

Flood & cyclone legal help

Produced by the Queensland Legal Assistance Forum



Are you a tenant affected by the floods or cyclones?

When you rent a place to live in Queensland your tenancy agreement is covered by the *Residential Tenancies and Rooming Accommodation Act 2008*. This factsheet is for residential tenancies, however, most of this information also applies to rooming accommodation such as boarding houses.

If you want to leave

Where the premises have been destroyed or made completely or partially unfit to live in because of floods, storms or cyclones, you can give a *Notice of Intention to Leave* using the Residential Tenancies Authority (RTA) Form 13. You can give this notice anytime within one month of the event. The grounds for the notice are “non-livability” and the notice can be for the same day.

- › If you live in a caravan park and the park is unlivable you can give this notice.
- › If you live in rooming accommodation you can use the *Resident leave form*.

It would be a good idea to take photos and have some evidence of non-livability in case there is a dispute about it.

If the lessor wants you to leave

The lessor or agent can give you a Notice to Leave where the premises is destroyed or made completely or partly unfit to live in by flood or storm damage. They can give this notice within one month of the event for the same day.

If you want to stay

Where the lessor has given you a notice and you want to stay you can dispute the notice by using the RTA’s dispute resolution process. Set out the reasons you want to stay in a letter to the lessor or agent and send a copy of this letter with the RTA Form 16 *Dispute resolution request* to the RTA.

Make sure you mark this Form 16 with a cover note to indicate that your tenancy is in a flood or cyclone affected area.

Rent

If you want to stay and the premises are destroyed or completely or partly unfit to live in because of floods or cyclones, you can try to negotiate reduced rent with your lessor or agent. Put any agreement in writing and keep a copy.

If you can’t reach an agreement, you can apply to the RTA for dispute resolution using a Form 16. If the RTA’s dispute resolution is unsuccessful, once you receive a *Notice of unresolved dispute* you can then apply to the Qld Civil and Administrative Tribunal (QCAT) for an order about the rent decrease. Even if you are not living there while the premises are being fixed, you are required to continue paying rent until the dispute is resolved. If this is not possible for you, seek advice immediately.

Repairs

If the premises are damaged you must notify the lessor or agent as soon as practicable.

If a repair issue is deemed an “emergency repair” under the tenancy legislation you can apply directly to QCAT for an urgent hearing, or arrange for emergency repairs to be carried out, up to the value of two weeks’ rent. An “emergency repair” includes flooding or serious flood damage, serious storm damage and serious roof leak. This does not apply to rooming accommodation.

Repair requests can be outlined on an RTA Form 11 *Notice to remedy breach*.



Cleaning due to flood damage

When the premises have been made dirty from floods or cyclones, the lessor is responsible for cleaning the property and inclusions and you are responsible for cleaning your goods and possessions. However, many tenants, councils, community groups and individuals have been helping out and an agreement can often be negotiated.

If you are moving out, ensure that you clean and remove your possessions. You are not responsible for cleaning flood or cyclone damage. If there are parts of the property that are not damaged and which you can reasonably access, you should return these to the condition you received them in except for fair wear and tear.

Bond

You should deal with the bond refund as soon as the tenancy is terminated.

If all parties agree on the bond refund and complete the RTA Form 4 *Refund of rental bond* accordingly, the RTA can immediately refund the bond as long as the names and signatures on the Form 4 match all those currently registered with the RTA.

If you cannot agree with the lessor or agent about the bond, then any person who is a party to the bond can complete a Form 4 and send it directly into the RTA. The RTA will act on the first Form 4 they receive and notify the other party that a claim has been made. Make sure the RTA always has your up-to-date address for contact.

The RTA will hold the disputed bond amount while the parties go through the bond dispute process.

Compensation

Generally, compensation is not available for losses caused solely by flood, cyclone or storm damage.

However, if the lessor/agent:

- › was notified of a repair issue prior to an act of nature occurring and
- › failed to repair within the permitted time stated in the notice (or, if no time is stated in the notice, within a reasonable time), and the failure to repair caused the tenant to make a loss/make further losses

you may be able to claim compensation against the lessor/agent.

For more information contact:

Tenants' Union of Queensland (TUQ)

The Tenants' Union of Queensland is a statewide organisation that provides free advice services and represents the interests of tenants in Queensland. The TUQ aims to improve and protect the rights of all people who rent their home.

 www.tuq.org.au

 **1300 744 263**

- › Statewide: 9am – 4pm Monday to Friday and until 7pm Tuesday & Wednesday
- › Fraser Coast: 9am – 1pm Monday to Friday
- › North Queensland: 2pm – 5pm Tuesday & Thursday

Tenant Advice and Advocacy Services (TAAS)

Tenants can contact their local TAAS for tenancy advice, advocacy and support. Look under “T” in the phone book for your local TAAS.

Residential Tenancies Authority (RTA)

The RTA is the government authority that oversees renting laws in Queensland. The RTA provides information and services for tenants, lessor and agents. RTA forms are available from Australia Post offices and the RTA.

 www.rta.qld.gov.au

 **1300 366 311**

Translating and Interpreting Service (TIS)

If you need an interpreter to speak with a tenant advice service call TIS on 131 450.