civil disputes—applications**

- (1) A civil dispute application must be made using a civil dispute application.

*Note 1* A Civil Dispute Application is available on the tribunal website [www.acat.act.gov.au](http://www.acat.act.gov.au), or from the registry.

*Note 2* A civil dispute application includes a debt application for monies owing pursuant to the *Unit Titles (Management) Act 2011*, s 31 (Recovery of expenditure resulting from member or unit occupier's fault).

*Note 3* Lawyers are required to comply with the *Civil Law (Wrongs) Act 2002*, s 188 (Certificate that claim or defence has reasonable prospects of success). A Certificate—Reasonable Prospects of Success is available on the tribunal website [www.acat.act.gov.au](http://www.acat.act.gov.au), or from the registry.

- (2) A civil dispute application must—
- (a) enable a respondent to be identified; and
  - (b) set out or attach—
    - (i) the orders sought; and
    - (ii) the grounds relied on; and
    - (iii) any other document or information required by these rules; and
  - (c) be signed and dated; and
  - (d) be lodged with the tribunal; and
  - (e) if the application is lodged in person or by post—be lodged with the required number of copies; and
  - (f) be accompanied by the determined fee or a request about fees; and

(g) be accompanied by any other document required by the [Act](#), these rules or any other territory law.

*Note 1* For urgent applications, see r 62 (Interim and other orders).

*Note 2* For rules about lodging documents, see r 12 (Lodgment of documents) and r 13 (Number of copies).

*Note 3* The registrar may require additional copies to be lodged if, for example, there is more than 1 applicant or respondent.

*Note 4* A fee may be determined under the *Court Procedures Act 2004*, s 13 (Determination of fees) for proceedings in the tribunal and is payable in advance under that [Act](#), s 14 (1).

*Note 5* A Request for Exemption from Paying Fees form and a Request about Payment of Fees form are available on the tribunal website [www.acat.act.gov.au](http://www.acat.act.gov.au) or from the registry.

(3) A person may make a civil dispute application for a debt declaration only if the respondent has made or attempted to make a demand for payment to the person for payment of the debt.

*Note* **Debt declaration** is defined in the [Act](#), s 15.

(4) A civil dispute application that is a contract application or a debt application must—

(a) state or attach—

(i) the name of the parties to the contract; and

(ii) what was agreed in the contract; and

(iii) the terms of the contract relevant to the dispute; and

(iv) the execution clause; and

(b) attach any written demand for payment; and

(c) if the application includes—

(i) a claim for contractual interest—attach the documents and state the information required by rule 101; or

- (ii) a claim for interest other than contractual interest—state the information required by rule 102; or
- (iii) a claim for enforcement expenses—attach the documents and state the information required by rule 103.

*Note* The [Act](#), s 15 defines a **contract application** as an application in relation to a contract, and includes an application for damages for breach of contract. A **debt application** is defined in the [Act](#), s 15 as an application for the recovery of debt.

- (5) The applicant must certify that—
  - (a) the respondent’s address provided in the civil dispute application is the most current address available to the applicant; and
  - (b) the applicant believes that service of documents to the respondent’s address provided in the civil dispute application will most likely result in the respondent receiving them.
- (6) The registrar must serve a sealed copy of the civil dispute application on each respondent.

*Note* For service of applications, see r 19 (Who serves documents?), r 20 (Service) and r 21 (Service by post).

## **101 Claim for contractual or statutory interest**

- (1) This rule applies if a civil dispute application claims the payment of interest up to the day of final orders either—
  - (a) under a contract; or
  - (b) arising under a territory law.
- (2) The civil dispute application must—
  - (a) state—
    - (i) the amount owing from time to time; and



- (ii) the start date and end date for which interest is claimed;  
and
  - (iii) the rate or rates at which interest is claimed; and
  - (iv) the total amount of interest claimed; and
- (b) attach either—
- (i) if the contract was in writing—a copy of the contract containing the clause about the payment of contractual interest; or
  - (ii) if the contact was oral or partly oral—a statement setting out the agreed terms about the payment of contractual interest.

*Note* A Statement of Interest Claimed - Civil Dispute is available on the tribunal website [www.acat.act.gov.au](http://www.acat.act.gov.au) or from the registry.

## **102 Claim for interest—other**

- (1) This rule applies if a civil dispute application claims the payment of interest up to the day of final orders, but rule 101 does not apply to the claim.
- (2) The rate of interest that may be claimed is the rate applying at the time under the *Court Procedures Rules 2006*, schedule 2, part 2.1 (Interest up to judgment), unless the tribunal orders otherwise.
- (3) The civil dispute application must state—
  - (a) the amount owing from time to time; and
  - (b) if any payment has been made and if so, on what date; and
  - (c) the start date and end date for which interest is claimed.

*Note* A Statement of Interest Claimed - Civil Dispute is available on the tribunal website [www.acat.act.gov.au](http://www.acat.act.gov.au) or from the registry.

### **103 Claim for enforcement expenses**

If a civil dispute application includes an amount for enforcing a contract or other enforcement expense (the *enforcement expenses*) the civil dispute application must—

- (a) attach the parts of the contract or a document setting out the legal and factual basis on which each enforcement expense is claimed; and
- (b) state—
  - (i) what each enforcement expense is; and
  - (ii) the date each enforcement expense was incurred; and
  - (iii) the amount of each enforcement expense; and
  - (iv) the total amount of enforcement expenses claimed.

*Note 1* An applicant may ask the tribunal for permission to amend an application during proceedings to update enforcement expenses.

*Note 2* A civil dispute application includes a debt application relying on the *Unit Titles (Management) Act 2011*, s 31 (Recovery of expenditure resulting from member or unit occupier's fault).

### **104 Civil dispute applications—lodgment**

A civil dispute application may be lodged—

- (a) in person; or
- (b) by post; or
- (c) online.

### **105 Civil dispute applications—service**

A person, other than the registrar, who serves a civil dispute application must prove service—

- (a) by making an affidavit of service; or

(b) in a way as specified by the tribunal or registrar.

*Note 1* Part 2.2 (Service) applies.

*Note 2* An affidavit of service is available on the tribunal website [www.acat.act.gov.au](http://www.acat.act.gov.au) or from the registry.

### **Subdivision 3.2.1.3 Responding to a civil dispute application**

#### **106 Civil dispute applications—response**

(1) A respondent may lodge a response to a civil dispute application using a response - civil dispute.

*Note 1* A Response - Civil Dispute is an approved form and is available on the tribunal website [www.acat.act.gov.au](http://www.acat.act.gov.au) or from the registry.

*Note 2* R 37 (Responding to an application) applies.

(2) A respondent to a civil dispute application may—

- (a) admit liability to the application in whole or in part; or
- (b) dispute the application; or
- (c) lodge a counterclaim; or
- (d) rely on a set-off.

*Note 1* For admission of liability, see r 108 (Admission of liability by respondent).

*Note 2* For disputed applications, see r 111 (Disputed civil dispute applications).

*Note 3* For counterclaims, see r 112 (Counterclaims).

*Note 4* For set-offs, see r 113 (Set-offs).

(3) A response must be—

- (a) signed and dated; and
- (b) lodged with the tribunal; and
- (c) if the response is lodged in person or by post—lodged with the required number of copies.

- (4) A response to a third-party notice may be lodged—
  - (a) in person; or
  - (b) by post; or
  - (c) by email; or
  - (d) online.
- (5) The registrar must serve a sealed copy of the lodged response to each other party.

**107 Time for response**

- (1) A respondent must lodge a response to a civil dispute application within 21 days after the application is served.
- (2) The tribunal may order that a response to a civil dispute application must be lodged by a date that is less than 21 days after the civil dispute application has been served.
- (3) The tribunal may make an order under subrule (2) on application by a party or on its own initiative.
- (4) If the tribunal makes an order under subrule (2), the registrar must notify the respondent, in writing, of the date by which a response must be lodged.

- (5) The tribunal may list a civil dispute application for a directions hearing, preliminary conference or hearing prior to a response being lodged, either on its own initiative or on application by a party.

*Note* R 60 (Directions) applies.

## **108 Admission of liability by respondent**

A respondent may, in response to a civil dispute application—

- (a) admit liability for all or part of the application by completing section A (admission of liability) of the response - civil dispute; and
- (b) agree to judgment being entered for a stated monetary amount inclusive of any determined fees, interest and any other amounts claimed; and
- (c) state any condition on which the monetary amount is admitted.

### **Examples—condition**

- 1 the date by which the judgment amount will be paid
- 2 that the judgment amount be paid by instalments, the amount of each instalment, when the first instalment will be paid, and the date by which each subsequent instalment will be paid

*Note* R 107 (Time for response) applies.

## **111 Disputed civil dispute applications**

- (1) A respondent may dispute a civil dispute application by—
- (a) lodging the response - civil dispute with section B (disputed claim) completed; or
  - (b) telling the tribunal, in writing, about the dispute.

*Note* Disputed Claim is Section B of the Response - Civil Dispute and is available on the tribunal website [www.acat.act.gov.au](http://www.acat.act.gov.au) or from the registry.

- (2) The respondent must lodge the response - civil dispute, or tell the tribunal about the dispute, within—
- (a) 21 days after service of the civil dispute application; or
  - (b) another time allowed by the tribunal.

## **112 Civil dispute applications—counterclaim**

- (1) A respondent may make a counterclaim to a civil dispute application by—
- (a) lodging the response - civil dispute with section C (counterclaim) completed; or
  - (b) telling the tribunal, in writing, about the counterclaim.

*Note 1* A counterclaim is Section C of the Response - Civil Dispute and is available on the tribunal website [www.acat.act.gov.au](http://www.acat.act.gov.au) or from the registry.

*Note 2* A respondent may lodge a counterclaim against an applicant instead of starting a separate proceeding.

- (2) A counterclaim must—
- (a) set out—
    - (i) the orders sought including any claim for interest; and
    - (ii) the grounds relied on; and
  - (b) attach any documents or information required by these rules; and
  - (c) be signed and dated; and
  - (d) be lodged—
    - (i) at the same time the respondent lodges the respondent's response; or
    - (ii) at another time allowed by the tribunal; and

- (e) be accompanied by the determined fee for a counterclaim or a request about fees.

*Note 1* An application for permission to lodge a counterclaim at another time may be made using the Application for Interim or Other Orders - General available on the tribunal website [www.acat.act.gov.au](http://www.acat.act.gov.au), or from the registry.

*Note 2* A fee may be determined under the *Court Procedures Act 2004*, s 13 for proceedings in the tribunal and is payable in advance under that Act, s 14 (1). There is a fee for lodging a counterclaim.

*Note 3* A Request for Exemption from Paying Fees form and A Request about Fees form are available on the tribunal website [www.acat.act.gov.au](http://www.acat.act.gov.au) or from the registry.

- (3) A counterclaim may be lodged—
- (a) in person; or
  - (b) by post; or
  - (c) by email; or
  - (d) online.
- (4) The registrar must serve a sealed copy of the counterclaim on each other party.
- Note* For service of applications, see r 19 (Who serves documents?), r 20 (Service) and r 21 (Service by post).
- (5) The tribunal may order that a reply to a counterclaim be lodged and a sealed copy given to each other party.

## **113 Civil dispute applications—set-offs**

- (1) A respondent may rely on a set-off (whether the amount of the set-off is known or not) as a response to all or part of a civil dispute application.

- (2) The respondent may tell the tribunal and each other party that they intend to rely on a set-off by—
- (a) writing on the response - civil dispute—
    - (i) that they intend to rely on a set-off; and
    - (ii) the grounds relied on for the set-off; and
    - (iii) the orders sought (including the amount of the set-off, if known); and
  - (b) attaching any documents in support of the set-off.

*Note* A Response - Civil Dispute is available on the tribunal website [www.acat.act.gov.au](http://www.acat.act.gov.au) or from the registry.

#### **Subdivision 3.2.1.4 Third parties to civil dispute**

*Note* R 39 (Necessary parties) applies.

#### **114 Civil dispute applications—joining a third party**

- (1) A respondent may join a third party to a civil dispute application by—
- (a) lodging a third-party notice – civil dispute; or
  - (b) telling the tribunal, in writing, about the third-party claim.

*Note* A Third-Party Notice – Civil Dispute is available on the tribunal website [www.acat.act.gov.au](http://www.acat.act.gov.au) or from the registry.

- (2) A respondent must join a person who is not a party to the civil dispute application as a third party to the application if, in the proceeding, the respondent wants to—
- (a) claim contribution or indemnity against the person; or
  - (b) claim relief against the person that—
    - (i) relates to the civil dispute application; and
    - (ii) derives from the relief claimed by the applicant; or



- (c) have an issue relating to the civil dispute application decided between the applicant and the respondent, and between either of them and the person not a party to the proceeding.
- (3) A third-party notice must—
- (a) enable a third party to be identified; and
  - (b) set out—
    - (i) the grounds relied on; and
    - (ii) the orders sought including any claim for interest; and
  - (c) be signed and dated; and
  - (d) be lodged with the tribunal; and
  - (e) if the third-party notice is lodged in person or by post—be lodged with the required number of copies.
- (4) The third-party notice may be lodged—
- (a) in person; or
  - (b) by post; or
  - (c) by email; or
  - (d) online.
- (5) Unless the tribunal orders otherwise, a third-party notice—
- (a) may not be lodged until the respondent seeking to join the third party has lodged a response; and
  - (b) must be lodged within—
    - (i) 21 days after the respondent who lodges the third-party notice has lodged a response; or
    - (ii) another time ordered by the tribunal.

- (6) The registrar must serve on the third party a sealed copy of—
- (a) the third-party notice; and
  - (b) every other document lodged in the proceeding; and
  - (c) every order, if any, made in the proceeding; and
  - (d) any other document the registrar considers appropriate.

*Note 1* The registrar may direct the parties to provide each document they have lodged to the third party.

*Note 2* For service of documents, see r 19 (Who serves documents?), r 20 (Service) and r 21 (Service by post).

- (7) The registrar must give a sealed copy of the third-party notice to each other party in the proceedings.
- (8) A third-party application starts on the day that the third-party notice is lodged.
- (9) A third party is a party to the proceeding for the purpose of the [Act](#) and these rules.

## **115 Third-party notice—response**

- (1) A third party may lodge a response to the third-party notice by—
- (a) lodging a response to third-party notice - civil dispute; or
  - (b) telling the tribunal, in writing, about the response to the third-party claim.

*Note* A Response to Third Party Notice - Civil Dispute is available on the tribunal website [www.acat.act.gov.au](http://www.acat.act.gov.au) or from the registry.

- (2) A response to a third-party notice must be lodged no later than—
- (a) 21 days after the third-party notice is served; or
  - (b) another time ordered by the tribunal.

- (3) A response to a third-party notice must be—
  - (a) signed and dated; and
  - (b) lodged with the tribunal; and
  - (c) if the response is lodged in person or by post—lodged with the required number of copies.
- (4) A response to a third-party notice may be lodged—
  - (a) in person; or
  - (b) by post; or
  - (c) by email; or
  - (d) online.
- (5) The registrar must seal a lodged response to a third-party notice.
- (6) A sealed copy of the response to a third-party notice must be served on all the other parties named in the application.

*Note* For service of documents, see r 19 (Who serves documents?), r 20 (Service) and r 21 (Service by post).

## **Division 3.2.2 Fence disputes**

### **117 Definitions—div 3.2.2**

In this division:

*common boundaries determination*—see the [Act](#), section 15.

*fence dispute application* means a common boundaries determination.

**118 Application—div 3.2.2**

- (1) The rules in this division apply to fence dispute applications.
- (2) If the rules in this division are inconsistent with the rules in chapter 2 (General rules), the rules in this division apply to the extent of the inconsistency.

*Note* For the application of these rules, see r 5.

**119 Fence disputes—applications**

- (1) A fence dispute application must—
  - (a) be made using a fence dispute application; and
  - (b) enable an occupier of land adjoining the fence or proposed fence to be identified; and
  - (c) enable the land the subject of the dispute to be identified; and
  - (d) set out or attach—
    - (i) the orders sought; and
    - (ii) the grounds relied on; and
    - (iii) any other document or information required by these rules; and
  - (e) be signed and dated; and
  - (f) be lodged with the tribunal; and
  - (g) if the application is lodged in person or by post—be lodged with the required number of copies; and
  - (h) be accompanied by the determined fee, or a request about fees; and

- (i) be accompanied by any other document required by the [Act](#), these rules or the *Common Boundaries Act 1981*.

*Note 1* A Fence Dispute Application is available on the tribunal website [www.acat.act.gov.au](http://www.acat.act.gov.au) or from the registry.

*Note 2* For urgent applications see r 62 (Interim and other orders).

*Note 3* For rules about lodging documents, see r 12 (Lodgment of documents) and r 13 (Number of copies).

*Note 4* The registrar may require additional copies to be lodged if, for example, there is more than 1 applicant or respondent.

*Note 5* A fee may be determined under the *Court Procedures Act 2004*, s 13 for proceedings in the tribunal and is payable in advance under that [Act](#), s 14 (1).

*Note 6* A Request for Exemption from Paying Fees form and a Request about Payment of Fees form are available on the tribunal website [www.acat.act.gov.au](http://www.acat.act.gov.au) or from the registry.

- (2) The applicant must certify that—
- (a) the respondent's address provided in the fence dispute application is the most current address available to the applicant; and
  - (b) the applicant believes that service of documents to the respondent's address provided in the fence dispute application will most likely result in the respondent receiving them.
- (3) A fence dispute application may be lodged—
- (a) in person; or
  - (b) by post; or
  - (c) online.

- (4) The registrar must serve a sealed copy of a fence dispute application on each respondent.

*Note 1* The *Common Boundaries Act 1981*, s 18 (Service of documents) sets out how documents are required to be served on the occupier of a parcel of land. S 18 (1) (c) of that Act provides for service by sending the documents by post addressed to the occupier at the occupier's address last known to the person sending the document or at the parcel of land. For service otherwise, see pt 2.2 (Service).

*Note 2* For service of applications, see r 19 (Who serves documents?), r 20 (Service) and r 21 (Service by post).

## **120 Fence dispute applications—response not required**

A respondent to a fence dispute application is not required to lodge a response to the application unless directed by the tribunal.

## Part 3.3 Applications under the Guardianship and Management of Property Act 1991 and Powers of Attorney Act 2006

### 121 Application—pt 3.3

- (1) The rules in this part apply to applications under the *Guardianship and Management of Property Act 1991* and the *Powers of Attorney Act 2006*.
- (2) If the rules in this part are inconsistent with the rules in chapter 2 (General rules), the rules in this part apply to the extent of the inconsistency.

*Note* For the application of these rules, see r 5.

### 121A Meaning of *protected person*—pt 3.3

In this part:

*protected person* means a person who is—

- (a) the subject or proposed subject of an order appointing a guardian or financial manager; or
- (b) a principal under an enduring power of attorney.

### 122 Applications under this part—application

- (1) An application under this part must—
  - (a) be made using the appropriate tribunal form for the application; and
  - (b) be signed and dated; and
  - (c) be lodged with the tribunal; and

- (d) if the application is lodged in person or by post—be lodged with the required number of copies; and

*Note 1* Tribunal forms are available on the tribunal website [www.acat.act.gov.au](http://www.acat.act.gov.au) or from the registry.

*Note 2* For rules about lodging documents, see r 12 (Lodgment of documents) and r 13 (Number of copies).

- (e) if the application is for the appointment of a guardian or manager of a protected person—attach—

(i) copies of any reports available to the applicant by a health professional, social worker or other professional person relating to the application; and

(ii) a statutory declaration made by each person who is proposed to be appointed as a guardian or manager of the protected person, informing the tribunal of the matters set out in the *Guardianship and Management of Property Act 1991*, section 10 (2); and

(iii) a written consent to appointment by each person who is proposed to be appointed as a guardian or manager of the protected person; and

(iv) for an application for the appointment of a manager—a statutory declaration informing the tribunal about the income, assets and debts of the protected person (the *protected person's property*); and

- (f) if the application is about an enduring power of attorney—attach a copy of the power of attorney.



- (2) Subrule (1) (e) (ii) and (iii) does not apply if the applicant seeks the appointment of the Public Trustee and Guardian as a guardian or manager.

*Note 1* A Statutory Declaration for the Appointment of a Guardian and/or Manager is available on the tribunal website [www.acat.act.gov.au](http://www.acat.act.gov.au) or from the registry.

*Note 2* A Statutory Declaration - Statement of Protected Person's Property is available on the tribunal website [www.acat.act.gov.au](http://www.acat.act.gov.au) or from the registry.

## 122A Applications under this part—parties

- (1) The following people are parties to an application under this part:
- (a) the applicant;
  - (b) the protected person;
  - (c) the person proposed in the application as guardian or manager;
  - (d) a current guardian or manager of the protected person appointed under the *Guardianship and Management of Property Act 1991* or a corresponding law;
  - (e) a current attorney of the protected person appointed under the *Powers of Attorney Act 2006* or a corresponding law;
  - (f) any other person ordered by the tribunal to be joined as a party to the proceeding.

*Note* The tribunal may, by notice to the parties, join a person as a new party to an application if the person has an interest in the application (see the *Act*, s 29 (5)).

Section 122B

---

- (2) In this rule:

*corresponding law* means—

- (a) for paragraph (1) (d)—a law of a State or of another Territory, or a law of a prescribed country, that corresponds, or substantially corresponds, to the *Guardianship and Management of Property Act 1991*; and
- (b) for paragraph (1) (e)—a law of a State or of another Territory, or a law of a prescribed country, that corresponds, or substantially corresponds, to the *Powers of Attorney Act 2006*.

**122B Applications under this part—lodgment**

- (1) An application under this part may be lodged—
  - (a) in person; or
  - (b) by post; or
  - (c) by email; or
  - (d) online.
- (2) The registrar must seal a lodged application.

**122C Applications under this part—service**

- (1) The registrar must serve a sealed copy of an application under this part on each party to the application.

*Note 1* For service, see the *Legislation Act 2001*, pt 19.5.

*Note 2* Other people are also required to be notified about the hearing of the application (see *Guardianship and Management of Property Act 1991*, s 72A).

- (2) A document lodged in relation to an application under this part by the protected person need not be served on the other parties to the application unless the tribunal directs, or the registrar requests, that the document be served.

- (3) A document lodged in relation to an application under this part by a party other than the protected person must be served on each other party to the application.

*Note* If a party does not want information provided to another party, the party must seek an order under the [Act](#), s 39 (Hearings in private or partly in private) (see r 62 (Interim and other orders)).

### **122D Applications under this part—response not required**

A party is not required to lodge a response to an application under this part unless directed by the tribunal.

### **122E Change of contact details for protected person**

- (1) This rule applies if—
- (a) a person is the guardian or manager of a protected person; and
  - (b) the protected person’s address for service, home address or other contact details change.
- (2) The guardian or manager must give the new address for service, home address or other contact details of the protected person to the tribunal as soon as practicable.

*Note* If a party does not want information provided to another party, the party must seek an order under the [Act](#), s 39 (Hearings in private or partly in private) (see r 62 (Interim and other orders)).

### **122F Review of guardian and manager appointments**

- (1) This rule—
- (a) applies to the review of a guardian or manager of a protected person under the [Guardianship and Management of Property Act 1991](#), section 19 (Review of guardians and managers); but

Section 122F

---

- (b) does not apply to the review of an order registered under the *Guardianship and Management of Property Act 1991*, section 12 (Recognition of interstate etc guardians and managers).
- (2) The guardian or manager of the protected person must lodge with the tribunal a completed Questionnaire—Review of Appointment of Guardian or Manager (the *questionnaire*).
- Note* A Questionnaire—Review of Appointment of Guardian or Manager and information about lodging the questionnaire is available on the tribunal website [www.acat.act.gov.au](http://www.acat.act.gov.au).
- (3) The questionnaire must be lodged with the tribunal—
- (a) if the guardian or manager has not been given at least 7 days' notice of the review—as soon as practicable but before the listing date for the review; or
- (b) in any other case—at least 7 days before the listing date for the review.
- (4) The tribunal may conduct the review solely on the basis of the documents lodged with the tribunal, with no oral evidence from witnesses or oral submissions.

## Part 3.4 Applications under the Mental Health Act 2015

### 123 Meaning of *subject person*—pt 3.4

In this part:

*subject person* means the person the subject of an application under the *Mental Health Act 2015*.

### 123A Application—pt 3.4

- (1) The rules in this part apply to applications under the *Mental Health Act 2015*.
- (2) If the rules in this part are inconsistent with the rules in chapter 2 (General rules), the rules in this part apply to the extent of the inconsistency.

*Note* For the application of these rules, see r 5.

### 123B Applications under the Mental Health Act 2015—parties

- (1) The following people are parties to an application under the *Mental Health Act 2015*:
  - (a) the applicant;
  - (b) the subject person;
  - (c) the chief psychiatrist;
  - (d) a current guardian of the subject person appointed under the *Guardianship and Management of Property Act 1991*;
  - (e) a current attorney of the subject person appointed under the *Powers of Attorney Act 2006*;

- (f) any other person ordered by the tribunal to be joined as a party to the proceeding.

*Note* The tribunal may, by notice to the parties, join a person as a new party to an application if the person has an interest in the application (see the [Act, s 29 \(5\)](#)).

- (2) In this rule:

*chief psychiatrist* means the Chief Psychiatrist appointed under the [Mental Health Act 2015](#), section 196.

## 124 Applications under the Mental Health Act 2015—lodgment

- (1) An application under the [Mental Health Act 2015](#) may be lodged—
- (a) in person; or
  - (b) by post; or
  - (c) by email; or
  - (d) by fax; or
  - (e) online.
- (2) If an application under the [Mental Health Act 2015](#) is lodged by email, the application must be lodged by emailing it to [acatmentalhealth@act.gov.au](mailto:acatmentalhealth@act.gov.au).

## 124A Applications under the Mental Health Act 2015—service

- (1) Rule 19 (Who serves documents?) does not apply to an application under the [Mental Health Act 2015](#).
- (2) The registrar must serve a sealed copy of an application under the [Mental Health Act 2015](#) on the subject person unless the registrar requires the chief psychiatrist to serve the application on the subject person.

### Example

The registrar may require the chief psychiatrist to serve an application if the subject person is an inpatient or subject to a current mental health order.

- (3) The registrar must serve a sealed copy of an application under the *Mental Health Act 2015* on each other party to the application.

*Note 1* For service, see the *Legislation Act 2001*, pt 19.5.

*Note 2* Other people are also required to be notified about the hearing of the application (see *Mental Health Act 2015*, s 187).

- (4) A document lodged in relation to an application under this part by the subject person need not be served on the other parties to the application unless the tribunal directs that the document be served.
- (5) A document lodged in relation to an application under this part by a party other than the subject person must be served on each other party to the application.

*Note* If a party does not want information provided to another party, the party must seek an order under the *Act*, s 39 (Hearings in private or partly in private) (see r 62 (Interim and other orders)).

- (6) The registrar must serve a document required to be served under subrule (4) or (5) unless a party is required to serve the document as—
- (a) directed by the tribunal; or
  - (b) requested by the registrar.

## **124B Applications under the Mental Health Act 2015—response not required**

A party is not required to lodge a response to an application under this part unless directed by the tribunal.

## Part 3.5 Applications for review of administrative decisions

### 125 Application—pt 3.5

- (1) The rules in this part apply to an application for the review of an administrative decision, including an application for review of a decision about occupational regulation.
- (2) If the rules in this part are inconsistent with chapter 2 (General rules), the rules in this part apply to the extent of the inconsistency.

*Note 1* The [Act](#), pt 4A (Administrative review) and div 6.3 (Powers and decisions in applications for administrative review) apply to applications for review of administrative decisions.

*Note 2* For rules about applications for occupational discipline, see pt 3.6.

*Note 3* For the application of these rules, see r 5.

### 126 Review of administrative decisions—application

- (1) An application for review of an administrative decision must—
  - (a) be made using an application for review of a decision; and
  - (b) attach, if available, a copy of—
    - (i) the reviewable decision notice in relation to the decision; and
    - (ii) the reasons for the decision; and
  - (c) be signed and dated; and
  - (d) be lodged with the tribunal within—
    - (i) the time allowed under the [Act](#), section 10; or
    - (ii) if the tribunal extends the time for making the application under rule 38—the extended time; and



(e) if the application is lodged in person or by post—be lodged with the required number of copies; and

(f) be accompanied by the determined fee or a request about fees.

*Note 1* An Application for Review of a Decision is available on the tribunal website [www.acat.act.gov.au](http://www.acat.act.gov.au) or from the registry.

*Note 2* The [Act](#), s 10 (2) and some authorising laws impose time limits for making an application for review of a decision. The time period may be extended in some but not all cases (see r 38 (Extension of time for making application)).

*Note 3* Part 2.1 (Documents) set out the requirements for forms, lodging documents and serving documents. Part 2.4 (Starting proceedings) sets out the requirements for applications to start proceedings and extensions of time.

*Note 4* A lodged application is served on the respondent and may be available for public inspection. If a party does not want information in the lodged application to be made available to the respondent or the public, the party should apply to the tribunal for orders under the [Act](#), s 39.

*Note 5* Under the [Act](#), s 38 (Hearings usually in public) an application must be heard in public unless the tribunal makes an order under the [Act](#), s 39 (Hearings in private or partly in private). To apply for a hearing in private or partly in private, see r 62 (Interim or other orders).

(2) An application for review of an administrative decision may be lodged—

(a) in person; or

(b) by post; or

(c) by email; or

(d) online.

*Note* Part 2.1 (Documents) sets out how to lodge documents.

(3) The registrar must seal a lodged application.

- (4) The registrar must serve a sealed copy of the application on each respondent.

*Note* For service, see r 20 (Service).

**127 Applications for review of administrative decision—  
response not required**

- (1) The respondent to an application for review of an administrative decision is not required to lodge a response to the application.
- (2) Within 7 days of receiving an application for review of an administrative decision, the respondent must—
- (a) lodge a Notice of New Contact or Representation Details; and
  - (b) give a copy of the Notice of New Contact or Representation Details to the applicant.

*Note* A Notice of New Contact or Representation Details is available on the tribunal website [www.acat.act.gov.au](http://www.acat.act.gov.au) or from the registry.

**128 Notifying interested people**

- (1) Within 7 days of receiving an application for review of an administrative decision, the respondent must give each interested person a copy of—
- (a) the lodged and sealed application; and
  - (b) this rule and rule 131 (Application to be joined as party); and
  - (c) any notice of listing.

- (2) In this rule:

*interested person* means a person or entity reasonably able to be identified by the respondent who is—

- (a) a person or entity (other than the applicant) entitled to apply for review of the administrative decision the subject of the proceeding; or
- (b) a person or entity who may be joined as a party to the proceeding under the [Act](#), section 29 (Parties to applications).

## 129 Reasons for decision

- (1) Within 14 days of receiving an application for review of an administrative decision, the respondent must serve on the applicant a statement of reasons for the reviewable decision which—
- (a) sets out the findings on material questions of fact; and
  - (b) refers to the evidence or other material on which those findings are based; and
  - (c) identifies the relevant law; and
  - (d) gives the reasons for the decision.

*Note* The [Act](#), div 4A.2 (Reasons statements) also relates to reasons statements.

- (2) Unless the tribunal orders otherwise, the respondent must also lodge 2 copies of the statement of reasons for the reviewable decision.

## 130 Tribunal documents

- (1) Subject to subrules (4) and (5), within 14 days of receiving an application for review of an administrative decision, the respondent must serve on the applicant a copy of every document or part of a document in the respondent's possession or control that the respondent considers to be relevant to the review of the decision by the tribunal (the *tribunal documents*).

- (2) The respondent must also lodge 2 copies of the tribunal documents unless—
- (a) the tribunal orders otherwise; or
  - (b) the registrar requests otherwise.
- (3) If the number of tribunal documents is excessive, the respondent may ask the tribunal for permission to lodge and serve the tribunal documents in electronic form.

*Note* The tribunal may subsequently direct the respondent to provide additional hard or electronic copies of the tribunal documents.

- (4) If the respondent objects to giving part or some or all of the tribunal documents to the applicant, the respondent must, within 14 days of receiving the application for review of an administrative decision—
- (a) lodge an application seeking orders—
    - (i) to dispense with or vary the requirements of subrule (1); and
    - (ii) that any un-redacted copies of the tribunal documents are suppressed under the [Act](#), section 39 (Hearings in private or partly in private); and
  - (b) include in the application a statement setting out the reasons why the respondent objects to giving part or some or all of the tribunal documents to the applicant; and
  - (c) if the objection is in relation to part of the documents—
    - (i) give the applicant a copy of the tribunal documents with the parts objected to redacted; and
    - (ii) lodge a redacted and an un-redacted copy of the tribunal documents; and

- (d) if the objection is in relation to some or all of the documents—
  - (i) give the applicant the documents to which the objection does not apply; and
  - (ii) lodge a copy of the tribunal documents.

*Note* An application may be made using an Application for Interim or Other Orders –General, available on the tribunal website [www.acat.act.gov.au](http://www.acat.act.gov.au) or from the registry. For interim and other orders, see r 62 (Interim and other orders).

- (5) If the respondent objects to giving part or some or all of the tribunal documents to both the applicant and the tribunal, the respondent must, within 14 days of receiving the application for review—
  - (a) lodge an application seeking orders to dispense with or vary the requirements of subrule (1); and
  - (b) include in the application a statement setting out the reasons why the respondent objects to giving part or some or all of the tribunal documents to the applicant and the tribunal; and
  - (c) if the objection is in relation to part of the documents—
    - (i) give the applicant a copy of the tribunal documents with the parts objected to redacted; and
    - (ii) lodge a redacted copy of the tribunal documents; and
  - (d) if the objection is in relation to some or all of the documents—
    - (i) give the applicant the tribunal documents to which the objection does not apply; and
    - (ii) lodge a copy of the tribunal documents to which the objection does not apply.

*Note* An application may be made using an Application for Interim or Other Orders – General available on the tribunal website [www.acat.act.gov.au](http://www.acat.act.gov.au) or from the registry. For interim and other orders, see r 62 (Interim and other orders).

### 131 Application to be joined as party

- (1) A person who wishes to be joined as a party to a proceeding must apply within 14 days of becoming aware of the application for review of an administrative decision, or another time that the tribunal allows.
- (2) An application to be joined as a party must be made using an application for order to be joined as a party.

*Note 1* The [Act](#), s 29 (5) allows the tribunal to join a person as a new party to the application if the person has an interest in the application.

*Note 2* The tribunal may extend the time for making an application to be joined as a party.

*Note 3* An Application for Order to be Joined as a Party is available on the tribunal website [www.acat.act.gov.au](http://www.acat.act.gov.au) or from the registry.

- (3) If the tribunal makes an order joining a person as a party to the application for review of an administrative decision, the respondent must, within 7 days of the order or another time directed by the tribunal, give the person a copy of—
  - (a) the respondent's lodged Notice of New Contact or Representation Details; and
  - (b) the statement of reasons for the reviewable decision; and
  - (c) the tribunal documents.

*Note* A Notice of New Contact or Representation Details is available on the tribunal website [www.acat.act.gov.au](http://www.acat.act.gov.au) or from the registry.

- (4) In this rule:

*tribunal documents*—see rule 130 (1).

**132 Exercise of powers by respondent in relation to reviewable decision after proceeding started**

- (1) The lodging of an application for review of an administrative decision does not prevent the respondent from exercising any power it has to vary, amend, reverse, set aside, substitute or otherwise alter the decision under review (the *altered decision*).
  - (2) If the respondent alters the decision under review it must, within 7 days of the alteration, notify the tribunal and each other party of the altered decision and the reasons for the alteration.
  - (3) If a reviewable decision is altered after an application for review of the decision has been lodged, the applicant may—
    - (a) ask the tribunal for an order that the proceeding continues in relation to the altered decision; or
    - (b) discontinue the application for review.
- Note* For rules about discontinuing proceedings, see r 67.
- (4) If a request is made under subrule (3) (a), and the effect of the alteration is that the original decision continues as altered, the tribunal may review the altered decision in the proceeding.
  - (5) Subrule (6) applies if—
    - (a) a request is made under subrule (3) (a); and
    - (b) the tribunal is satisfied that—
      - (i) the effect of the alteration is that the original administrative decision is no longer in operation; and
      - (ii) the altered decision is a new reviewable decision; and
      - (iii) it is appropriate to proceed under subrule (6).

- (6) The tribunal—
- (a) may direct that—
    - (i) the request is treated as an application for review of the altered decision; and
    - (ii) the date of lodgment is the date of the applicant's request; and
    - (iii) documents filed in relation to the application for review of the original administrative decision are taken to be filed in relation to the application for review of the altered decision; and
    - (iv) any directions made in relation to the application for review of the original administrative decision apply to the application for review of the altered decision; and
  - (b) may make further directions and review the altered decision as it considers appropriate.



## Part 3.6 Applications for occupational discipline

### 133 Application—pt 3.6

- (1) The rules in this part apply to applications under an authorising law for occupational discipline.
- (2) If the rules in this part are inconsistent with chapter 2 (General rules), the rules in this part apply to the extent of the inconsistency.

*Note 1* Part 3.5 (Applications for review of administrative decisions) applies to an application for review of a decision about occupational regulation.

*Note 2* The [Act](#), div 6.2 (Powers and decisions in applications for occupational discipline) applies.

*Note 3* For the application of these rules, see r 5.

### 134 Occupational discipline—applications

- (1) An application for occupational discipline must be—
  - (a) made using an application for disciplinary action; and
  - (b) signed and dated; and
  - (c) lodged with the tribunal; and
  - (d) if the application is lodged in person or by post—lodged with the required number of copies; and
  - (e) accompanied by the determined fee or a request about fees.

*Note 1* An Application for Disciplinary Action is available on the tribunal website [www.acat.act.gov.au](http://www.acat.act.gov.au) or from the registry.

*Note 2* Part 2.1 (Documents) sets out requirements for forms.

*Note 3* A fee may be determined under the [Court Procedures Act 2004](#), s 13 (Determination of fees) for proceedings in the tribunal and is payable in advance under that [Act](#), s 14 (1).

*Note 4* A lodged application is served on the respondent and may be available for public inspection. If a party does not want information in the lodged application to be made available to the respondent or the public, the party should apply to the tribunal for orders under the [Act](#), s 39.

- (2) The application for disciplinary action may be lodged—
- (a) in person; or
  - (b) by post; or
  - (c) by email; or
  - (d) online.

*Note* Part 2.1 (Documents) sets out how to lodge documents.

- (3) The applicant must serve a sealed copy of the application on each respondent by—
- (a) giving the application to the respondent personally; or
  - (b) giving the application to the respondent in a way agreed by the respondent; or
  - (c) if the respondent has instructed the respondent's solicitor to accept service for the respondent—serving the application on the respondent's solicitor.

*Note* The applicant must give the tribunal proof of service of the application (see r 28).

### **135 Applications for occupational discipline—response not required**

- (1) The respondent is not required to lodge a response to an application for occupational discipline until directed by the tribunal.
- (2) Within 7 days of being served with the application, the respondent must—
  - (a) lodge a Notice of New Contact or Representation Details; and

- (b) give a copy of the Notice of New Contact or Representation Details to the applicant.

*Note 1* A Notice of New Contact or Representation Details is available on the tribunal website [www.acat.act.gov.au](http://www.acat.act.gov.au) or from the registry.

*Note 2* Under r 37 (Responding to an application) the registrar must serve a sealed copy of the response upon the applicant.

*Note 3* Division 2.5.2 (Authorised representatives) applies.

*Note 4* For service of a response to an application, see r 19 (2).

### 136 Applications for occupational discipline—Legal Profession Act 2006

- (1) This rule applies to an application for occupational discipline under the *Legal Profession Act 2006*.
- (2) Apart from the respondent's details on the first page of the application, the application, and all other documents lodged for the application, must—
- (a) if the respondent is a legal practitioner—refer to the respondent as '*the legal practitioner*' and not by name; or
  - (b) if the respondent is an employee of a legal practitioner—refer to the respondent as '*the employee*' and not by name.
- Note* The *Legal Profession Act 2006*, s 423A (Restriction on publication of certain identifying material from application) applies. The name of the legal practitioner or employee must not be disclosed until the conclusion of any appeal processes.
- (3) Evidence in the application must be given by affidavit unless the tribunal orders otherwise.
- (4) Within 7 days of lodging an application for occupational discipline, the applicant must give each interested person a copy of—
- (a) this rule and rule 131 (Application to be joined as party); and
  - (b) any notice of listing.

- (5) A person who wishes to be joined as a party to an application for occupational discipline must apply within 14 days of becoming aware of the application, or another time that the tribunal allows.
- (6) An application to be joined as a party must be made using an application for order to be joined as a party.

*Note 1* The [Act](#), s 29 (5) allows the tribunal to join a person as a new party to the application if the person has an interest in the application.

*Note 2* The tribunal may extend the time for making an application to be joined as a party.

*Note 3* An Application for Order to be Joined as a Party is available on the tribunal website [www.acat.act.gov.au](http://www.acat.act.gov.au) or from the registry.

- (7) If the tribunal makes an order joining a person as a party to the application for occupational discipline, the applicant must, within 7 days of the order or another time directed by the tribunal, give the person a copy of the sealed application.
- (8) In this rule:

***interested person*** means a person or entity reasonably able to be identified by the respondent who is a person or entity who may be joined as a party to the proceeding under the [Act](#), section 29 (Parties to applications).

*Note* The [Legal Profession Act 2006](#), s 423 (Parties to application) and s 432 (Notice to complainant of application and decision) apply.

## Part 3.7 Referral of discrimination complaints

### 137 Definitions—pt 3.7

In this part:

*applicant* includes a complainant.

*application* includes an application under rule 140 and a referral under the *Human Rights Commission Act 2005*, section 53A.

*complainant*—see the *Human Rights Commission Act 2005*, dictionary.

*Note* The *Human Rights Commission Act 2005*, dictionary defines *complainant* as—

- (a) in relation to a complaint—the person who made the complaint; but
- (b) in relation to a commission-initiated consideration under s 48 (2)—the commission and not the person who made the complaint.

*respondent* means a person complained about.

### 138 Application—pt 3.7

- (1) The rules in this part apply to discrimination complaints referred to the tribunal under the *Human Rights Commission Act 2005*, division 4.2A (Discrimination complaints to ACAT).
- (2) If the rules in this part are inconsistent with chapter 2 (General rules), the rules in this part apply to the extent of the inconsistency.

*Note* For the application of these rules, see r 5.

**139 Complaint referred under Human Rights Commission Act 2005, s 53A**

*Note* There is no application form for the referral of a discrimination complaint under the *Human Rights Commission Act 2005*, s 53A (see r 35 (4) (Applications to start proceedings)).

- (1) This rule applies if a discrimination complaint is referred to the tribunal under the *Human Rights Commission Act 2005*, section 53A.
- (2) The Human Rights Commission must lodge a copy of the discrimination complaint and referral with the tribunal.
- (3) A discrimination complaint and referral may be lodged—
  - (a) in person; or
  - (b) by post; or
  - (c) by email; or
  - (d) online.

*Note* Part 2.1 (Documents) sets out how to lodge documents.

- (4) The registrar must serve a sealed copy of the discrimination complaint and the referral on the parties.

*Note* For service of applications, see r 19 (Who serves documents?), r 20 (Service) and r 21 (Service by post).

- (5) The registrar may serve the discrimination complaint on a party by email, by emailing the complaint to the email address provided by the Human Rights Commission for the party.
- (6) Within 7 days of receiving notice from the tribunal that the discrimination complaint has been referred, the applicant must—
  - (a) lodge a Notice of New Contact or Representation Details; and

- (b) give a copy of the Notice of New Contact or Representation Details to the respondent.

*Note 1* A Notice of New Contact or Representation Details is available on the tribunal website [www.acat.act.gov.au](http://www.acat.act.gov.au) or from the registry.

*Note 2* A referred discrimination complaint is served on the respondent and may be available for public inspection. If a party does not want information in the lodged application to be made available to the respondent or the public, the party should apply to the tribunal for orders under the [Act](#), s 39.

#### 140 Human Rights Commission Act 2005, s 53B—late applications

- (1) An application under the [Human Rights Commission Act 2005](#), section 53B (Late application in exceptional circumstances) (a *late application*) must—
- (a) be made using a late application for discrimination commission complaint to be heard; and
  - (b) attach—
    - (i) the discrimination referral statement under the [Human Rights Commission Act 2005](#), section 45 (2) (d); or
    - (ii) the statement under the [Human Rights Commission Act 2005](#), section 82 (1) included in a final report; and
  - (c) state the date that the statement was received; and
  - (d) set out the exceptional circumstances that prevented the complainant from requiring the complaint to be referred to the tribunal within the 60-day period; and
  - (e) be signed and dated; and

(f) be lodged with the tribunal.

*Note 1* A Late Application for Discrimination Commission Complaint to be Heard is available on the tribunal website [www.acat.act.gov.au](http://www.acat.act.gov.au) or from the registry.

*Note 2* There is no fee for a late application for a discrimination commission complaint to be heard.

*Note 3* A referred discrimination complaint is served on the respondent and may be available for public inspection. If a party does not want information in the lodged application to be made available to the respondent or the public, the party should apply to the tribunal for orders under the [Act](#), s 39.

(2) A late application may be lodged—

(a) in person; or

(b) by post; or

(c) by email; or

(d) online.

*Note 1* Part 2.1 (Documents) sets out how to lodge documents.

*Note 2* The original application only is required to be lodged. No copies are required.

(3) The registrar must serve a sealed copy of the late application on the parties.

*Note* For service of applications, see r 19 (Who serves documents?), r 20 (Service) and r 21 (Service by post).

(4) The registrar may serve the late application on a party by email, by emailing the application to the email address provided by the party in the application.



- (5) If the tribunal grants an application under the *Human Rights Commission Act 2005*, section 53B (Late application in exceptional circumstances), the applicant must, within 7 days of receiving notice from the tribunal that the proceeding has been started—
- (a) lodge a Notice of New Contact or Representation Details; and
  - (b) give a copy of the Notice of New Contact or Representation Details to the respondent.

*Note* A Notice of New Contact or Representation Details is available on the tribunal website [www.acat.act.gov.au](http://www.acat.act.gov.au) or from the registry.

#### **141 Proceeding under pt 3.7—response not required**

- (1) The respondent is not required to lodge a response to a referral or an application under this part unless directed by the tribunal.
- (2) Within 7 days of being served with the referral or application, the respondent to the referral or application must—
- (a) lodge a Notice of New Contact or Representation Details; and
  - (b) give a copy of the Notice of New Contact or Representation Details to the applicant.

*Note 1* A Notice of New Contact or Representation Details is available on the tribunal website [www.acat.act.gov.au](http://www.acat.act.gov.au) or from the registry.

*Note 2* The respondent is not required to lodge a response until directed by the tribunal.

*Note 3* For service of a response to an application, see r 19 (2).

## Part 3.8 Applications under the Utilities Act 2000

### 142 Definitions—pt 3.8

In this part:

*applicant* means a complainant under the *Utilities Act 2000*, section 172.

*complaint—other relief* means an application in relation to a complaint against a utility mentioned in the *Utilities Act 2000*, table 172, column 3, items 1, 2, 4 to 7.

*complaint—hardship assistance* means an application for hardship assistance in relation to a complaint mentioned in the *Utilities Act 2000*, table 172, column 3, item 3.

*respondent*, in relation to a complaint, means the utility the subject of the complaint.

*Note* The *Utilities Act 2000*, table 172 is reproduced below for information.

**Table 172 ACAT applications**

column 1 item	column 2 complainant	column 3 complaint
1	consumer affected by contravention	contravention of customer contract, or customer retail contract or customer connection contract made under the <i>National Energy Retail Law (ACT)</i> , by a utility
2	consumer affected by contravention	contravention of an industry code dealing with utility service standards by a utility
3	consumer	a utility fails to provide a utility service to consumer or withdraws a utility service from consumer, and failure or withdrawal causes substantial hardship, or is likely to cause substantial hardship, to consumer
4	person affected by contravention	contravention of the <i>Utilities Act 2000</i> , s 51 (Protection of personal information) by a utility

column 1 item	column 2 complainant	column 3 complaint
5	person affected by contravention	contravention by a utility or a regulated utility of an obligation in relation to its network operations under the <i>Utilities Act 2000</i> or the <i>Utilities (Technical Regulation) Act 2014</i>
6	person affected by act or omission	act or omission of an authorised person for a utility or regulated utility in relation to its network operations under the <i>Utilities Act 2000</i> or the <i>Utilities (Technical Regulation) Act 2014</i>
7	person on whom charge imposed	capital contribution charge imposed under the <i>Utilities Act 2000</i> , s 101

### 143 Application—pt 3.8

- (1) The rules in this part apply to applications under the *Utilities Act 2000*, part 12 (Complaints to ACAT about utilities).
- (2) If the rules in this part are inconsistent with chapter 2 (General rules), the rules in this part apply to the extent of the inconsistency.

*Note* For the application of these rules, see r 5.

### 144 Complaints—hardship assistance— applications

- (1) A complaint—hardship assistance application must be made using the energy & water hardship assistance form.

*Note 1* An Energy & Water Hardship Assistance Form is available on the tribunal website [www.acat.act.gov.au](http://www.acat.act.gov.au).

*Note 2* If the applicant telephones the tribunal, the registrar must ask whether the applicant wants the registrar to put the application in writing for the applicant if:

- (a) the registrar considers that the applicant needs help with the application; and
- (b) the application is a hardship application.

See the *Utilities Act 2000*, s 173.

- (2) A complaint—hardship assistance application may be lodged—
- (a) in person; or
  - (b) by post; or
  - (c) online.

*Note* Part 2.1 (Documents) sets out how to lodge documents.

- (3) Within 14 days of receiving notice of the application, or another time specified by the registrar, the respondent must give the tribunal and the applicant the respondent's records that are relevant to the complaint.

*Note* The applicant is taken to consent to the disclosure of the respondent's records to the tribunal (see the *Utilities Act 2000*, s 177 (3)).

- (4) A respondent to a complaint—hardship assistance application is not required to lodge a response to the application unless directed by the tribunal.
- (5) The respondent is not required to attend the hearing of a hardship application unless directed by the tribunal.

## **145 Complaints—other relief**

- (1) A complaint—other relief application must be made using the energy & water complaint form.

*Note 1* An Energy & Water Complaint Form is available on the tribunal website [www.acat.act.gov.au](http://www.acat.act.gov.au).

*Note 2* If the applicant telephones the tribunal, the registrar must ask whether the applicant wants the registrar to put the application in writing for the applicant (see the *Utilities Act 2000*, s 173).

- (2) A complaint—other relief application may be lodged—
- (a) in person; or
  - (b) by post; or

(c) online.

*Note* Part 2.1 (Documents) sets out how to lodge documents.

- (3) Within 14 days of receiving notice of the application, or another time specified by the registrar, the respondent must give the tribunal and the applicant the respondent's records that are relevant to the complaint.

*Note 1* The registrar may issue a practice note setting out the kind of records the respondent must provide (see r 7).

*Note 2* The applicant is taken to consent to the disclosure of the respondent's records to the tribunal (see the [Utilities Act 2000](#), s 177 (3)).

- (4) The respondent must lodge a response to the application within 14 days after the respondent receives the application.

## Part 3.9 Residential tenancy disputes

### 146 Definitions—pt 3.9

In this part:

*Act* means the *Residential Tenancies Act 1997*.

*application* means—

- (a) a bond release application referred to the tribunal under the [Act](#), section 34F (2); or
- (b) a tenancy dispute under the [Act](#), section 72; or
- (c) an occupancy dispute under the [Act](#), section 73.

### 147 Application—pt 3.9

- (1) The rules in this part apply to an application.
- (2) If the rules in this part are inconsistent with chapter 2 (General rules), the rules in this part apply to the extent of the inconsistency.

*Note* For the application of these rules, see r 5.

### 148 Referrals under the Act, s 34F and 35

- (1) This rule applies to an application referred to the tribunal under—
  - (a) the [Act](#), section 34F (2); or
  - (b) the [Act](#), s 35 (2).

*Note 1* There is no application form for a referral to the tribunal under the [Act](#), s 34F (2) or 35 (2).

*Note 2* A referral to the tribunal under the [Act](#), s 35 (2) is taken to be an application to the tribunal about a tenancy dispute (see the [Act](#), s 35 (3)).

- (2) If the Territory refers an application to the tribunal, the Territory must lodge with the tribunal—
- (a) a copy of the bond release application; and
  - (b) any other document required to be referred to the tribunal under the [Act](#).

*Note* The [Act](#), s 35 (2) requires the notice of dispute for the application to be referred to the tribunal.

- (3) The Territory is not a party to an application.
- (4) The registrar may serve the application on the tenant or occupant by email, by emailing the application to the email address provided by the Territory for the tenant or occupant.
- (5) If an application is listed for a preliminary conference or other listing, the lessor or grantor must, at least 7 days before the conference or listing, give the tribunal and the tenant or occupant a list of the deductions claimed under the [Act](#), section 31 or section 71EE.

*Note* A Rental Bond or Security Deposit Claim form is available on the tribunal website [www.acat.act.gov.au](http://www.acat.act.gov.au) or from the registry.

## 149 Tenancy and occupancy disputes—application

- (1) This rule applies to an application other than a referral to the tribunal under—
- (a) the [Act](#), section 34F (2); or
  - (b) the [Act](#), section 35 (2).
- (2) The application must be made using an application for resolution of a dispute under the [Residential Tenancies Act 1997](#).

*Note 1* An Application for Resolution of a Dispute under the [Residential Tenancies Act 1997](#) is available on the tribunal website [www.acat.act.gov.au](http://www.acat.act.gov.au) or from the registry.

*Note 2* Part 2.1 (Documents) sets out requirements for forms.

*Note 3* A fee may be determined under the *Court Procedures Act 2004*, s 13 (Determination of fees) for proceedings in the tribunal and is payable in advance under that [Act](#), s 14 (1).

- (3) The Territory is not a party to an application.

*Note* The Territory accepts bonds and security deposits to be held on trust (see the [Act](#), s 27).

- (4) The application may be lodged—

- (a) in person; or
- (b) by post; or
- (c) by email; or
- (d) online.

*Note* Part 2.1 (Documents) sets out how to lodge documents.

## **150 Tenancy and occupancy disputes—response**

A respondent to an application is not required to lodge a response to the application unless directed by the tribunal.

## **151 Orders relating to rental bonds and security deposits**

- (1) This rule applies if, in an application, the tribunal makes an order—
  - (a) in relation to a rental bond or security deposit; or
  - (b) that the tribunal considers is relevant to the Territory.
- (2) The registrar must give a copy of the order to the Territory.



## Chapter 4      Repeals

### 152      Legislation repealed

The *ACT Civil and Administrative Tribunal Procedure Rules 2020* (NI2020-64) are repealed.

## Dictionary

(see r 3)

*Note 1* The *Legislation Act 2001* contains definitions and other provisions relevant to these rules.

*Note 2* For example, the *Legislation Act 2001*, dict, pt 1, defines the following terms:

- corporation
- document
- entity
- in relation to
- may (see s 146)
- must (see s 146).

*Note 3* Terms used in these rules have the same meaning that they have in the *ACT Civil and Administrative Tribunal Act 2008* (see *Legislation Act 2001*, s 148). For example, the following terms are defined in the *ACT Civil and Administrative Tribunal Act 2008*, dict:

- appeal tribunal
- authorising law
- civil dispute (see s 16)
- civil dispute application (see s 16)
- occupational discipline
- registrar
- tribunal.

**Act**—

(a) means the *ACT Civil and Administrative Tribunal Act 2008*; and

(b) for part 3.9 (Residential tenancy disputes)—see rule 146.

**addressee**, for part 2.8 (Subpoenas)—see rule 72.

**amendment**, for part 2.3 (Amendments)—see rule 31.

***applicant***—

- (a) for part 3.7 (Referral of discrimination complaints)—see rule 137; and
- (b) for part 3.8 (Applications under the *Utilities Act 2000*)—see rule 142.

***application***—

- (a) means an application under the [Act](#), section 9; and
- (b) includes the following:
  - (i) a referral under an authorising law;
  - (ii) a counterclaim;
  - (iii) an application for appeal under the [Act](#), section 79; and
- (c) for part 3.7 (Referral of discrimination complaints)—see rule 137; and
- (d) for part 3.9 (Residential tenancy disputes)—see rule 146.

***Australian legal practitioner*** means an Australian lawyer who holds a local practising certificate or interstate practising certificate.

***authorised representative*** means a person authorised to represent a party under rule 41 (Appointing an authorised representative).

***by email***, for lodgment of documents—see rule 12.

***by fax***, for lodgment of documents—see rule 12.

***by post***, for lodgment of documents—see rule 12.

***common boundaries determination***, for division 3.2.2 (Fence disputes)—see rule 117.

***complainant***, for part 3.7 (Referral of discrimination complaints)—see rule 137.

**complaint—hardship assistance**, for part 3.8 (Applications under the [Utilities Act 2000](#))—see rule 142.

**complaint—other relief**, for part 3.8 (Applications under the [Utilities Act 2000](#))—see rule 142.

**conduct money**, for part 2.8 (Subpoenas)—see rule 72.

**contractual interest**, for division 3.2.1 (Civil disputes (other than fence disputes))—see rule 98.

**electronic lodgment facility** means an electronic system managed by the tribunal that allows for the electronic lodgment of documents with the tribunal.

**enforcement expenses**, for division 3.2.1 (Civil disputes (other than fence disputes))—see rule 98.

**fence dispute application**, for division 3.2.2 (Fence disputes)—see rule 117.

**in person**, for lodgment of documents—see rule 12.

**interstate practising certificate**—see the [Legal Profession Act 2006](#), dictionary.

**issuing party**, for part 2.8 (Subpoenas)—see rule 72.

**last day for service**, for part 2.8 (Subpoenas)—see rule 72.

**litigation guardian**—see rule 48.

**local practising certificate**—see the [Legal Profession Act 2006](#), dictionary.

**online**, for lodgment of documents—see rule 12.

**original application**—see the [Act](#), section 79.

**person with a legal disability**—see rule 46.

**practice note** means a practice note made under rule 7.

**procedural requirements**—see rule 58.

**protected person**, for part 3.3 (Applications under the *Guardianship and Management of Property Act 1991* and *Powers of Attorney Act 2006*)—see rule 121A.

**request about fees** means a request to waive, remit or defer a fee, or for exemption from paying a fee, under the *Court Procedures Act 2004*, section 15.

**required number of copies**—see rule 13.

**respondent**—

- (a) for part 3.7 (Referral of discrimination complaints)—see rule 137; and
- (b) for part 3.8 (Applications under the *Utilities Act 2000*)—see rule 142.

**return date**, for part 2.8 (Subpoenas)—see rule 72.

**service**, of a document on a person—see rule 20.

**signed**, by a person, means—

- (a) for a document lodged or served electronically—the name of the person written in the place where the person’s signature is required; and
- (b) in any other case—the person’s signature.

**subject person**, for part 3.4 (Applications under the *Mental Health Act 2015*)—see rule 123.

**subpoena to attend**, for part 2.8 (Subpoenas)—see rule 72.

**subpoena to produce**, for part 2.8 (Subpoenas)—see rule 72.