



# Occupancy Factsheet

## Bond

**If bond is charged it can be lodged.**

**Make sure you meet your obligations, but also make sure you can SHOW that you've met your obligations: with a condition report and photo evidence.**

**The bond is your money, don't give it away!**

### What is a bond?

A bond is security in case an occupant leaves owing board or has damaged the property. A bond is like compulsory savings put aside by an occupant in case they end the occupancy owing the grantor money. An occupant could owe the grantor if they fall behind in board payments, or if they damage the premises. An occupant is entitled to the full bond back if they haven't breached the occupancy agreement.

The grantor doesn't have to ask for a bond. However, if they do ask you to pay a bond, it is recommended that you lodge the bond money with the [Office of Rental Bonds \(ORB\)](#), rather than paying it to the grantor.

Lodging the bond with ORB means that:

- The money will stay with the ORB during the occupancy so that the grantor will not have access to it.
- When the occupancy ends, you and the grantor are on an equal footing and have to follow the same process to have it refunded.
- It will be easier to get the bond back if the grantor cannot be contacted or if you move interstate.

- If your relationship with the grantor breaks down after you end the occupancy, you can simply lodge a form for the refund of the bond, rather than deal with the grantor directly.

If you do not lodge the bond yourself but pay it to the grantor, there is no obligation on the grantor to lodge it with the ORB.

**Even if the grantor agrees to lodge it, the only way to ensure that the bond will be lodged is if YOU take the money and lodge it yourself.**

### AT THE START OF AN OCCUPANCY

#### Lodging a Bond with the Office of Rental Bonds (ORB)

To lodge a bond with the ORB, the bond should be lodged in the names of the occupant/s who paid a proportion of the bond. Use the [Occupancy Bond Lodgement](#) form.

The ORB will provide a receipt to say your bond has been lodged. If you do not receive a receipt within a week of payment, contact the ORB to check that the money was properly lodged.

#### Paying a Bond to the Grantor

If you choose to pay bond directly to the grantor, make sure you get a written receipt for the full amount. Ask them to date the receipt, and include your name, the address of the premises, the amount and that the amount is for bond.

## Condition reports or 'inventories'

As an occupant, you are only responsible for damage that you or your guests have caused. You aren't responsible for any problems that were there when you moved in. If there are flaws or damage in the premises when you move in, write them on a condition report so you can show that you didn't cause them. Taking photos or a video of the premises is also very useful.

Unlike in tenancy agreements, the grantor is not required to provide you with a condition report. But you can download a [Condition Report](#) ready to fill out from the Tenants' Union website: [www.tenantsact.org.au](http://www.tenantsact.org.au).

Within a week or two after moving in, fill in the condition report for the property and sign it. Take your time to fill in the report because it gives you an opportunity to live in the property and identify problems that are not immediately visible. You should keep a copy, and give a copy to your grantor.

If you are given a report already filled in by the grantor, you can respond in one of two ways. If you agree with the report, simply sign it, make a copy to give to the grantor or agent, and keep your copy somewhere safe. If you do not agree with part or all of the statements, add your own comments. Make a copy of your version to send to the grantor or agent, and make sure you keep a copy for yourself.

**REMEMBER:** If you do not complete, sign and return a copy of the condition report, it will be difficult to disagree with the grantor if they say the damage was done while you were the occupant.

**It is very important that you keep a copy of the report, and any photos or videos you have taken. Keep them with your occupancy agreement and other documents.**

## DURING YOUR OCCUPANCY

Make sure that you keep the ORB's record for your bond up to date. This is very important because the ORB will only release bond to those occupants listed with them for the particular premises. If the occupants change, or change rooms, fill in a [Transfer](#) form and send it to the ORB. You will need the signature of the outgoing occupants, so make sure you arrange this before they leave.

## AT THE END OF YOUR OCCUPANCY

It is essential that when you end your occupancy you finalise your responsibilities for the room or house.

Usually, an occupant will be expected to return the property back to the condition it was in at the beginning of the agreement (as per the original condition report), allowing for fair wear and tear. **You cannot be made to improve the property.**

The grantor may arrange an inspection of the premises when you move out to note any changes in its condition. It is in your interest to attend this inspection. **Return keys at the inspection—there is a risk that you could be charged board for the time you hold the keys.**

When you move out contact ORB to confirm they have your forwarding address, and fill in a Transfer form if a new occupant has paid you their share of the bond.

## What can be claimed from my bond?

The things that can be claimed for should be set out in your agreement or House Rules. Even if your agreement sets this out, some types of claims may be invalid. You could ask for a term in your agreement that limits claims to the two types that are commonly used in a tenancy. They are:

- The *real* cost of repairing any damage other than fair wear and tear; and

- Any outstanding bond owing under an occupancy agreement at the time it terminates

The bond is your money, so unless the grantor can show that they have a real claim to it, the full bond should be returned to you. They must be able to support their claim, preferably with documentation. Eg., it is not sufficient for them to merely make a claim of damage. The grantor must show that the occupant (or one of their invited guests) was responsible for causing or permitting that damage. The Tribunal will consider a reasonable alternative cause provided by the occupant.

The grantor must also show that they have suffered a loss because of the damage. If there is damage, but no loss, then the grantor is not entitled to compensation. Eg., if a wall is damaged, but the grantor is doing renovations and knocking the wall down, then they have not incurred a loss, so have no claim on the bond for that damage.

Although the grantor has to show the loss they have suffered as a result of damage, the occupant can provide their own evidence of what the cost would be. The occupant can ask for quotes from tradespeople to repair damage. If you find someone who will repair the damage for less than the grantor says it will cost, you should pass these quotes on to the grantor, and save a copy to show the Tribunal. The grantor will then have to show the Tribunal why they want to increase their loss by using someone more expensive.

The occupant can also offer to repair the damage themselves, if appropriate. If the grantor unreasonably rejects your offer and hires professionals instead, then the grantor has increased the amount of their loss. In this case, the grantor would not be entitled to the full cost of professionals. The grantor is not entitled to compensation for any loss that they could have taken reasonable steps to avoid.

## What is 'fair wear and tear'?

'Fair wear and tear' has two parts to its meaning:

The '*fair*' part relates to the *cause* of the damage. For damage to be excused, it must have occurred in the course of *fair use* of the property for residential purposes. So something like carpet deterioration in high traffic areas of the premises (e.g. hallways), which could definitely occur in the course of fair use, would be excused. On the other hand, it would be hard to argue that motor oil stains on a lounge room carpet occurred during fair use. This type of damage would therefore almost certainly be considered to fall outside fair wear and tear.

The words '*wear and tear*' refer to the *effect* of the damage, and work to limit the severity of allowable damage. Eg., minor scuff marks on walls and minor oil stains on a concrete driveway would likely constitute fair wear and tear. On the other hand, a large red wine or cordial stain on the carpet would probably be considered to be more than merely wear and tear, even though such a stain clearly could have happened in the course of fair use.

What is considered 'fair wear and tear' depends on the facts of each case. Ultimately, if you and the grantor cannot agree, it may be necessary to have it decided in the ACT Civil and Administrative Tribunal.

The Tribunal may take into account:

- The nature of each specific claim
- The condition of the property at the start of the occupancy
- The condition of the property at the end of the occupancy
- How long you were living in the property
- The general age and condition of the property

If you are unsure about whether the grantor has a claim to your bond, call the Tenants' Advice Service.

## Getting your bond back from the ORB If you agree

If you and the grantor agree:

- that you do not owe anything, or
- that you do owe something and you agree on how much

then you can both sign the [Occupancy Bond Refund](#) form. *Even* if you have a verbal agreement with the grantor about liability, insist on the amounts and details being included on the form before you sign it.

### **NEVER SIGN A BLANK BOND FORM!!**

You can then take, mail or fax the signed form to the ORB. If you take it in, they can write a cheque out for you immediately. If you fax or post the form, the money could be refunded to you in 3-4 working days.

**The only way to guarantee that the form will be lodged is if YOU lodge it!**

## If you disagree

If you and the grantor cannot agree on whether you are liable for alleged damage, you can still claim the amount you think you are entitled to, sign the claim form and lodge it with the ORB without the grantor's signature.

The ORB will then notify the grantor that they have received a claim for the bond. The grantor has 2 weeks to dispute this claim.

If they don't dispute your claim within the time, your bond will be released to you. If

they dispute your claim, any undisputed amount is returned to you and the rest is referred to the Tribunal for a conference.

It is worthwhile to write to the grantor when you lodge your claim, advising them of your actions and stating why you are not liable for the damages they are claiming (sign, date and keep a copy of the letter). This may be enough to deter them from disputing your claim.

Bond forms are available from:

- Office of Rental Bonds  
Ph: 6207 1178  
[www.ors.act.gov.au](http://www.ors.act.gov.au)
- Tenant's Union (ACT)  
Ph: 6247 1026  
[www.tenantsact.org.au](http://www.tenantsact.org.au)

## Getting your bond back from the grantor

If the grantor doesn't refund the amount of bond that you think you're entitled to, you can still apply to the ACT Civil and Administrative Tribunal to resolve the dispute. The Tribunal can order the grantor to repay some or all of the bond to you.

**This is a summary of your rights and responsibilities.**

**If you have a specific problem, you should seek more detailed advice.**

### Tenants' Advice Service 6247 2011 free legal advice for all ACT renters (tenants and occupants)

Tenants' Union (ACT) .....	6247 1026	publications, information, workshops, law reform general information and news on tenancy/renting issues free legal advice and assistance for low income tenants
<a href="http://www.tenantsact.org.au">www.tenantsact.org.au</a>		
Welfare Rights and Legal Centre .....	6247 2177	
<a href="http://www.welfarerightsact.org">www.welfarerightsact.org</a>		
Office of Regulatory Services (Bonds) .....	6207 1178	bond lodgement, return and inquiries
(Fair Trading) .....	6207 0400	complaints against real estate agents
<a href="http://www.ors.act.gov.au">www.ors.act.gov.au</a>		
ACT Civil and Administrative Tribunal .....	6207 1740	dispute resolution & enforcement of tenancy legislation
<a href="http://www.acat.act.gov.au">www.acat.act.gov.au</a>		
Housing ACT information line .....	6207 1150	ACT public housing enquiries
<a href="http://www.dhcs.act.gov.au/hcs">www.dhcs.act.gov.au/hcs</a>		