

# Repairs, maintenance and damage when renting

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## General information

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A rental property must always be fit to live in.

Landlords are responsible for repairing and maintaining the property so that it is in a reasonable state of repair, considering the age of the property, the amount of rent being paid, and the prospective life of the property.

This does not mean that the property must be in perfect condition.

The state of the property and the level of repair expected should be in proportion to the property's age and the amount of rent.

Tenants must keep the property in a reasonable state of cleanliness, considering the condition of the property at the start of the tenancy.

Tenants are responsible for minor maintenance including replacing light bulbs, cleaning windows, dusting, removing cobwebs and routine garden maintenance such as watering, mowing and weeding.

## Getting repairs done

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The tenant must have written permission from the landlord, including agreement on reimbursement, from the landlord, unless the repair is an **urgent repair**.

The tenant should request the repair in writing to the landlord explaining what needs fixing.

Even when repairs are not completed, a tenant should **never** stop paying the rent.

Withholding rent will put them in breach of their tenancy agreement and the tenancy may be terminated. See Resolving property repair, maintenance or damage disputes for options.

## **Types of repairs that are urgent**

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If an urgent repair is required, the tenant should contact the landlord or agent as soon as possible. If an urgent repair is needed, the tenant needs to notify the landlord or agent right away and arrangements should be made as soon as possible.

Urgent repairs include:

- a burst water service or a serious water service leak
- a blocked or broken toilet
- a serious roof leak
- a gas leak
- an electrical fault
- flooding or serious flood damage
- serious storm or fire damage
- a failure or breakdown of the gas, electricity or water supply to the property
- a failure or breakdown of the hot water service
- a failure or breakdown of the stove or oven
- a failure or breakdown of a heater or air-conditioner
- a fault or damage which makes the property unsafe or insecure.

Smoke alarms must also be repaired urgently to ensure they are working – further information on this is provided below under [Smoke alarms](#).

## **Tenants can arrange urgent repairs in these circumstances**

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If the tenant cannot contact the landlord or agent, or if the landlord does not carry out urgent repairs within a reasonable time, the tenant can:

- refer to the tenancy agreement for the details of a nominated tradesperson to contact (if any)
- arrange for the work to be completed, and
- be reimbursed, up to \$1,000 by the landlord.

The landlord is only required to reimburse the tenant's costs if:

- the need for the urgent repair was not the tenant's fault
- they contacted the landlord or agent about the problem or made a reasonable attempt to do so
- they gave the landlord or agent a reasonable opportunity to get the repairs done, and
- the repairs were carried out by a licensed tradesperson (if appropriate).

After the repairs are done, the tenant needs to write to the landlord explaining the details of the repairs and include copies of all receipts.

The landlord must pay the tenant back within 14 days of receiving their written notice. If the landlord doesn't, tenants can contact our [tenancy complaints service](#).

If the urgent repairs are likely to cost more than \$1,000 or the tenant cannot afford to pay, the tenant can apply to [the Tribunal](#) for an urgent hearing order.

## Damage

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Tenants must not cause or allow damage to the property, either intentionally or through lack of care or attention, including by other occupants or invited guests.

If the tenant causes or allows damage to the property, the landlord or agent can ask the tenant to arrange to repair the damage or to pay for the costs of the repairs if they are done by the landlord or agent.

## Smoke alarms

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### Requirements for landlords

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#### Smoke alarms must be working

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Landlords must ensure that smoke alarms (including heat alarms) are working.

A smoke alarm is considered not working if it:

- is removed (and not replaced with a working smoke alarm)
- does not work (e.g. because the battery needs to be replaced)
- is malfunctioning (e.g. due to accumulated dust, insects, airborne contaminants and corrosion of electrical circuitry).

#### Time frame for repairing a smoke alarm

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Landlords must:

- ensure a smoke alarm is repaired or replaced **within 2 business days** of finding out that it's not working – this includes replacing a removable battery
- replace the battery within 2 business days of:
  - being notified by the tenant that the battery is not working, unless the tenant notifies that they will replace the battery
  - becoming aware that the tenant has not replaced the battery, or where the landlord hasn't been notified that the tenant has replaced the battery

#### Annual checks and battery change

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Landlords must:

- **check smoke alarms every year** to ensure they are working
- install or replace removable **batteries every year** (or for lithium batteries, in the period specified by the smoke alarm manufacturer)
- replace smoke alarms within 10 years of manufacture, or earlier if specified by the smoke alarm manufacturer
- give the tenant at least 2 business days' notice to inspect or assess the need for a smoke alarm repair or replacement
- give the tenant at least 1-hour notice to carry out a repair or replacement of a smoke alarm
- use a licensed electrician to repair or replace a hard-wired smoke alarm.

Visit the [Fire and Rescue NSW](#) website for information and guidance on how to check a smoke alarm to ensure it's working.

There are some exceptions to these requirements for residential property in a strata scheme.

### **Requirements for tenants**

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All tenants must notify the landlord if a smoke alarm is not working (including when a battery needs to be changed).

A tenant (but not a social housing tenant) can choose to replace a removable battery in a smoke alarm, but they will need to notify their landlord or agent.

For other repairs, or to replace a smoke alarm, tenants may:

- replace a battery powered smoke alarm if their landlord or agent does not repair or replace the smoke alarm within 2 business days
- arrange for a hard-wired smoke alarm to be repaired or replaced if their landlord or agent does not complete this work within 2 business days. They must use a licensed electrician to carry out the work.

There are some exceptions to these requirements for residential property in a strata scheme.

### **Requirements in strata schemes**

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Landlords with properties in a strata scheme have an obligation to ensure smoke alarms installed in the property are working.

The above smoke alarm requirements do not apply to properties in a strata scheme **only if**:

- the smoke alarms for the residential property are either:
  - hardwired, or
  - battery-operated and the owners corporation is responsible for the repair and replacement of the smoke alarms, and

- the landlord has advised the tenant in writing that the owners corporation is responsible for the repair and replacement of smoke alarms situated in the residential premises, and
- the landlord has notified the owners corporation, within 24 hours of becoming aware that a repair or replacement is needed, and
- the landlord has taken reasonable steps to ensure the repair or replacement of the smoke alarm is carried out.

This exemption ensures the smoke alarm requirements for landlords do not duplicate or conflict with requirements relating to fire safety and maintenance of smoke alarms that may apply in strata schemes.

Tenancy agreements that started from 23 March 2020 onwards have a section on smoke alarms where the landlord or agent must note whether the owners corporation of the strata scheme is responsible for the repair and replacement of smoke alarms inside the rented property.

### **Who can repair or replace a smoke alarm?**

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Below is more information to help landlords and agents understand their responsibilities for different types of smoke alarms, and the situations where a tenant can change a battery in a smoke alarm or arrange for a repair.

#### **Battery -powered alarms**

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<b>Type of repair</b>	<b>Responsibility in non-strata property</b>	<b>Responsibility in strata property</b>
<b>Replace alarm unit</b>	<p>The landlord, agent or person authorised by the landlord.</p> <p>The tenant may replace the alarm or arrange for it to be replaced if the landlord or agent does not do this within 2 business days of being notified that the alarm is not working.</p> <p>The tenant must notify the landlord or agent within 24 hours of the work being completed.</p>	<p>The landlord, agent or person authorised by the landlord, unless the Owners Corporation is responsible (this will be indicated in the tenancy agreement).</p> <p>If the Owners Corporation is not responsible, the tenant can arrange for replacement if the landlord or agent does not do this within 2 business days of being notified that the alarm is not working.</p> <p>The tenant must notify the landlord or agent within 24 hours of the work being completed.</p>

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<b>Type of repair</b>	<b>Responsibility in non-strata property</b>	<b>Responsibility in strata property</b>
<b>Repair alarm unit</b>	<p>Battery operated alarms should not be repaired unless the repair is changing the removable battery in the alarm.</p> <p>Otherwise, the alarm unit should be replaced.</p>	<p>Battery operated alarms should not be repaired unless the repair is changing the battery in the alarm.</p> <p>Otherwise, the alarm unit should be replaced.</p>
<b>Change removable battery</b>	<p>The landlord, agent or person authorised by the landlord.</p> <p>The tenant can choose to change the battery – they must:</p> <ul style="list-style-type: none"> <li>• let the landlord know that they will replace the battery</li> <li>• replace the battery within 2 business days</li> <li>• notify the landlord or agent within 24 hours of replacing the battery.</li> </ul>	<p>The landlord, agent or person authorised by the landlord, unless the Owners Corporation is responsible (this will be indicated in the tenancy agreement).</p> <p>If the Owners Corporation is not responsible, the tenant can arrange for replacement if the landlord or agent does not do this within 2 business days of being notified that the alarm is not working.</p> <p>The tenant must notify the landlord or agent within 24 hours of the work being completed.</p>

### Hard-wired alarms

<b>Type of repair</b>	<b>Responsibility in non-strata property</b>	<b>Responsibility in strata property</b>
<b>Replace alarm unit</b>	A licensed electrician arranged by the landlord or agent.	A licensed electrician arranged by either the Owners Corporation or the landlord / agent depending on who is responsible (this will be indicated in the tenancy agreement)
<b>Repair alarm unit</b>	<p>The tenant may engage a licensed electrician if the landlord does not complete the work within 2 business days of being notified that the alarm is not working.</p> <p>The tenant must notify the landlord within 24 hours of the work being completed.</p>	

Type of repair	Responsibility in non-strata property	Responsibility in strata property
<b>Change removeable back-up battery</b>	<p>The landlord, agent or person authorised by the landlord.</p> <p>The tenant can <i>choose</i> to change the battery, and if they do, they must:</p> <ul style="list-style-type: none"> <li>• let the landlord or agent know before they replace the battery</li> <li>• replace the battery within 2 business days of notifying the landlord or agent</li> <li>• notify the landlord or agent within 24 hours after they replace the battery.</li> </ul>	<p>The landlord, agent or person authorised by the landlord, unless the Owners Corporation is responsible (this will be indicated in the tenancy agreement).</p>

### **Reimbursement of tenants**

A tenant is entitled to reimbursement within 7 days if they paid for the smoke alarm to be repaired or replaced.

The tenant needs to give the landlord or agent written notice of relevant expenses, including the nature and cost of repairs together with copies of receipts or invoices.

This does not apply to social housing tenants.

### **Natural disasters**

If a property has been affected by a natural disaster, such as a flood, bushfire or storm, tenants and landlords have certain rights and responsibilities.

The tenant can move out temporarily and return once repairs have been carried out. The landlord is not obliged to find or pay for the tenant's temporary accommodation.

- If the property is only partly uninhabitable, the tenant can choose to stay in the property while repairs are being carried out. Tenants should only consider doing this if the damage is relatively minor and there is no ongoing safety risk.
- The tenant and landlord can formally end the agreement and re-sign a new agreement after the repairs are complete. Tenants should be aware that a higher rent could be included in the new agreement.
- If the property is destroyed or becomes totally or partly uninhabitable, the landlord and tenant can mutually agree to end the tenancy (e.g on the grounds that the agreement is 'frustrated').

- If no mutual agreement is possible, the tenant or landlord can give a written termination notice to end the tenancy. The tenant cannot be evicted without a Tribunal order.

## **Repairs after a disaster**

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Serious storm, fire or flood damage are all considered to be urgent repairs and should be handled quickly. See [Urgent repairs](#) page for more information.

If the repairs are not urgent, the tenant and the landlord should agree to a timetable for repairs.

A landlord is not obliged to compensate the tenant for any damage to the tenant's furniture or personal belongings from a natural disaster.

## **What happens to the rent?**

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If the tenant moves out temporarily or continues living in the partially damaged property, the rent should be waived or reduced.

This is up to the landlord and tenant to negotiate. Any agreement in these situations should be put in writing.

[Need some help?](#)

## **Resolving repair, maintenance or damage disputes**

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It is always best for a tenant and landlord or agent to try to negotiate a resolution together. If the issue can't be resolved this way, a tenant or landlord can:

- contact Fair Trading's tenancy complaints and disputes service
- lodge an application directly with the Tribunal.

In some situations, Fair Trading may issue a rectification order to landlords to undertake repairs, or to tenants to fix damage. Visit the [Resolving rental problems](#) page for more information.

A landlord or tenant can apply directly to the Tribunal to resolve disputes about repairs, maintenance or damage to the property. The Tribunal can make various orders including:

- that the landlord does repairs
- that the tenant can pay their rent to the Tribunal until the repairs are done
- that the tenant's rent be reduced until the repairs are done
- to compensate the tenant for losses (e.g. damage to tenants' belongings from a leaking pipe after they told the landlord the pipe was leaking)
- that the tenant repair damage they caused
- that the tenant compensates the landlord for costs to repair damage the tenant caused
- directing the landlord, landlord's agent or the tenant to comply with their obligations.

Visit the [Resolving rental problems](#) page for more information.

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<https://www.fairtrading.nsw.gov.au/housing-and-property/renting/during-a-tenancy/repairs,-maintenance-and-damage> 23-03-20

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