

FENCE DISPUTE APPLICATION

Common Boundaries Act 1981

ACAT file number

In most cases you must give written notice to discuss the fence to your neighbour **before** you apply to ACAT for an order for a new fence or to repair the fence.

1. APPLICANT/OCCUPIER OF THE LAND

Name

(if a company, include
ACN/ARBN)

Postal address

(if a company, address should
be the registered office)

Email

(preferred contact)

Telephone

ACAT will use these details to communicate with you.

2. APPLICANT'S/OCCUPIER'S AUTHORISED REPRESENTATIVE (IF ANY)

A representative who is not a lawyer must lodge a *Power of Attorney* (for an individual) or an *Authority to Act for a Corporation* (for any other legal entity).

Name

Postal address

(if a company, address should
be the registered office)

Email

(preferred contact)

Telephone

If you have an authorised representative, ACAT will communicate with your representative.

A copy of this application form will be provided to the applicant, the respondent and any other party. ACAT hearings are usually open to the public and information provided to ACAT may be publicly available. If you have concerns about your information being made public please contact the Registry.

3. RESPONDENT/OCCUPIER OF THE ADJOINING LAND

For more than one respondent, attach a separate page.

Name
(If a company, include
ACN/ARBN)

Postal address
(if a company, address
should be the registered
office)

Email

Telephone

ACAT will use these details to communicate with the respondent until the respondent gives ACAT other details.

4. PROPERTY DETAILS

What is the address of the land you occupy?

Provide a full description including street address, block, section and division

What is the address of the land that the respondent occupies?

Provide a full description including street address, block, section and division

5. NOTICE TO DISCUSS THE FENCE (FENCE NOTICE)

Has a notice to discuss the fence been given to the respondent?

Yes No

What date was the notice given?

Is a copy of the notice attached to this application?

Yes No

6. ORDERS

What order/s do you want ACAT to make?

- a) An order to build a **new fence** between the parties' land because:
- i. the respondent does not agree with building a new fence; OR
 - ii. the parties cannot agree on something about the construction of the new fence (*Common Boundaries Act 1981 s 4 New Fence Determination*)
- b) An order for the **repair or replacement of an existing fence** because:
- i. the respondent has refused to join in repairing or replacing the fence: OR
 - ii. the parties are unable to agree on something about the repair or replacement of the fence (*Common Boundaries Act 1981 s 5 Repair Determination*)
- c) An order to contribute to the cost of paying for a fence that has been **urgently repaired or replaced to protect people or prevent animal/s escaping**
(*Common Boundaries Act 1981 s 6 Repair Determination*)
- d) An order to share the costs of building a new fence when the adjoining land was **unleased but has become a parcel of land**
(*Common Boundaries Act 1981 s 7 Unleased land Determination*)
- e) An order about a **notice to discuss fence**
(*Common Boundaries Act 1981 s 9 Non-compliant notices*)
- f) An order **changing a previous order** by ACAT about a fence
(*Common Boundaries Act 1981 s 14 Applications for Variation of Certain Determinations*)

7. DESCRIPTION OF THE DISPUTE

What is the dispute about? (attach an extra page if needed)

8. COST OF FENCE WORK

What is the estimated cost to build or repair the fence?

Total amount

\$

Amount to be paid by applicant

\$

Amount to be paid by respondent

\$

Are quote/s or invoice attached?

Yes

No

9. DOCUMENTS SUPPORTING YOUR APPLICATION

What documents are attached to support your application?

Notice to discuss fence

Quote/s

Survey

Previous ACAT orders about the fence

Photographs of the fence

Other (specify)

For example: correspondence between the parties about the fence.

10. HEARING

What dates are you **not** available to attend ACAT in the next 3 months?

Do you need an interpreter?

No

Yes (language and dialect)

Do you need assistance? (for example, a hearing loop when you attend ACAT)

A list of services ACAT can provide is available on the 'Accessibility' page of our website (www.acat.act.gov.au)

No

Yes (provide details)

11. SIGNATURE

By signing this form, you certify that the respondent's contact details you have provided are the most current available to you and that service of documents to this address will most likely be received by the respondent/s.

Signature of applicant/ applicant's
representative
(all applicants to sign)

Name of person/s signing

Date

CHECKLIST

- Application form is correctly filled out, signed, and dated by every applicant (or representative)
- Documents to be relied on are attached such as:
 - Notice to discuss fence
 - Receipts, invoices, quotes
 - Surveys or drawings of the fence line
- Power of Attorney (for an individual) or Authority to Act for a Corporation if applicable is attached
- Correct lodgement fee is ready to be paid. The ACAT accepts cash, bank cheque and credit card payments over the counter, and bank cheque or credit card payments by post.
- Correct number of copies of this form (at least 3 are attached). An extra copy is needed for each additional applicant or respondent.

INFORMATION ABOUT APPLICATIONS UNDER THE COMMON BOUNDARIES ACT 1981

When is this form used?

This application form should be used if you want an order from ACAT to build, replace or repair a fence between your land and your neighbour's land. The *Common Boundaries Act 1981* can be found at www.legislation.act.gov.au

Who is the correct applicant and respondent?

To make a fence dispute application, you must:

- (a) occupy (be the owner of) a parcel of land; and
- (b) have given a notice to discuss the fence to the owner of the adjoining (neighbouring) land.

The respondent is the owner of the adjoining land, who received the notice to discuss the fence. You should check you have provided the correct address for the respondent.

Authorised representative

A representative who is not a lawyer must be correctly authorised. If the party being represented is:

- an **individual**, a *Power of Attorney* for the representative is required; and
- a **corporation** or a **different legal entity**, an *Authority to Act for a Corporation* is required.

These forms are available on the ACAT's website (www.acat.act.gov.au). If the application is signed by the representative, written authorisation should be provided to the ACAT when the application is lodged.

Fence notice

An application cannot be made to ACAT about a **new fence** or **repairing** a fence unless a notice to discuss the fence has been given, and 30 days have passed since the notice was given. If the fence has been repaired or replaced urgently to protect people or prevent animal/s escaping, the occupier cannot apply to ACAT unless a fence notice was given, and 14 days have passed. Template fence notices are on the ACAT website <https://www.acat.act.gov.au/case-types/fence-disputes>.

You need to attach the fence notice to the application and tell us the date the fence notice was given to your neighbour. You can ask ACAT for an order about a fence notice. Alternatively, if you and your neighbour agree, you can ask ACAT to waive the requirement for a fence notice.

Orders you want

The *Common Boundaries Act 1981* sets out the orders the ACAT can make about fence disputes. Please tick the relevant box in part 6 of this form (above) to indicate the orders you want ACAT to make.

If you want ACAT to make other orders (e.g. nuisance) please contact the Registry, you may need to also lodge a different kind of application.

What happens next?

Once you lodge your application with ACAT, it will be given a date for the parties to participate in a conference or hearing. The parties will receive a letter from ACAT with the date, time and place of the conference or hearing, and a stamped copy of this application.

Do you need assistance?

If the applicant or respondent need assistance (for example, an interpreter or hearing loop), please let ACAT know as soon as possible. A list of services ACAT can provide is available on the *Accessibility* page of our website (www.acat.act.gov.au).

More information

Visit our website www.acat.act.gov.au for information about:

- How to lodge documents
- What to expect
- Case type: fence disputes
- Fees and forms
- Conferences and mediations
- Template Fence Notice

Contact ACAT

Telephone 02 6207 1740
Email tribunal@act.gov.au
Post ACT Civil and Administrative Tribunal
GPO Box 370
CANBERRA ACT 2601