

Repairs & maintenance

When you rent a place to live, the lessor, agent or provider must ensure the place is fit for you to live in and is in good repair. The *Residential Tenancies and Rooming Accommodation Act 2008* ('the Act') describes the rights and responsibilities of lessors, agents, providers and tenants in relation to repairs and maintenance and the steps you can take to resolve a dispute.

Lessor responsibilities

The lessor or provider is responsible for the repair and maintenance of the premises, including common areas or shared facilities.

When you move in, the lessor, agent or provider must ensure the place is in good repair, is clean, fit for you to live in, is reasonably secure and complies with laws relating to health and safety.

You and the lessor, agent or provider must use an Entry Condition Report form to record the condition of the premises at the start of your tenancy. This is only required in rooming accommodation if a bond has been charged.

During the agreement, the lessor or provider must keep the premises and any common areas in good repair, maintain the premises so they are fit for you to live in, ensure the premises are secure, and must comply with any laws relating to health and safety.

Tenant responsibilities

You are responsible for keeping the premises clean having regard for their condition at the start of the agreement.

You must promptly report any repairs or maintenance to the lessor, agent or provider who must carry out the repairs within a reasonable time. You must not make changes or add fixtures to the premises without written permission.

You and your guests must not maliciously damage the premises, facilities or common areas. You can be held responsible for the cost of damage caused by you or your guests.

When you move out, you must leave the premises in a clean condition, similar to the condition when you moved in. You are not responsible for reasonable wear and tear during your tenancy.

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Tenancy Facts are published by Tenants Queensland (TQ) to assist tenants and residents. Tenancy Facts are available from your local QSTARS advice service or TQ at www.tenantsqld.org.au

Who's who? A **lessor** is the person who gives a **tenant** the 'right to occupy' a residential premises under the Act. Lessors often employ real estate **agents** to work on their behalf. A **provider** is a person who provides rooming accommodation to **residents**.

The Residential Tenancies Authority (RTA) is the government authority that oversees tenancy laws in Queensland. Tenancy forms are available from the RTA online at www.rta.qld.gov.au or call the RTA on 1300 366311

The Tribunal refers to the Queensland Civil and Administrative Tribunal (QCAT), which hears residential tenancy disputes. To find your local Tribunal visit www.qcat.qld.gov.au or call QCAT on 1300 753 228



Repairs on entry

When you move in, you may notice items that require repair. You can record this on the Entry Condition Report. Making a note on the Entry Condition Report that items are not working and need repair does not automatically mean they will be fixed, you still need to ask the lessor, agent or provider to do the repairs.

Remember that the lessor, agent or provider is responsible for organising and completing repairs. It is your right to ask for repairs to be done.

Before you sign the agreement, if the lessor, agent or provider agrees to do repairs or improve facilities write this down as a special term in the agreement. If agreed repairs or improvements are not done this is a breach of the agreement. You can then follow the breach process described in this Tenancy Facts.

Solving disputes

During your agreement the lessor or provider is responsible for repairs and general maintenance of the premises and must ensure the place is reasonably secure.

To request repairs, talk to the lessor, agent or provider or make a written request. You can use a Notice to Remedy Breach form to request repairs. Keep a copy as evidence of your request.

If repairs are not done in a reasonable time you can apply to the RTA Dispute Resolution Service.

If the RTA cannot help you reach an agreement you can apply to the Tribunal for a hearing. In some cases you can apply directly to the Tribunal for an urgent hearing about repairs.

In certain circumstances you can carry out emergency repairs yourself. Emergency repairs are defined in the Act, which sets out a process you must follow.



Repairs & maintenance

Entry condition report

When you move in, you must record the condition of the property on the Entry Condition Report. This is only required in rooming accommodation if a bond has been charged.

The lessor, agent or provider must complete an Entry Condition Report and give you a copy on or before the day you are entitled to move in. You have three business days, from the day you are entitled to move in, to inspect the premises and write your comments on the form. You must sign the form, and return a copy to the lessor, agent or provider. Make sure you keep a copy for your records. The lessor, agent or provider, must also make a copy of the report and return it to you within 14 days.

The Entry Condition Report provides important evidence about the condition of the property when you move in. Take time to inspect the premises carefully. Check that items are working before you say they are. Note the condition of any carpet, floors, curtains, blinds, walls, windows, and the standard of any lawn or garden area. It can also be useful to take photos as additional evidence.

If you disagree with anything the lessor, agent or provider has written on the Entry Condition Report, you can add your own comments in the column headed 'Tenant' or 'Resident'. If you don't have enough room, write your comments on a separate piece of paper. Sign and date each page and attach them to the form.

Your lessor, agent or provider must return a signed copy to you within 14 days and keep a copy of the Entry Condition Report for at least one year after the tenancy ends.

Exit condition report

When you move out you are responsible for leaving the property in a similar condition to when you moved in (reasonable wear and tear excepted).

Use an Exit Condition Report form to record the condition of the premises when you leave (this does not apply in rooming accommodation but is useful). You must complete and sign the form, and provide a copy to the lessor or agent as soon as practicable when you move out. You must also return the keys as soon as possible when you move out.

When you give the lessor or agent a copy of the Exit Condition Report they have three business days to inspect the premises, add their comments and send you a copy of the completed form at the forwarding address you included on the form.

Keep a copy of the Exit Condition Report for your records. Your completed Exit Condition Report and photos of the premises can provide important evidence if there is a dispute over the refund of your rental bond.

At the end of your tenancy you can use a Refund of Rental Bond form to apply to the RTA for a refund of your bond.

For more information see the Rental Bonds Tenancy Facts.

Locks keys and security

The lessor, agent or provider must supply and maintain the locks that are necessary to ensure the premises are reasonably secure. Locks and keys include security devices such as garage remote controls, access cards, window locks and mail box locks.

In residential tenancies, if there is only one tenant, you must be given a key for each lock. If there is more than one tenant, you must be given one full set of keys (e.g. for internal doors, windows) and entry keys for each other tenant named on the tenancy agreement.

In rooming accommodation, each resident must be given a key to their room and any keys you need to access the building or common areas.

Disputes about locks & keys

If the premises are not reasonably secure, if locks need repair or if you are not given keys, immediately notify your lessor, agent or provider. If the problem is not fixed, give your lessor, agent or provider a Notice to Remedy Breach that asks them to fix the problem by the due date. You must allow at least seven days notice.

You can use a Dispute Resolution Request form to apply to the RTA for conciliation assistance to resolve the dispute. If the RTA cannot assist you to resolve the dispute they will send you a Notice of Unresolved Dispute. You can then apply to the Tribunal for a non-urgent hearing.

At a Tribunal hearing about security, or locks and keys, the Tribunal can make a range of orders including:

- An order requiring the lessor or provider to repair a lock, or supply a lock to the premises.
- An order authorising a tenant, lessor, resident or provider to change a lock.
- An order that a key be given, or is not required to be given, to the other party.

In deciding a dispute about locks and whether the premises are reasonably secure, the Tribunal can consider a number of issues including; the risk to your personal safety, the risk of theft or damage to your belongings, the likelihood of break-ins or other unlawful entry, the requirements of insurance companies, community standards about adequate security, the physical characteristics of the premises, and anything else the Tribunal considers relevant.

Promptly report any repair or maintenance requests to the lessor, agent or provider. They should carry out the repairs within a reasonable time.



Requesting repairs

During your tenancy agreement, your lessor or provider is responsible for ongoing repairs and maintenance. The process you use to get repairs completed will depend on the type of repair.

For residential tenancies, the Act specifies three types of repairs: routine repairs, emergency repairs and urgent repairs that affect tenant health and safety. In rooming accommodation or short tenancy agreements in moveable dwelling parks, only routine repair provisions apply.

Notify the lessor, agent or provider

If you become aware of a repair or maintenance issue, you should notify the lessor, agent or provider as soon as possible. Contact them by phone, in person, or by email, and ask for the problem to be fixed. Try to arrange a time for the repairs to be completed.

It is best to put your repair request in writing and keep a copy. Your written repair request is evidence that you have notified the lessor, agent or provider about the problem.

Issue a Notice to Remedy Breach

You can use a Notice to Remedy Breach form to notify the lessor, agent or provider about the need for repairs or maintenance. This notice is evidence of your repair request and gives a date by which the repairs must be done.

The Notice to Remedy Breach must give the lessor, agent or provider a minimum time period to do the repairs. For general tenancies, allow at least seven days for the breach to be remedied. For rooming accommodation, allow at least five days.

Routine repairs

For routine repairs, give the lessor, agent or provider a Notice to Remedy Breach explaining what repairs are needed. If the problem is not fixed by the due date on your notice, you can apply to the RTA Dispute Resolution Service for conciliation to reach an agreement to resolve the dispute.

When negotiating, consider what solution you are seeking, such as:

- An agreement that the repairs will be done by a set date.
- Compensation for your costs or damage to your goods.
- A rent decrease because amenities or part of the premises cannot be used, or the standard of the premises has declined as a result of the repair problem.
- A written mutual termination agreement to release you from the tenancy without financial penalty.
- An agreement to end the tenancy and compensate you for your relocation costs due to the breach by the lessor or provider.

If the RTA cannot assist you to reach an agreement about a repair you can then apply to the Tribunal for an order about the breach.

Can you withhold rent?

You should not stop paying rent because the lessor, agent or provider has failed to do repairs. Withholding rent will put you in breach of your agreement and will not help to resolve the repair issue. You also risk your agreement being terminated for rent arrears. If you want to request a rent decrease it is advisable to negotiate a written agreement with the lessor or provider or apply to the Tribunal for an order.

Can you do repairs yourself?

If you want to do repairs yourself, you must first seek permission from the lessor, agent or provider. If they agree that you can do the work, make sure this agreement is in writing before you start work, including any agreement about reimbursing your costs.

Rent decreases

In some situations, you may be entitled to a rent decrease because repairs and maintenance have not been done, the standard of the premises has declined, or services or facilities are no longer available.

To request a rent decrease, contact your lessor, agent or provider and see if you can reach an agreement. If you reach an agreement about a rent decrease, put it in writing.

If you are unable to reach an agreement use a Dispute Resolution Request form to apply to the RTA Dispute Resolution Service for assistance. If the RTA cannot help you to reach an agreement, you can apply to the Tribunal for a non-urgent hearing about the rent decrease.

You can apply to the Tribunal for a rent decrease in the following circumstances:

In residential tenancies:

- Services, facilities or goods that are part of the agreement become unavailable or withdrawn (other than because of a breach by you).
- The amenity or standard of the premises substantially decreases (other than because of malicious damage by you).
- The premises can no longer be lawfully used as a residence or is compulsorily acquired by an authority.

In rooming accommodation:

- Because your room or the common areas become partly unfit to live in or their amenity or standard substantially decreases (other than because of a breach by you).
- Because a service provided under the agreement becomes unavailable or its standard substantially decreases.

Emergency repairs

Emergency repairs are defined in the Act. In an emergency repair situation, you can either apply directly to the Tribunal for an urgent hearing, or may be able to arrange for emergency repairs to be carried out, up to the value of two weeks rent. Emergency repair provisions do not apply to rooming accommodation agreements or short tenancy moveable dwelling agreements.

In the Act emergency repairs are defined as:

- A burst water service or a serious water service leak.
- A blocked or broken lavatory system.
- A serious roof leak.
- A gas leak.
- A dangerous electrical fault.
- Flooding or serious flood damage.
- Serious storm, fire or impact damage.
- A failure or breakdown of the gas, electricity or water supply to the premises.
- A breakdown of an essential service or appliance on the premises for hot water, cooking or heating.
- A fault or damage that makes the premises unsafe or insecure.
- A fault or damage likely to injure a person, damage property or unduly inconvenience a tenant.
- A serious fault in a staircase, lift or other common area of the premises that unduly inconveniences a tenant in gaining access to or using the premises.

Arranging emergency repairs

If emergency repairs are required, immediately notify your lessor, agent or nominated repairer. Some tenancy agreements include details for the lessor's nominated repairer, and will state whether or not this person is your first point of contact for emergency repairs.

If you are unable to contact the lessor or agent, or if the emergency repairs are not done within a reasonable time, you can arrange for a suitably qualified person to carry out the repairs. You should get more than one quote before arranging for the repairs to be done.

You can spend an amount equal to two weeks rent on emergency repairs. You can then request reimbursement from the lessor for the cost of the repairs.

To request reimbursement for emergency repairs, write to the lessor or agent, enclosing a copy of the repair receipt and requesting reimbursement within seven days. The letter can also state that if the lessor does not reimburse you for the cost of the emergency repairs, you may apply directly to the Tribunal for an order.

Keep a copy of the letter, the original receipt and copies of all quotes as evidence.

Going to the Tribunal

For routine repairs, if the RTA Dispute Resolution Service cannot assist you to reach an agreement, they will issue a Notice of Unresolved Dispute. You can then apply to the Tribunal for a non-urgent tenancy hearing and seek an order about the repair issue. You can request an order that repairs are done, or seek an order for compensation or a rent decrease.

In residential tenancies, if the repairs are 'emergency repairs', or if the failure to do the repairs affects tenant health or safety, tenants can apply directly to the Tribunal for an urgent hearing about the repairs, without first going through RTA Dispute Resolution.

If you have a fixed term residential tenancy agreement you can apply to the Tribunal for an urgent hearing to terminate the tenancy if the lessor or agent has failed to remedy a serious breach by the due date on a Notice to Remedy Breach form.

Repairs affecting health and safety

In residential tenancies if the lessor or agent fails to do repairs and this endangers your health and safety, you can apply directly to the Tribunal for an urgent hearing about the repairs.

Before making the application, you should inform the lessor or agent of the damage or need for repair. This does not have to be on a Notice to Remedy Breach form, but it is advisable to use this notice and keep a copy for your records.

If repairs are not done you can apply to the Tribunal for an urgent hearing and seek an order that the lessor carry out the repairs. You will need to provide the Tribunal with evidence about the repair problem, including copies of letters or breach notices you have sent to the lessor, and any relevant photographs, reports or quotes from tradespeople.

The provisions about urgent repairs do not apply in rooming accommodation or short tenancy moveable dwelling agreements.

Tribunal orders about emergency repairs

If you do not want to arrange for emergency repairs yourself, you can apply directly to the Tribunal for an urgent hearing about the emergency repairs. The Tribunal can make a range of orders, such as:

- The lessor carry out the emergency repairs.
- You arrange for the emergency repairs to be done and the lessor pays for the repairs or reimburses you for their cost.
- If you have already paid for emergency repairs, an order that the lessor reimburse you for this cost.

If you suffer financial loss or have been unable to use part of the premises or facilities because of the emergency repair problem you could also request a rent decrease or compensation.

If you need help to apply to the Tribunal contact a tenant advice service.

Use a Notice to Remedy Breach form to put your repair request in writing. Keep a copy as evidence.

Adding fixtures

You can only attach fixtures or make structural changes to the premises if you have a written agreement with your lessor, agent or provider. Your lessor or provider must not be unreasonable in refusing to let you attach a fixture or make a structural change.

Written agreements about adding fixtures, or making structural changes to the premises should state; what the agreed fixture or changes will be, whether or not you can remove the fixture when you leave, if you leave the fixture or changes in place when you move out whether you are entitled to any compensation, or if you remove the fixture who is responsible for fixing any damage caused by the removal.

If you have a dispute with the lessor, agent or provider regarding a proposed fixture or structural change, you can apply to the RTA free Dispute Resolution Service for assistance to resolve the dispute. If the RTA is unable to help solve the problem, you can then apply to the Tribunal for a decision.

If you need to alter the premises due to some disability or impairment, section 84 of the *Anti-Discrimination Act 1991 (Qld)* will apply. Your lessor, agent or provider cannot discriminate against you by refusing to allow reasonable alterations, provided:

- The alterations are done at your expense.
- The alterations do not require any change to another premises.
- You agree to restore the premises to its previous condition before you leave.

Tenant damage

The lessor or provider is responsible for reasonable fair wear and tear during the tenancy. If you or your guests maliciously damage the premises, you may be responsible for the cost of the repairs.

You should report damage to the lessor, agent or provider and reach an agreement about any repairs. If you do not notify the lessor, agent or provider about damage to the premises and the problem becomes bigger, you could be held responsible for any additional damage.

If you don't report damage, it may be noticed during a routine inspection. Your lessor, agent or provider can give you a Notice to Remedy Breach requesting that you repair damage you have caused.

If you receive a notice about repairs but do not believe that you or your visitors have caused the damage, you can dispute this notice.

In residential tenancies, if you are given a Notice to Remedy Breach to repair damage you have caused and the cost of repairs is more than one weeks rent, the lessor or agent can give you an Entry Notice to inspect the premises to ensure the breach has been remedied. An Entry Notice for a significant breach can only be issued within 14 days after the remedy period stated on the Notice to Remedy Breach ends.

Terminating the tenancy

If you have issued a Notice to Remedy Breach, but the breach is not remedied (fixed) by the due date on your notice, you may be able to take action to end the agreement due to the lessor, agent or provider's 'unremedied breach' of the agreement.

In rooming accommodation, you can give seven days notice on a Resident Leaving Form that you are leaving due to the provider's failure to remedy the breach. This applies to both periodic and fixed term agreements.

If you have a periodic residential tenancy agreement, you can issue a Notice of Intention to Leave form and give seven days notice that you are leaving due to the lessor's 'unremedied breach'.

If you have a fixed term residential tenancy agreement and the lessor fails to remedy a breach, you can apply to the Tribunal for an urgent hearing and seek an order to terminate the tenancy. You must have first issued a Notice to Remedy Breach and the repair issue must be serious to justify termination of the tenancy agreement.

If you have to move out, or if the Tribunal agrees to terminate your tenancy because the lessor or provider breached the agreement, you could also seek compensation for your relocation costs or the expenses arising from the breach.

Repeated breaches

You can apply to the Tribunal for an urgent hearing to terminate the agreement for 'repeated breaches' if your lessor, agent or provider breaches the agreement in a similar way three times in a 12 month period. This applies if you have issued the lessor, agent or provider with a Notice to Remedy Breach on two occasions and each time they fix the problem within the required notice period. If they breach the agreement again in a similar way for a third time within 12 months, you can apply directly to the Tribunal for an urgent hearing to terminate your tenancy. In the Tribunal, you will need to show copies of your breach notices as evidence.

Non-liveability

If the premises become non-liveable, either party can end the agreement by giving the other party a same day Notice to Leave, Notice of Intention to Leave or Resident Leaving form. This applies if rental premises, or a facility in a moveable dwelling park, is destroyed or made completely or partly unfit to live in (other than because of a breach of the agreement), or if the premises can no longer be lawfully used as a residence.

Non-liveability usually results from an 'act of nature' such as flood or cyclone. It does not apply in circumstances where a lessor or provider has breached the agreement by failing to carry out repairs and maintenance.

A notice ending the agreement for non-liveability can only be issued within one month of the event that caused the premises to be non-liveable.

If premises become non-liveable but you want to stay, you could talk to the lessor, agent or provider to negotiate a rent decrease.

Contracting out

Tenants, residents, lessors or providers must not enter into an agreement that contradicts the provisions of the Act. The Act states that the lessor or provider is responsible for repairs and maintenance. Any term in your agreement which states that you are responsible for routine repairs and maintenance is void and unenforceable.

It is an offence for someone to intentionally, either directly or indirectly, include terms in a tenancy agreement that seek to 'contract out' of the Act. If the lessor, agent or provider does this, you could report them to the RTA who will investigate the issue. The lessor, agent or provider could be fined.

Carpets

The Act requires that tenants care for the premises and leave the place at the end of a tenancy in a similar condition to the start of the tenancy, fair wear and tear excepted. The Act applies regardless of what your tenancy agreement says.

If the carpets were professionally cleaned before you moved in, you are responsible for leaving them in a similar condition when you leave. If the carpets were dirty and were not professionally cleaned before you moved in, you should note this on your Entry Condition Report. In this case, you should not be expected to undertake professional carpet cleaning when you move out.

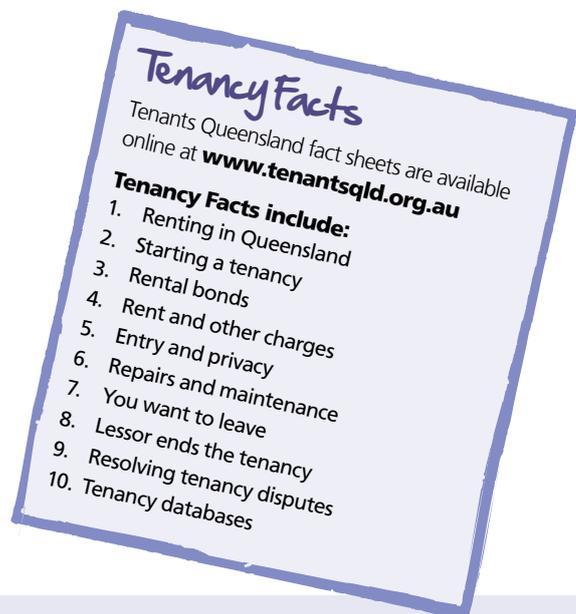
Bond disputes over the cost of wear or damage to carpets are common. When moving in and moving out, pay close attention to the condition of the carpet and write your comments on the Entry or Exit Condition Report forms. You may also want to take photos as additional evidence.

Pest control

The Act says that the lessor, agent or provider must maintain the premises in good repair and in a state fit for you to live in. You must keep the place clean and not damage the premises.

If you follow your responsibilities under the Act and do not cause a pest problem (e.g. by keeping a pet on the premises), then, regardless of what is written in your agreement, your lessor, agent or provider will be responsible for pest control.

If you have a pet in the premises during the tenancy, you will need to do pest control or have professional pest control carried out. Keep any receipts as evidence. If there is a dispute about pest control, these documents can show that you have taken reasonable steps to reduce any pest control problem.



Further help

Tenants Queensland

Tenants Queensland (TQ) is a specialist community and legal service that has been providing services to and representing the interests of residential renters in Queensland since 1986. The QSTARS advice service is managed by TQ and delivered in collaboration with partner organisations.

For more information visit www.tenantsqld.org.au

Queensland Statewide Tenant Advice and Referral Services (QSTARS)

QSTARS provides specialist tenancy advice, advocacy support and referral for Queensland renters.

Contact QSTARS for tenancy advice on: **1300 744 263**

Open Mon – Fri 9am – 5pm (extended hours to 7pm on Tues & Wed)

Visit www.qstars.org.au for fact sheets and information



Tenants Queensland is an independent community organisation. We gratefully acknowledge funding from the Commonwealth Government Community Legal Services program and the State Government Department of Housing and Public Works QSTARS program

Disclaimer: This brochure provides information only and is not intended to provide legal advice.

Translating and Interpreting Service (TIS)

If you need an interpreter let us know when you call, or call the TIS translating and interpreting service on 131 450 and they can help you contact our service.

Queensland Civil Administrative Tribunal (QCAT)

QCAT hears tenancy matters at the QCAT registry in Brisbane or in your local Magistrates Court (except Brisbane). To get QCAT forms or find your local Tribunal visit www.qcat.qld.gov.au or call QCAT on 1300 753 228

Residential Tenancies Authority (RTA)

The RTA is the Queensland government authority. RTA tenancy forms are available at www.rta.qld.gov.au or call 1300 366 311