

Residential Tenancies and Rooming Accommodation and Other Legislation Amendment Bill 2024

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To: [Housing, Big Build and Manufacturing Committee](#)
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Attachments: [image003.jpg](#)
[Urgent repairs definition Residential Tenancies Act Victoria Sep 2023.pdf](#)
[Repairs, maintenance and damage when renting NSW Fair Trading.pdf](#)

Dear Sir/Madam,

I would like to know why the repair of an air conditioner for renters Queensland is not considered an urgent repair under the legislation.

Please see attached rules for urgent repairs in both New South Wales and Victoria where such repairs are categorised as urgent yet both of these States have nowhere near the humidity that we encounter in Queensland.

The way the law stands in Queensland repairs to an air conditioner are non urgent and therefore can take weeks or more which in a sub tropical climate is simply ridiculous.

Regards,

Grant Kennedy.



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Uniform Capital Allowance System means the Uniform Capital Allowance System in the publication known as the Australian Taxation Office Guide to Depreciating Assets 2017, issued in respect of Division 40 of Part 2–10 of the Income Tax Assessment Act 1997 of the Commonwealth, as in force from time to time;

S. 3(1) def. of *Uniform Capital Allowance System* inserted by No. 45/2018 s. 5(1) (as amended by Nos 19/2019 s. 237(1), 47/2019 ss 50, 61(1)(2), 32/2020 s. 3, 1/2021 s. 87(1)).

unregistrable movable dwelling means a movable dwelling that—

- (a) is constructed on a chassis or in prefabricated sections; and
- (b) once installed, is a freestanding dwelling with solid walls and roof; and
- (c) is not a registrable movable dwelling;

S. 3(1) def. of *unregistrable movable dwelling* inserted by No. 67/2010 s. 5(1), amended by No. 43/2012 s. 3(Sch. item 42.1).

urgent repairs means any work necessary to repair or remedy—

- (a) a burst water service; or
- (b) a blocked or broken lavatory system; or
- (c) a serious roof leak; or
- (d) a gas leak; or
- (e) a dangerous electrical fault; or
- (f) flooding or serious flood damage; or
- (g) serious storm or fire damage; or
- (h) a failure or breakdown of any essential service or appliance provided for hot water, water, cooking, heating or laundering by—

S. 3(1) def. of *urgent repairs* amended by Nos 38/2018 s. 295(2)(f)–(i), 45/2018 s. 5(4).

- (i) a residential rental provider in rented premises; or
- (ii) a rooming house operator in a rooming house; or
- (iii) a caravan park owner or a caravan owner in a caravan park or caravan; or
- (iv) an SDA provider in an SDA enrolled dwelling; or
- (i) a failure or breakdown of the gas, electricity or water supply to rented premises, a rooming house, a caravan or an SDA enrolled dwelling; or
- (ia) a failure or breakdown of any cooling appliance or cooling service provided by a residential rental provider, rooming house operator, caravan park owner or caravan owner; or
- (ib) a failure to comply with any rental minimum standards; or
- (ic) a failure or breakdown of any safety-related devices, including a smoke alarm or pool fence; or
- (j) an appliance, fitting or fixture provided by a residential rental provider, rooming house operator, caravan park owner, caravan owner or SDA provider that uses or supplies water and that is malfunctioning in a way that results or will result in a substantial amount of water being wasted; or
- (k) any fault or damage that makes rented premises, a rooming house, a room, a caravan or an SDA enrolled dwelling unsafe or insecure, including—

- (i) a pest infestation; or
- (ii) the presence of mould or damp caused by or related to the building structure; or

(l) a serious fault in a lift or staircase; or

(m) any damage of a prescribed class;

urgent site repairs means any work prescribed as urgent repairs to—

- (a) a site or a Part 4A site; or
- (b) in the case of a caravan park, any structure or fixture owned by a caravan park owner on a site; or
- (c) in the case of a Part 4A park, any structure or fixture owned by a site owner on a site; or

(d) any damage of a prescribed class;

VAHP declaration has the same meaning as it has in the **Housing Act 1983**;

S. 3(1) def. of *urgent site repairs* inserted by No. 45/2018 s. 5(1) (as amended by Nos 19/2019 s. 237(1), 47/2019 ss 50, 61(1)(2), 32/2020 s. 3, 1/2021 s. 87(1)).

S. 3(1) def. of *VAHP declaration* inserted by No. 40/2022 s. 9(3).

VAHP determination has the same meaning as it has in the **Housing Act 1983**;

S. 3(1) def. of *VAHP determination* inserted by No. 40/2022 s. 9(3).

Valuer-General means the Valuer-General under the **Valuation of Land Act 1960**;

Victorian Affordable Housing Programs has the same meaning as it has in the **Housing Act 1983**;

S. 3(1) def. of *Victorian Affordable Housing Programs* inserted by No. 40/2022 s. 9(3).

Repairs, maintenance and damage when renting

[During a residential tenancy](#)

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General information

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

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 ^

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 v

Damage

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

Requirements for landlords v

Requirements for tenants v

Requirements in strata schemes v

Who can repair or replace a smoke alarm? v

Reimbursement of tenants v

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 \(https://www.ncat.nsw.gov.au/Pages/cc/Divisions/Tenancy/tenancy.aspx\)](https://www.ncat.nsw.gov.au/Pages/cc/Divisions/Tenancy/tenancy.aspx) order.

Repairs after a disaster v

What happens to the rent? v

Resolving repair, maintenance or damage disputes

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 \(https://www.ncat.nsw.gov.au/Pages/cc/Divisions/Tenancy/tenancy.aspx\)](https://www.ncat.nsw.gov.au/Pages/cc/Divisions/Tenancy/tenancy.aspx).

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 \(https://www.fairtrading.nsw.gov.au/housing-and-property/renting/resolving-rental-problems\)](https://www.fairtrading.nsw.gov.au/housing-and-property/renting/resolving-rental-problems) page for more information.

A landlord or tenant can apply directly to [the Tribunal \(https://www.ncat.nsw.gov.au/Pages/cc/Divisions/Tenancy/tenancy.aspx\)](https://www.ncat.nsw.gov.au/Pages/cc/Divisions/Tenancy/tenancy.aspx) 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 \(https://www.fairtrading.nsw.gov.au/housing-and-property/renting/resolving-rental-problems\)](https://www.fairtrading.nsw.gov.au/housing-and-property/renting/resolving-rental-problems) page for more information.

[Prev \(https://www.fairtrading.nsw.gov.au/housing-and-property/renting/during-a-tenancy/rent\)](https://www.fairtrading.nsw.gov.au/housing-and-property/renting/during-a-tenancy/rent)
Rent

[Next \(https://www.fairtrading.nsw.gov.au/housing-and-property/renting/during-a-tenancy/Water,-electricity-and-gas-in-rental-properties\)](https://www.fairtrading.nsw.gov.au/housing-and-property/renting/during-a-tenancy/Water,-electricity-and-gas-in-rental-properties)
Water, electricity and gas in rental properties

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Helpful information and links

[Tenancy complaints service \(https://www.fairtrading.nsw.gov.au/about-fair-trading/our-services/resolving-issues/residential-tenancy-complaints\)](https://www.fairtrading.nsw.gov.au/about-fair-trading/our-services/resolving-issues/residential-tenancy-complaints)

[The Tribunal \(https://www.ncat.nsw.gov.au/Pages/cc/Divisions/Tenancy/tenancy.aspx\)](https://www.ncat.nsw.gov.au/Pages/cc/Divisions/Tenancy/tenancy.aspx)

[Find a licensed tradesperson \(https://www.onegov.nsw.gov.au/publicregister/#/publicregister/search/Trades\)](https://www.onegov.nsw.gov.au/publicregister/#/publicregister/search/Trades)

[How to check a smoke alarm \(https://www.fire.nsw.gov.au/page.php?id=444\)](https://www.fire.nsw.gov.au/page.php?id=444)

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