

# Guideline for consent orders in Housing at SACAT

## What is a consent order?

A consent order is an order made by the Tribunal which records an agreement reached by the parties to a tenancy dispute. A consent order gives effect to the agreement of the parties.

A consent order binds the parties in the same way as any other order of the Tribunal. This means that if a consent order requires a person to do something and they do not do it, then the order may be enforced in the Tribunal (or Magistrates Court) in the same way as any other Tribunal order.

The Tribunal can make consent orders without requiring the parties to attend a hearing but only where it is satisfied that the arrangement is reasonable and does not disadvantage one of the parties. The Tribunal may conduct a brief phone hearing with the parties to confirm the terms of a consent order.

## When can a consent order be used?

You can request a consent order in a Housing matter in any of the following situations:

- A payment plan for rent arrears<sup>1</sup>
- A payment plan for outstanding water invoices
- Payment of a security bond to settle a dispute in the Tribunal
- A request to change the terms of a previous Tribunal order.

## Who can apply?

An application to change the terms of a previous Tribunal order relating to a residential tenancy matter may only be made by an agent or landlord. For all other matters, any party to the proceeding can apply for a consent order.

<sup>1</sup> Please note that SACAT will not include any self-executing payments in a consent order, i.e. payments where the tenant must move out the next day if a payment is missed, and the Tribunal can send a bailiff to evict the tenant if satisfied that a payment has been missed.

## How do I apply?

### If an application has already been lodged with the Tribunal

At any time up until the Tribunal has made a decision, you can come to an agreement with the other party and ask for a consent order.

If you reach an agreement with the other party at any time before the hearing you need to contact the Tribunal in writing (which can be by email to [sacat@sacat.sa.gov.au](mailto:sacat@sacat.sa.gov.au) or by fax on 8226 8985) and request that the Tribunal make a consent order and that the hearing be cancelled.

A written request may also be hand-delivered to Level 4, 100 Pirie St, Adelaide or posted to GPO Box 2361, Adelaide SA 5001.

Your written contact with the Tribunal may either be:

- something written in your own words
- something written in the format suggested by the Tribunal

See the attachments at the end of this fact sheet for formats suggested by the Tribunal.

The request must be signed by both parties. If the request is not signed by both parties, you must provide some form of written communication indicating that agreement has been reached (e.g. an email from each party that records their consent).

### If an application has not already been lodged with the Tribunal

You will need to lodge:

- An application to SACAT (please visit [www.sacat.sa.gov.au](http://www.sacat.sa.gov.au))<sup>2</sup>

<sup>2</sup> Please note that SACAT cannot deal with your application unless you have paid the appropriate fee.

- The documents you would usually lodge in support of the application<sup>3</sup>
- The terms of the consent order (the agreement) which should be signed by both parties.

### **How does the Tribunal deal with an application for a consent order?**

When the Tribunal receives a request for a consent order, that request and the documents supporting it will be reviewed by a Tribunal member or the Deputy Registrar in the same way as if the Tribunal Member were making a decision as part of a hearing.

If the Tribunal Member/Deputy Registrar decides that the request and supporting documents are all satisfactory, then a consent order will be made.

If the Tribunal Member/Deputy Registrar has a query arising from the documents then the parties will be contacted by the Tribunal Registry either to list the matter for a hearing, or to provide further documentation/explanation.

If the request is for a consent order to vary or set aside a previous Tribunal order, your request may be refused if the change would alter the basis of the previous Tribunal order. If this happens, the application will be listed for a hearing.

### **Applying to SACAT**

All applications to SACAT are completed through our online application form which you can find at our website: [www.sacat.sa.gov.au](http://www.sacat.sa.gov.au).

All the information you are required to provide will be contained in the online application form.

If you are unable to complete the form online, you can contact the Tribunal for assistance on 1800 723 767. You can also visit SACAT's offices at Level 4 or 7, 100 Pirie Street, and use a computer at one of SACAT's public kiosks.

### **Contact the Tribunal**

If you would like to speak to a staff member about consent orders, please telephone SACAT on 1800 723 767 (select option 4 and then option 1).

This information sheet does not constitute legal advice and does not relate to the circumstances of any individual matter. If you wish to have legal advice you should seek that independently.

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<sup>3</sup> For a payment plan for rent arrears or outstanding water invoices, this will include the tenancy agreement, Form 2, rent record and water invoices. For payment of a bond, this will include the tenancy agreement, statement of claim and supporting documents such as inspection sheets and invoices. For a request to vary or set aside a previous order, this will include a copy of the previous order, rent record or other supporting documents.

## REQUEST FOR CONSENT ORDER

Payment plan for rent arrears

<p><b>Section 1: Parties' details</b></p> <p><b>Re:</b> ..... <i>(Address of rental property)</i></p> <p><b>Landlord's name:</b> .....</p> <p><b>Landlord's agent:</b> .....</p> <p><b>Tenant's name:</b> .....</p> <p><b>SACAT matter number:</b> ..... <i>(if an application has already been lodged)<sup>4</sup></i></p>
<p><b>Section 2: Payment plan</b></p> <p>1. The tenant will pay the landlord \$..... on ..... (day of the week) ..... (date of first payment) and will then pay the same amount on ..... (day of week) each week/fortnight until rent is 2 weeks in advance OR</p> <p>2. The tenant will pay the landlord \$..... in addition to ordinary weekly/fortnightly rent on ..... (day of the week) .....(date of first payment) and will then pay the same amount on .....(day of the week) each week/fortnight until rent is 2 weeks in advance.<sup>5</sup></p>
<p><b>Section 3: Consequences of failure to pay</b></p> <p>1. If the tenant misses any of the first 6 payments then the landlord may contact the Tribunal in writing to request an urgent hearing to terminate the tenancy and evict the tenant.<sup>6</sup></p> <p>2. If the tenant misses any payments required by order 1, then from the date of the last payment required by order 1 up until the expiry of 12 months from the date of this order, the landlord may lodge an application seeking an order that the tenancy be terminated without first serving a Form 2 Notice of Termination on the tenant (and no fee is payable for such an application).</p> <p><b>Signed by the landlord/agent:</b> .....</p> <p>Date: .....</p> <p style="text-align: center;"><b>Acknowledgement</b></p> <p>We acknowledge that if SACAT makes an order in the terms requested above and I miss a payment, then the landlord may apply to SACAT for an urgent hearing to terminate my tenancy.</p> <p><b>Signed by the tenant/s:</b> .....</p> <p>Date: .....</p>

<sup>4</sup> Note: if an application has not been lodged, you will need to visit [www.sacat.sa.gov.au](http://www.sacat.sa.gov.au) and submit an online application (with the prescribed fee), attaching a Form 2, an up-to-date rent record and a copy of the tenancy agreement.

<sup>5</sup> Note: option 2 is to be used where the landlord sets rent according to the income of the tenant, e.g. the South Australian Housing Authority.

<sup>6</sup> The Tribunal generally regards this as an appropriate option if rent is more than 2 weeks in arrears at the date the application for the consent order is made.

## REQUEST FOR CONSENT ORDER

### Payment plan for outstanding water invoices

<p><b>Section 1: Parties' details</b></p> <p><b>Re:</b> ..... <i>(Address of rental property)</i></p> <p><b>Landlord's name:</b> .....</p> <p><b>Landlord's agent:</b> .....</p> <p><b>Tenant's name:</b> .....</p> <p><b>SACAT matter number:</b> ..... <i>(if an application has already been lodged)<sup>7</sup></i></p>
<p><b>Section 2: Payment plan</b></p> <ol style="list-style-type: none"><li>1. The tenant will pay the landlord \$..... on ..... (day of the week) ..... (date of first payment) and will then pay the same amount on ..... (day of week) each week/fortnight until ..... (the amount of the outstanding water invoices) is paid in full OR</li><li>2. The tenant will pay the landlord \$..... in addition to ordinary weekly/fortnightly rent on ..... (day of the week) .....(date of first payment) and will then pay the same amount on .....(day of the week) each week/fortnight until \$..... (the amount of the outstanding water invoices) is paid in full.<sup>8</sup></li></ol>
<p><b>Section 3: Consequences of failure to pay</b></p> <ol style="list-style-type: none"><li>1. If the tenant misses any of the first 6 payments then the landlord may contact the Tribunal in writing to request an urgent hearing to terminate the tenancy and evict the tenant.<sup>9</sup></li><li>2. If the tenant misses any payments required by order 1, then from the date of the last payment required by order 1 up until the expiry of 12 months from the date of this order, the landlord may lodge an application seeking an order that the tenancy be terminated without first serving a Form 2 Notice of Termination on the tenant (and no fee is payable for such an application).</li></ol> <p><b>Signed by the landlord/agent:</b> .....</p> <p>Date: .....</p> <p style="text-align: center;"><b>Acknowledgement</b></p> <p>We acknowledge that if SACAT makes an order in the terms requested above and I miss a payment, then the landlord may apply to SACAT for an urgent hearing to terminate my tenancy.</p> <p><b>Signed by the tenant/s:</b> .....</p> <p>Date: .....</p>

<sup>7</sup> Note: if an application has not been lodged, you will need to visit [www.sacat.sa.gov.au](http://www.sacat.sa.gov.au) and submit an online application (with the prescribed fee), attaching a Form 2, an up-to-date rent record and a copy of the tenancy agreement.

<sup>8</sup> Note: option 2 is to be used where the landlord sets rent according to the income of the tenant, e.g. the South Australian Housing Authority.

<sup>9</sup> The Tribunal generally regards this as an appropriate option if rent is more than 2 weeks in arrears at the date the application for the consent order is made.

## REQUEST FOR CONSENT ORDER

### Payment of bond

*(Note: this order is to be used where the parties have agreed on payment of the bond to resolve a dispute between the landlord/tenant at the end of the tenancy)*

<p><b>Section 1: Parties' details</b></p> <p><b>Re:</b> .....</p> <p style="text-align: center;"><i>(Address of rental property)</i></p> <p><b>Landlord's name:</b> .....</p> <p><b>Landlord's agent:</b> .....</p> <p><b>Tenant's name:</b> .....</p> <p><b>SACAT matter number:</b> .....</p> <p style="text-align: center;"><i>(if an application has already been lodged)<sup>10</sup></i></p>
<p><b>Section 2: Details of the agreement</b></p> <p><b>Select from options 2.1, 2.2, 2.3</b></p> <p><u>Option 2.1: The bond is to be paid partly to each party</u></p> <p>The Bond no .....<sup>11</sup> of \$..... (the amount of the bond) is to be paid as follows:-</p> <p>(a) \$..... to the landlord (via the agent)<sup>12</sup></p> <p><b>PLUS:</b> choose 1 of the (b) options below, according to your circumstances</p> <p>(b.1) <i>(Use this option if the full amount of the balance is to be paid to the tenant/s)</i> \$..... to the tenant/s ..... (name of the tenant/s)</p> <p>(b.2) <i>(Use this option if the full amount of the balance is to be refunded to the South Australian Housing Authority because the Authority guarantee the bond)</i> \$..... to the South Australian Housing Authority</p> <p>(b.3) <i>(Use this option if part of the bond refund will be paid to the South Australian Housing Authority and part of it will be paid to a tenant – this option is necessary where the bond comprises of a guarantee by the Authority as well as a cash component which has been paid by one or more tenants)</i> \$..... to the South Australian Housing Authority and \$..... to the tenant/s ..... (name of the tenant/s)</p>

<sup>10</sup> Note: if an application has not been lodged, you will need to visit [www.sacat.sa.gov.au](http://www.sacat.sa.gov.au) and submit an online application (with the prescribed fee), attaching the relevant supporting documents.

<sup>11</sup> The bond number will be on the receipt for the bond and can be obtained online at [Check Bond Status / Find Unclaimed Bond \(cbs.sa.gov.au\)](#), or by calling Consumer and Business Services, Bonds Enquiries on 131 882.

<sup>12</sup> It does not matter if the landlord does not have an agent – if that is the case, the payment will be made directly to the landlord.

OR

Option 2.2: The bond is to be paid only to the landlord

The Bond no .....<sup>13</sup> of \$..... is to be paid to the landlord.

OR

Option 2.3: The bond is to be paid only to the tenant

The Bond no .....<sup>14</sup> of \$..... is to be paid to the tenant

**Acknowledgement**

We acknowledge that this payment/these payments will be in full and final satisfaction of all claims by us against one another and arising from the tenant for which the details have been provided above.

**Signed by the tenant/s** .....

Date: .....

**Signed by the landlord/agent** .....

Date: .....

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<sup>13</sup> The bond number will be on the receipt for the bond and can be obtained online at [Check Bond Status / Find Unclaimed Bond \(cbs.sa.gov.au\)](http://Check Bond Status / Find Unclaimed Bond (cbs.sa.gov.au)), or by calling Consumer and Business Services, Bonds Enquiries on 131 882.

<sup>14</sup> The bond number will be on the receipt for the bond and can be obtained online at [Check Bond Status / Find Unclaimed Bond \(cbs.sa.gov.au\)](http://Check Bond Status / Find Unclaimed Bond (cbs.sa.gov.au)), or by calling Consumer and Business Services, Bonds Enquiries on 131 882.

**REQUEST FOR CONSENT ORDER**

Variation of an existing Tribunal order

(Where the Tribunal has already made an order and one of the parties wishes to change something in that order)

**Section 1: Parties' details**

**Re:** .....

*(Address of rental property)*

**Landlord's name:** .....

**Landlord's agent:** .....

**Tenant's name:** .....

**SACAT matter number:** .....

*(if an application has already been lodged)<sup>15</sup>*

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**Section 2: Details of the agreement**

1. What is the date of the Tribunal order you wish to change? .....
2. Do you wish to change a payment plan under that Tribunal order? **YES / NO**
3. If **YES**, then proceed to respond to no. 5 below and provide details of the new payment plan.
4. If **NO**, then describe how you want to change the Tribunal order.  
.....  
.....  
.....
5. (a) By instalments of \$.....per week/fortnight (including weekly/fortnightly rent commencing on Mon/Tues/Wed/Thurs/Fri/Sat ...../...../..... and continuing until rent is 2 weeks in advance/all outstanding water invoices of \$..... have been paid in full OR  
(b) By instalments of \$..... per week/fortnight (in addition to weekly/fortnightly rent commencing on Mon/Tues/Wed/Thurs/Fri/Sat ...../...../..... and continuing until rent is 2 weeks in advance/all outstanding water invoices of \$..... have been paid in full OR  
(c) By the following payments:-  
(i) \$..... (amount) by 5.00pm on ..... (date)  
(ii) \$..... (amount) by 5.00pm on ..... (date)  
(iii) \$..... (amount) by 5.00pm on ..... (date)  
(iv) \$..... (amount) by 5.00pm on ..... (date)

<sup>15</sup> Note: if an application has not been lodged, you will need to visit [www.sacat.sa.gov.au](http://www.sacat.sa.gov.au) and submit an online application (with the prescribed fee), attaching the relevant supporting documents.

*Consequences of failure to pay*

- (a) If the tenant misses any of the first 6 payments then the landlord may contact the Tribunal in writing to request an urgent hearing and evict the tenant.<sup>16</sup>
- (b) If the tenant misses any payments after the payments required by order 1, then from the date of the last payment required by order 1 up until the expiry of 12 months from the date of this order, the landlord may lodge an application seeking an order that the tenancy be terminated without first serving a Form 2 Notice of Termination on the tenant (and no fee is payable for such an application).

**Signed by the tenant/s** .....

Date: .....

**Signed by the landlord/agent** .....

Date: .....

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<sup>16</sup> The Tribunal generally regards this as an appropriate option if outstanding water invoices are more than \$500.000 or if rent is more than 2 weeks in arrears at the date the application for the consent order is made.



## REQUEST FOR CONSENT ORDER

Where claims settled at a conciliation conference

<p><b>Section 1: Parties' details</b></p> <p><b>Re:</b> ..... <i>(Address of rental property)</i></p> <p><b>Landlord's name:</b> .....</p> <p><b>Landlord's agent:</b> .....</p> <p><b>Tenant's name:</b> .....</p> <p><b>SACAT matter number:</b> ..... <i>(if an application has already been lodged)<sup>17</sup></i></p>
<p><b>Section 2: Details of the agreement</b></p> <p><b>Select from options 2.1, 2.2, 2.3</b></p> <p><u>Option 2.1: The bond is to be paid partly to each party</u></p> <p>The Bond no .....<sup>18</sup> of \$..... (the amount of the bond) is to be paid in full and final satisfaction of all claims by the landlord/s against the tenant/s as follows:-</p> <p>(a) To the landlord (via the agent)<sup>19</sup> – the sum of \$..... (the amount to be paid to the landlord) and the landlord acknowledges that this payment is in full and final satisfaction of all claims by the landlord/s against the tenant/s</p> <p><b>PLUS:</b> choose 1 of the (b) options below, according to your circumstances</p> <p>(b.1) <i>(Use this option if the full amount of the balance is to be paid to the tenant/s)</i> To the tenant/s ..... (name of the tenant/s) – the sum of \$..... (the amount to be paid to the tenant/s)</p> <p>(b.2) <i>(Use this option if the full amount of the balance is to be refunded to the South Australian Housing Authority because the Authority guarantee the bond)</i> \$..... to the South Australian Housing Authority</p> <p>(b.3) <i>(Use this option if part of the bond refund will be paid to the South Australian Housing Authority and part of it will be paid to a tenant – this option is necessary where the bond comprises of a guarantee by the Authority as well as a cash component which has been paid by one or more tenants)</i></p> <p>\</p>

<sup>17</sup> Note: if an application has not been lodged, you will need to visit [www.sacat.sa.gov.au](http://www.sacat.sa.gov.au) and submit an online application (with the prescribed fee), attaching the relevant supporting documents.

<sup>18</sup> The bond number will be on the receipt for the bond and can be obtained online at [Check Bond Status / Find Unclaimed Bond \(cbs.sa.gov.au\)](#), or by calling Consumer and Business Services, Bonds Enquiries on 131 882.

<sup>19</sup> It does not matter if the landlord does not have an agent – if that is the case, the payment will be made directly to the landlord.

\$..... to the South Australian Housing Authority and \$..... to the tenant/s ..... (name of the tenant/s)

OR

Option 2.2: The bond is to be paid only to the landlord

The Bond no .....<sup>20</sup> of \$..... (the amount of the bond) is to be paid to the landlord.

OR

Option 2.3: The bond is to be paid only to the tenant

The Bond no .....<sup>21</sup> of \$..... (the amount of the bond) is to be paid to the tenant

**Acknowledgement**

We acknowledge that this payment/these payments will be in full and final satisfaction of all claims by us against one another and arising from the tenant for which the details have been provided above.

**Signed by the tenant/s** .....

Date: .....

**Signed by the landlord/agent** .....

Date: .....

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<sup>20</sup> The bond number will be on the receipt for the bond and can be obtained online at [Check Bond Status / Find Unclaimed Bond \(cbs.sa.gov.au\)](http://cbs.sa.gov.au), or by calling Consumer and Business Services, Bonds Enquiries on 131 882.

<sup>21</sup> The bond number will be on the receipt for the bond and can be obtained online at [Check Bond Status / Find Unclaimed Bond \(cbs.sa.gov.au\)](http://cbs.sa.gov.au), or by calling Consumer and Business Services, Bonds Enquiries on 131 882.

<b>LIST OF AGREED CLAIMS FOR PROPERTY AT:-</b>	
<b>CLAIM</b>	<b>AGREED AMOUNT</b>
Rent Rent loss (where break lease and new tenants pay less rent than existing tenants)	
Water Water use Water supply	
Cleaning – general	
Carpet cleaning	
Rubbish removal	
Gardening	
Locks	
Repairs	
Break lease charges Re-letting fee Advertising costs	
Other	
<b>TOTAL:</b>	