

Natural disasters

Information for landlords

Fair Trading can help you with renting issues in a natural disaster.

As a landlord it is vital you know what your rights and responsibilities are if the rental property has been affected by a natural disaster, such as a flood, bushfire or storm damage.

Common questions are answered below.

My rental property was destroyed. How can I end the lease?

If the property was destroyed or is unfit to live in, the lease has effectively ended.

The most practical approach is to issue the tenant with a notice to immediately vacate the property.

Alternatively, you can agree with the tenant and sign documentation to end the lease.

Do I have to provide the tenant with alternative accommodation?

You are not legally obliged to do so; your responsibilities end with the termination of the tenancy. However, you may choose to provide assistance.

Am I responsible for cleaning debris caused by a disaster?

Yes. You are responsible for maintaining the property, including cleaning or clearing any debris caused by a disaster.

Before arranging cleaning, contact the local authorities, such as the emergency services, who may already have a cleaning program in place.

The tenant is only responsible for any cleaning that arises from their use of the property.

When engaging cleaning and repair services, be wary of travelling con men posing as tradespeople - see the warning below.

Am I responsible for arranging for services to be restored?

If a utility service has been cut off because of damage to the property, you are responsible for repairing the property so the service can be restored.

If there is no damage to the property, the tenant must contact the utility company and arrange for services to be restored.

Should I reduce the rent because the property has been damaged?

If a disaster has caused damage to property facilities such as the garage, swimming pool, sheds or outbuildings, you should consider reducing the rent.

In these circumstances, the tenant has the right to apply to the NSW Civil and Administrative Tribunal to assess whether a reduction is reasonable.

Can I claim all or part of the bond to cover damage caused to my rental property by a disaster?

No. You can only claim bond money at the end of a tenancy for the cost of repairs or cleaning due to the tenant's use of the property.

Do I need to compensate the tenant for their possessions that were destroyed or damaged in this disaster?

Normally, a tenant is responsible for their own contents insurance.

Unless the landlord can be shown to be negligent, the tenant will bear the cost of damage to their possessions.

Can I inspect the damage to my rental property?

If your property has been destroyed or damaged so that it is unfit to live in, you can inspect it at any time, as long as you have the permission of local authorities.

You should contact the police or emergency services before travelling to a disaster area.

The usual arrangements for inspections apply if your property is still leased and the tenants are living there. You can inspect the property provided you give the tenant appropriate notice.

Warning - travelling con men

Travelling con men and unlicensed traders target disaster-affected areas, offering cheap, cash-only repairs to roofs, driveways and fences.

If you take up such offers, you run the risk of:

- substandard work
- being left out of pocket if the trader disappears before finishing the job
- being unable to contact the trader once they have been paid, and
- paying more to have a legitimate tradesperson repair shoddy work.

Before you employ a tradesperson:

- contact your insurer first, to check your policy and find out whether you are covered
- ask around for suitable tradespeople
- check they are licenced to do the work
- get quotes
- do not pay in full up front
- avoid tradespeople who give only mobile numbers and first names. You may not be able to contact them if there is a problem
- be wary of door-to-door offers - get proof that the tradesperson is offering the deal legally and appropriately
- check with your local council whether a building permit or other approval is needed for the repair work.

Ask for a tradesperson's full name and licence number so you can check it. You can check a tradesperson's licence on the Home building licence check page on the Fair Trading web site.

For trades that do not require registration, ask the tradesperson for the membership number of their professional association. Members of such organisations will satisfy the association's membership criteria, which usually includes insurance and working to professional codes of ethics.

To report travelling con men, contact Fair Trading by calling 13 32 20.

Special laws for emergency repairs

Businesses can approach consumers and supply urgent goods and services after a natural disaster in some circumstances, without complying with all unsolicited sales requirements - for example, door-to-door sales requirements.

These emergency repair contracts can be used when:

- the supplier doing the work has a relevant state, territory or national licence to do the work - for example, a building or contractor's licence
- the contract is only for repairs required because of the disaster, and the property is in a state of emergency declared by the Commonwealth, state or territory government
- the repairs are only to:
 - rectify a hazard or potential hazard on the person's property
 - protect the health and safety of persons on the property
 - prevent substantial damage to the person's property.

In such cases, the business:

- does not have to give or notify the consumer of the 10-business-day cooling-off period
- can provide the goods or services under the contract and accept payment with 10 business days.

A trader must not call on a consumer:

- before 9am or after 6pm, Monday to Friday

- before 9am or after 5pm on Saturday
- on a Sunday or public holiday.

www.fairtrading.nsw.gov.au
Fair Trading enquiries 13 32 20
TTY 1300 723 404
Language assistance 13 14 50

This fact sheet must not be relied on as legal advice. For more information about this topic, refer to the appropriate legislation.

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