

# Guide to making an application

# as a disability service provider or resident

## Who should use this form?

Use this form if you have a dispute about a specialist disability accommodation (SDA) dwelling you live in or manage.

## Applying about an SDA dwelling

An SDA dwelling is a property or building registered with the National Disability Insurance Agency to provide specialist housing solutions. Accommodation is provided for people with very high support needs, such as people who have extreme functional impairment.

If you are a specialist disability accommodation provider or resident use this form if you want us to hear a dispute between the specialist disability accommodation provider and resident.

## Definitions

**Administrator** – an SDA resident’s attorney who was appointed under an enduring power or attorney, or a person appointed by VCAT to make decisions on the resident’s behalf about their financial or legal affairs.

**Disability service provider** – under the *Disability Act 2006* means a person or body registered on the register of disability service providers*.*

**Guardian** – a resident’s attorney who was appointed to make decisions about personal matters under an enduring power of attorney, or a person appointed by VCAT to make lifestyle decisions on the resident’s behalf. Lifestyle decisions may include health care, employment and living arrangements.

**Specialist disability accommodation provider** –under the *Residential Tenancies Act 1997*means a person who is the owner or leaseholder of a SDA dwelling, if the premises are let under or proposed to be let under a SDA rental agreement to an SDA resident.

**Specialist disability accommodation resident** –under the *Residential Tenancies Act 1997* means a person with a disability who receives or is eligible to receive, funded daily independent living support and who is residing or propose to reside, in an SDA dwelling under an SDA rental agreement.

## Legal help or advice

VCAT can explain the application process and what the form is asking you for. Contact us on 1300 01 8228 or email renting@vcat.vic.gov.au.

We cannot provide legal advice. This means we cannot tell you what to write in your application or recommend how to get the outcome you want.

You can seek legal help from a private lawyer. Some organisations provide free or low-cost legal services, including:

**Victoria Legal Aid**

1300 792 387

[www.legalaid.vic.gov.au](http://www.legalaid.vic.gov.au)

**Community legal centres**

03 9652 1500

[www.fclc.org.au](http://www.fclc.org.au)

**Justice Connect**

03 8636 400

[www.justiceconnect.org.au](http://www.justiceconnect.org.au)

## Is there an application fee?

### If you have an SDA residency agreement

There are no application fees.

### If your dispute is about an SDA dwelling and you have a rental agreement (lease)

Application fees apply. See [www.vcat.vic.gov.au/rentingfees](http://www.vcat.vic.gov.au/rentingfees)

## About the Claim Details section of the application form

This section of the application is important. It tells VCAT and the person, company or organisation you are making your application against why you want to go to VCAT.

In this section, you must explain:

* what you are claiming and why
* what section of the legislation your claim relates to
* what you want VCAT to do
* what the other party has done wrong, how you have suffered losses and the amount of money you are claiming, if you want compensation.

If this information is not provided, we may dismiss your application or your VCAT hearing may be delayed.

Make sure you quote the correct sections and the correct Act when completing your claim details. The tables below may help you identify the correct section number you are making your application under.

### Apply about an SDA dwelling

|  |  |  |  |
| --- | --- | --- | --- |
| I want VCAT to | Section of the Residential Tenancies Act 1997 | Further documents required or useful to include with your application | Time limit for applying |
| End a rental agreement (lease) because the resident was coerced or deceived into entering the agreement, did not receive an information statement, or did not receive an explanation of the information statement.  | 91YAThis section does not apply to an SDA residency agreement. | Copy of rental agreement |  |
| Order a bond to be paid to the resident if the standard rental agreement ends. | 91YAThis section does not apply to an SDA residency agreement. |  |  |
| Cancel a compensation order made against the resident if the standard rental agreement ends. | 91YAThis section does not apply to an SDA residency agreement. |  |  |
| Determine whether the resident has abandoned the dwelling so the SDA provider can repossess it | 498ZWA |  |  |
| Make a possession order for any of the following:* + unpaid rent
	+ endangering the safety of other residents or staff
	+ causing serious disruption to the proper use and enjoyment of the property by other residents
	+ causing serious damage to the dwelling
	+ resident is a danger to self or can no longer be properly supported
	+ using the dwelling for illegal purposes,
	+ renovating, repairing, demolishing or selling the dwelling
	+ failing to comply with a VCAT order
	+ giving notice of intention to vacate (if the resident has not vacated)
 | 498ZZE | Notice of temporary relocationNotice to vacateBreach of duty noticeTribunal orderNotice of intention to vacate | Apply no later than 30 days after the termination date on the notice to vacate. |
| Make a possession order (and I am the mortgagee) | 498ZZF | Notice to vacate Copy of any court order which shows the mortgagee's entitlement to possession and to exercise a power of sale. |  |
| Determine whether a term in the SDA residency agreement is harsh or unreasonable | 498L | SDA residency agreement |  |
| Order urgent repairs | 498P |  |  |
| Order non-urgent repairs | 498R | Report from the Director of Consumer Affairs Victoria (if available)Notice to SDA provider to repair | Apply within 60 days of receiving the Director of Consumer Affairs Victoria’s report.If you did not receive the Director of Consumer Affairs Victoria’s report, apply within 90 days of applying for the report. |
| Order compensation if damage is caused to the SDA resident's goods when the owner entered the property | 498Z |  |  |
| Declare that the proposed rent is excessive | 498ZH | Report from the Director of Consumer Affairs Victoria (if available)Notice of rent increase. | Apply within 30 days of the Director of Consumer Affairs Victoria issuing their report.You can apply to VCAT for permission (leave) to proceed without a report from the Director of Consumer Affairs. The application for leave must be made at least 30 days after the notice of rent increase is given. You must have a good reason for failing to request a report. |
| Order compensation or compliance because the other party did not comply with a breach of duty notice | 498ZQ | Breach of duty notice | Apply within 90 days after the compliance date (usually 14 days from the date the breach of duty notice was given). |
| Determine whether a notice to vacate is valid | 498ZZC | Notice to vacate Notice of temporary relocation (if issued) | Apply within 90 days of the day the notice to vacate is issued. |
| Order compensation because the owner has destroyed, disposed of, or sold a former resident's goods or personal documents | 498ZZZJ |  |  |
| Order recovery of goods or personal documents left behind that an owner wrongfully retains and refuses to give up. | 498ZZZK |  |  |
| Order compensation because the owner of the dwelling damaged or lost stored goods or personal documents | 498ZZZL |  |  |
| Order the owner of the dwelling to store goods for more than 14 days | 498ZZZM |  |  |
| Extend the time for execution of a warrant of possession | 498ZZQ |  | Apply within the time the warrant can be executed |
| Order a warrant to be issued without delay because the resident failed to pay rent while issue of the warrant was postponed | 498ZZV |  |  |
| Order that the SDA dwelling can be relet before the end of 6 months after a notice to vacate | 498ZZZPA(2) |  |  |
| Determine a general dispute about an SDA dwelling or agreement | 452(3B) |  |  |

## Provide a copy of your application to other parties

You must send (serve) a copy of your application and supporting documents to other parties. You can only send documents to other parties by email if you have already exchanged information with them this way. Otherwise, send documents by post or give them in person.

You must give the application form and supporting documents to the other parties within 7 days of lodging the application.

If you are a person with disability, VCAT can send a copy of your application and supporting documents to the other parties on your behalf. You must indicate you want us to do this on the application form.

If another party lives interstate, you must take additional steps before serving an application on that party. For more information on these requirements, go to [www.vcat.vic.gov.au/form4](http://www.vcat.vic.gov.au/form4).

## What happens after lodging an application?

After we receive your application and open a VCAT case, we will send you and all other parties a Notice of Hearing. The notice will tell you the venue, time and date you must come to the hearing.

Make sure you bring to the hearing:

* a copy of your application form, including all documents you attached to your application
* all documents and evidence you have to support your case
* proof you have sent relevant documents to the other party.

## Contact us if you do not hear from us within two weeks of submitting your application.

## Communicating with VCAT and other parties

If you write to VCAT after you have lodged your application, you must also send a copy of the correspondence to the other parties. State your VCAT reference number when communicating with VCAT.