

Electronic service of notices to vacate: Addressing and mitigating the impacts on older renters

Key messages

- Current provisions allowing for electronic service of notices to vacate in certain circumstances disproportionately disadvantage older people, and
- There is little publicly available information about the significance of consent to electronic service and why a given renter should or should not provide consent.

Case study: Our client, a 70-year-old wheelchair user, thought he had to provide an email address when he signed the agreement for his room in a rooming house. As he did not have his own email address, he put down his daughter's in the field for consent to electronic service. When a notice to vacate was served electronically she was on an overseas holiday, and so the notice did not come to his attention for several weeks. VCAT accepted this was valid service and made a possession order before he could secure other accommodation, and he was forced to present at a homeless service.

Current law

S506(3) of the Residential Tenancies Act (RT Act) provides that a notice to vacate under the RT Act can only be given personally, by registered post, by electronic communication in accordance with the Electronic Transactions (Victoria) Act 2000 (ET Act), or in a manner ordered by the Tribunal.

S8 of the ET Act provides that notice in writing may be given electronically where at the time the notice is given it is reasonable to expect the information to be readily accessible, and where the recipient consents to the information being given by means of electronic communication. S3 defines consent as including consent that can reasonably be inferred from the conduct of the person concerned.

In practice, this largely means that renters who have consented can be sent notices to vacate as email attachments.

Information about electronic service

For renters whose online access is limited or changes over time, understanding the significance of providing (or withdrawing, or failing to withdraw) consent to electronic service is important. In particular, they need to understand that if they provide consent they may be sent a notice to vacate to that address, and will be taken to have received the notice on the day it was sent regardless of whether they actually opened the email. However, there is very little useful information about this currently available.

CAV publishes a standard form rental agreement, Form 1, that is probably the most common way renters are asked to consent to receive notices electronically and the main source of information renters receive about electronic service. The relevant part is as follows (with space for additional renters to include their details):

9 Service of notices and other documents by electronic methods

- Electronic service of documents must be in accordance with the requirements of the *Electronic Transactions (Victoria) Act 2000*.
- Just because someone responds to an email or other electronic communications, does not mean they have consented to the service of notices and other documents by electronic methods.
- The renter and rental provider must notify the other party in writing if they no longer wish to receive notices or other documents by electronic methods.
- The renter and the rental provider must immediately notify the other party in writing if their contact details change.

9.1 Does the rental provider agree to the service of notices and other documents by electronic methods, such as email?
The rental provider must complete this section before giving the agreement to the renter.
(Rental provider to tick as appropriate)

<input type="checkbox"/>	Yes - insert email address, mobile phone number or other electronic contact details	<div></div>
<input type="checkbox"/>	No	

9.2 Does the renter agree to the service of notices and other documents by electronic methods, such as email?
(Renter to tick as appropriate)

Renter 1	<input type="checkbox"/>	Yes - insert email address, mobile phone number or other electronic contact details	<div></div>
	<input type="checkbox"/>	No	

Nothing here indicates the significance of providing or not providing consent, that consent effectively means consent to receive notices in the form of attachments which must be opened, or the importance of withdrawing consent if a party no longer has regular access to their email account. The second dot point, while technically correct, may also be misleading, as consent can be inferred from electronic communication.

The information about electronic service in CAV's Renters Guide is even more minimal. It does not provide any detail about the significance of providing or withdrawing consent and does not mention notices to vacate:

Communicating with your rental provider

You can agree to get information from your rental provider electronically.

This includes:

- your rental agreement
- condition report
- information about your renting rights
- notices (such as a notice of an inspection).

You can also send notices and other information to your rental provider electronically, if they agree.

More information: consumer.vic.gov.au/rentingrights

The 'more information' link goes to a page that includes [information about electronic service](#) but does not go beyond information provided on Form 1.

Impact on older renters

A renter receiving a notice to vacate needs enough time to find and move into alternate housing. The more time they have, the more likely they will find a suitable place. Where a notice may be invalid, they need time to obtain information and advice, and may need to make any application challenging the notice within statutory time limits. The service provisions in s506, being narrower for notices to vacate than for other kinds of notices, recognise this.

The current provisions for electronic service work well for people with regular internet access (who receive such notices in a timely way), and for those who never use the internet (who cannot consent to receive notices electronically and so must receive hard copy notices). But they present a problem for people who have intermittent or irregular digital access, or whose access becomes reduced, or who regularly check their email but do not or cannot open attachments. These are disproportionately older people.

The Australian Digital Inclusion Index shows a strong link between digital exclusion and age: "For people over the age of 75, disparities in Digital Ability (41.6 points below the national average) and Access (18.0 points below the national average)

are considerable”¹. This squares with our observations: HAAG works with many older clients who access the internet occasionally, often by visiting a local library or community centre or with the assistance of family members. These sorts of ad hoc arrangements may be reduced temporarily or permanently when a person is ill or as their mobility becomes more limited. Renters may reduce or discontinue their internet use or mobile data due to financial stress or cost-of-living pressures.

We also see high numbers of clients who have consented to receive notices electronically but are unable to open attachments received by email; in some cases, they incorrectly believe they have not received any formal notice to vacate. Some renters report that their rental agreements had been prefilled by their rental providers or agents to indicate consent to electronic service and that they either did not appreciate the implications of this decision or lacked confidence to request a change to the agreement, given their need to enter into the rental agreement for housing.

Solutions

There are a range of options open to the government to mitigate these concerns.

1) Prohibit electronic service of notices to vacate.

The Act already recognises that it is particularly important that notices to vacate come to the attention of the renter, restricting the ways in which they can be served relative to other notices. Prohibiting electronic service would not prevent rental providers or agents from emailing notices to vacate to renters as a courtesy (as was relatively common prior to the amendments allowing for electronic service), but would mean the notice would still have to be served by hand or registered post.

2) Introduce a time limit on consent to electronic service.

A renter who provides consent to receive service at a given email address has effectively provided that consent indefinitely, unless they proactively tell the rental provider they withdraw it. Amending the service provisions to allow for electronic service where a person has consented within the last 12 months (for example) would reduce the risk that notices to vacate are sent to email addresses that are no longer in regular use.

¹ ‘Key findings’, *Australian Digital Inclusion Index*, <https://www.digitalinclusionindex.org.au/key-findings-and-next-steps/>. Accessed 21 July 2025.

- 3) Remove consent to electronic service from CAV's standard form rental agreements

It's easy for a renter who is completing a rental agreement form to indicate consent without really considering whether doing so is in their best interests, or for agents to attempt to assist renters by prefilling the agreement to include their email address without checking for genuine consent. Removing this section of the standard rental agreements would make it more likely parties provided consent proactively and with consideration, rather than in the process of completing a lease.

- 4) Provide additional information about electronic service on CAV forms.

If consent to electronic service remains part of standard form rental agreements, there is significant scope for those forms to provide more and better information for renters. For example, the less frequently used form for 'Consent to electronic service of notices and other documents' published by CAV specifies "You should only consent to electronic service if you check your emails (or other preferred method of service) regularly." Wording like this would make the rental agreement clearer and more useful to all parties.

- 5) Provide guidance to renters about the implications of consent to electronic service.

At present, there is little publicly available information for renters about the effect of consenting to electronic service, the importance of providing consent only if you are able to open email attachments, or the right to withdraw that consent if email access changes. CAV could publish and promote this information, for example by including it in the Renters Guide or adding it to the Consumer Affairs website, or through targeted promotional activities.

For more information:

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