

# 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 leaving 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 are 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 you have not been given a *Notice to leave*, but 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 Queensland 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. 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 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 flood or cyclone 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.

## Do you need extra help accessing our services?



We can organise for an accredited interpreter to help you. We are committed to making our services accessible to people from culturally and linguistically diverse backgrounds and people with disabilities.

If you would like this factsheet explained in your language, please phone the Translating and Interpreting Service on 13 14 50 to speak to an interpreter. Ask them to connect you to Legal Aid Queensland. If you are deaf or have a hearing or speech impairment you can contact us using the National Relay Service. Visit [www.relayservice.gov.au](http://www.relayservice.gov.au) and ask for 1300 65 11 88 (our legal information line). These are free services.

## For more information

### Tenants Queensland (TQ)

Tenants Queensland is a specialist community legal centre that provides a free advice service for tenants in Queensland. TQ aims to improve and protect the rights of all people who rent their home.

[www.tenantsqld.org.au](http://www.tenantsqld.org.au)  
1300 744 263

**Statewide:** 9am – 5pm Monday to Friday  
Extended hours to 7pm Tuesday and Wednesday

### 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, online or over the phone.

[www.rta.qld.gov.au](http://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.

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

## Your Local Legal Aid Queensland office:

### BRISBANE

44 Herschel St, 4000

### BUNDABERG

3rd Floor, WIN Tower,  
Cnr Quay & Barolin Sts, 4670

### CABOOLTURE

Ground Floor, Kingsgate  
42 King St, 4510

### CAIRNS

Level 2, Cairns Square Complex,  
42-52 Abbott St, 4870

### INALA

Level 1, Inala Commonwealth  
Offices, 20 Wirraway Pde, 4077

### IPSWICH

Level 7, 117 Brisbane St, 4305

### MACKAY

Ground Floor,  
17 Brisbane St, 4740

### MAROOCHYDORE

Ground Floor, M1 Building  
1 Duporth Ave, 4558

### MOUNT ISA

6 Miles St, 4825

### ROCKHAMPTON

Ground Floor, 35 Fitzroy St, 4700

### SOUTHPORT

Level 2, 7 Bay St, 4215

### TOOWOOMBA

1st Floor, 154 Hume St, 4350

### TOWNSVILLE

3rd Floor, Northtown  
280 Flinders St, 4810

### WOODRIDGE

1st Floor, Woodridge Place,  
Cnr Ewing Rd & Carmody St, 4114

**For more information  
about our services visit  
[legalaid.qld.gov.au](http://legalaid.qld.gov.au)**

or phone 1300 65 11 88  
or 1300 650 143 (Indigenous Hotline)

