



Attorney-General
Minister for the Arts and Cultural Events
Minister for Building Quality Improvement
Minister for Business and Regulatory Services
Minister for Seniors and Veterans
Member for Ginninderra

Ms Jan Phillips
President
Pets and Positive Ageing Inc
PO Box 400
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Dear Ms Phillips

Thank you for hosting me at the Pet-friendly rentals session last November, and for taking the time to write to me about the outcomes. It was a pleasure to speak about the Government's work to strengthen the rights of pet owners in rental accommodation.

I apologise for the delay in writing back to you. At this stage, I am pleased to say that the Bill I spoke about in November has now passed, and that legislation will make a meaningful difference for pet owners in the Territory. Thank you for your support in the process. The legislation will commence this year once the appropriate administrative arrangements are in place.

You raised a series of questions in your letter and I've prepared a Questions and Answers document to reply to each which is attached to this letter.

Further reforms to the Residential Tenancies Act are underway, and I would value your continued engagement. The contact in my Directorate for this work is Kate Smyth, available on 6207 6483 or by email at Kate.Smyth@act.gov.au. I encourage you to contact Ms Smyth for a detailed briefing on the ongoing policy work and to provide your views as part of the policy process.

Thank you again for inviting me to speak at the session and for raising these issues with me. I hope that this information is of assistance.

Yours sincerely

Gordon Ramsay MLA
Attorney-General

13 MAR 2019

Questions and Answers on Residential Tenancies legislation and the Residential Tenancies Amendment Act 2019

Are there different requirements in current legislation for tenancies vs occupancies and will there be in the new legislation?

The *Residential Tenancies Act 1997* (the Act) covers two different kinds of accommodation agreements: residential tenancy agreements and occupancy agreements. Occupancy agreements cover a variety of accommodation in the ACT, including crisis accommodation, caravan parks and manufactured homes and student accommodation.

The Act is currently silent on the issue of pets, for both residential tenancy agreements and occupancy agreements.

The amendments proposed by the Act will apply to residential tenancy agreements. However, the Justice and Community Safety Directorate (JACS) is currently doing policy work on occupancy agreements and whether the legislation should be changed. I have asked JACS to consider the issue of pets as part of this work.

More data is required about the problems of finding pet-friendly tenancy to inform policy makers and it is important that this takes an evidence based approach.

I agree that it is important that policy makers take an evidence based approach. The amendments proposed in the Bill for pet friendly tenancies respond to outcomes of community consultation on the ACT Housing Strategy. The Government is also committed to consulting with key stakeholders such as Tenants' Union ACT, Better Renting, Canberra Community Law and the Real Estate Institute of the ACT. The pet amendments have been proposed in response to advice from our stakeholders about the difficulties experienced by tenants in finding pet-friendly accommodation.

Real estate agents often have a database on bad tenancies but could they be encouraged to produce a database recording good pet-owning tenancies?

I will ask JACS to consider this proposal as part of future policy work on residential tenancies.

API agreements used by the real estate industry could make it possible for pet friendly properties to also be widely advertised as 'pop ups' on social media and other relevant sites, allowing for more effective pet friendly searches of available properties.

I will ask JACS to consider this proposal as part of future policy work on residential tenancies.

Will the new legislation limit the number of pets that a tenant can own?

The Act does not limit the number of pets that a tenant can own. However, when giving consent to a tenant keeping a pet, the lessor may impose a reasonable condition on the number of animals kept on the premises.

The lessor may apply to the ACT Civil and Administrative Tribunal (ACAT) for approval to refuse consent to keeping a pet. ACAT will consider these applications on a case by case basis, and look at factors such as whether the premises are unsuitable to keep the animal, whether keeping the animal on the premises would result in unreasonable damage to the premises, keeping the animal on the premises would be an unacceptable risk to public health or safety, the lessor would suffer significant hardship or keeping the animal on the premises would be contrary to a Territory law.

What happens if ACAT denies an application by the lessor?

The Act provides that the lessor may apply to ACAT for approval to refuse consent to keep a pet. ACAT must either approve the lessor's application, refuse the lessor's application or order that the lessor consent to the tenant's request to keep a pet albeit subject to stated conditions.

Can a tenant contest a lessor's application to ACAT?

Yes. ACAT may only make an order refusing consent or imposing conditions on consent if satisfied of particular factors (as discussed above). When making a decision, ACAT will need to consider evidence about the animal and how reasonable it is to keep it on the premises. This evidence may be provided by either the tenant or the lessor.

What are the rules around pet ownership in retirement villages?

Retirement villages are regulated under different legislation, namely the *Retirement Villages Act 2012*. The Retirement Villages Act allows a village to make its own rules about the keeping of pets.

Pets in hostel accommodation are not allowed and this should be addressed.

There are a range of different regulatory arrangements for different types of hostels. If the hostels that have been referred to are part of an aged care facility, this is regulated under different Commonwealth legislation. Aged Care facilities are regulated by the *Aged Care Act 1997*. I recommend that Pets and Positive Ageing Inc raise this issue with the Hon Ken Wyatt AM MP, Minister for Senior Australians and Aged Care at Minister.Wyatt@health.gov.au.

To the extent that this comment relates to matters regulated by Territory laws, I have asked JACS to consider this as part of their ongoing policy work.

What is the status of therapy dogs in rental accommodation? In Victoria therapy dogs can be accepted in accommodation that is not pet-friendly; however there can be issues around what is an 'assistance animal' and how this will be covered in the new legislation?

The issue of assistance animals is dealt with under other legislation. Section 21 of the *Discrimination Act 1991* (the Discrimination Act) provides it is unlawful to discriminate against another person by refusing the other person's application for accommodation or in the terms or conditions on which accommodation is offered to the person, or by deferring the other person's application for accommodation or according them a lower order of precedence in any list of applicants for that accommodation. Accommodation includes residential accommodation.

The Discrimination Act provides that discrimination on the grounds of any of the listed protected attributes is unlawful, including people with a disability as defined by the Act. The definition of

disability includes situations where a person relies on an assistance animal. Assistance animal is defined in section 5AA of the Discrimination Act as being an animal trained to assist a person with disability to alleviate the effect of the disability that satisfies certain criteria prescribed in the *Discrimination Regulation 2016*.

Affordable housing is usually for younger people – what access is there for older women to this form of housing and is there an age limit?

The Affordable Home Purchase Program does not have an upper age limit and is available for any person/household that meets its eligibility criteria, relating to residency, household income and not already owning any residential or commercial property.

In addition, in recognition of the growing cohort of older women experiencing homelessness, the ACT Government has ensured that older women are considered a priority category for receiving support under initiatives funded by the \$1 million Affordable Housing Innovation Fund. This initiative will include offering priority access for older women to affordable rental properties through the HomeGround affordable real estate management model, where private landlords offer their properties to a community housing provider to manage for rents below 75 per cent of market rates.

Will there be a steering group in the ACT to take the issue of pet-friendly tenancies forward?

I have not formed a specific steering group on this issue, but JACS will continue to consider policy issues in residential tenancies and consult with key stakeholders. I encourage Pets & Positive Ageing to be part of this work.

Could the ACT Government release properties to not-for-profits that are suitable for pets?

I have noted the issue that has been raised and asked JACS to pass this issue on to the relevant parts of Government.

Where there are head-lease arrangements, could the ACT Government consider allowing families with pets to stay on in the same location after the crisis period is over?

I have convened a working group to examine issues relating to crisis accommodation and occupancy agreements. I will ask JACS to consider this issue as part of this work.

What can be done to ensure accommodation for travellers which is advertised as 'pet-friendly' is really pet-friendly (this involves allowing pets inside rather than requiring them to remain outside)?

The Australian Consumer Law regulates the advertising of travel accommodation. More information about the Australian Consumer Law and misleading claims and advertising is available on the Australian Competition & Consumer Commission website

<https://www.accc.gov.au/consumers/misleading-claims-advertising>.

Complaints about alleged breaches of the Australian Consumer Law in the ACT can be made to the Office for Fair Trading via Access Canberra by phone on 13 22 81, or online at

www.accesscanberra.act.gov.au