

Maintenance and Repairs

Both you and the lessor have certain responsibilities for maintaining the property under the Act.

BEFORE YOU MOVE IN

The lessor is required to provide the property to you in a reasonable state of cleanliness and repair, taking into consideration the age and character of the property.

Check that the property is clean before you move in and complete the property condition report as soon as possible after you move in.

If the property is not clean, or not in good repair, when you move in, notify the lessor or property manager in writing as soon as possible.

*In the
Residential
Tenancies Act
the **landlord** is
referred to as
the **lessor**.*

LESSOR'S RESPONSIBILITIES

The lessor must:

- Provide you with vacant possession of the property in a reasonable state of cleanliness and a reasonable state of repair;
- Maintain the property in a reasonable state of repair, having regard to its age and character;
- Comply with all building, health and safety laws; and
- Conduct any repairs within a reasonable time period after the need for repair arises.

The lessor is also responsible for the repair of fixtures (e.g. lights, fitted carpets, swimming pool) and chattels (e.g. white goods and furniture) provided with the property.

The lessor is not required to repair any fixture or chattel that they said was not working before the agreement began, or anything that you could not reasonably have expected to be working when the agreement began.

NOTE: The lessor cannot “contract out” of any of the responsibilities listed above. This means they cannot put in any special conditions in your agreement that contradict or restrict these responsibilities.

TENANT'S RESPONSIBILITIES

It is your responsibility as a tenant to:

- Keep the property in a reasonable state of cleanliness;
- Inform the lessor as soon as it is practicable after any damage occurs; and
- Not intentionally or negligently (accidentally) cause or permit damage to the property.

WHAT IS FAIR WEAR AND TEAR?

You are not responsible for fair wear and tear to the property.

Fair wear and tear is a general term for deterioration of the property that occurs through reasonable use of the house by the tenant, and the ordinary operation of natural forces. Examples of fair wear and tear include curtains fading from the sun, or the carpet being worn where there is "high traffic" such as in a hallway.

Intentional damage (damage caused on purpose) or damage caused by negligence (damage caused accidentally or without taking enough care) is not fair wear and tear. Not all accidental damage is negligent. Seek advice on this if you're not sure if you're responsible or not.

WHAT IF YOU HAVE CAUSED THE DAMAGE?

If repairs are needed because you, or someone that you invited to your home, caused damage, then you must inform the lessor of the damage. In most circumstances, you should not do repairs to the property without the lessor's written consent. If you undertake your own repairs you will be liable for further damage from poor or faulty repairs. The lessor may want you to arrange for the repairs, or may prefer to arrange their own repairs, at your cost. The lessor may also choose to claim under their insurance, in which case the insurance company is likely to pursue you for the whole cost of repairs.

The lessor has a duty to minimise their loss, so the repairs should be done at a reasonable price.

GETTING REPAIRS DONE

The first step to getting repairs or maintenance done is to make sure that your lessor knows about the issue. It is your responsibility to notify them as soon as there is a need for repair/maintenance.

Process for getting maintenance/repairs done:

1. Discuss the problem with your lessor and ask them to fix it. Confirm this is in writing.
2. Write to the lessor with the request, stating clearly what you want repaired or replaced, and by when. It also a good idea to include in your letter how the problem is affecting you.
3. If no response is received or no action is taken, you can issue the lessor with [a Form 23 – Notice to Lessor of Breach of Agreement](#). On the form, clearly outline what the required maintenance and repairs are and give a time frame of when you want them fixed.
4. If you have done all of the above and the problem has not been fixed – you can apply to the Magistrates Court for a performance order to carry out the maintenance or repairs. This application is made on a [Form 12 – Application for Court Order](#), on the Magistrates

Court of WA website.

5. If the lessor fails to conduct the work in a timely manner, you can seek a rent reduction for loss of use of the premises or part of the premises (see more information about this below).

NOTE: Do not withhold rent in an attempt to force the lessor to carry out repairs or maintenance, as this will result in you breaching the agreement. Ending the agreement early because the lessor hasn't fixed the problem may mean you must pay compensation to the lessor (see our break lease fact sheet for more information).

URGENT REPAIRS

In WA, urgent repairs are broken down into two categories.

1. Repairs that must be done to ensure that you have essential services, which are:
 - Electricity
 - Gas
 - A functioning fridge (if provided with the property)
 - Sewerage, septic tank or other waste management
 - Water, including the supply of hot water
2. Other urgent repairs. These are repairs that are not an essential service but are necessary to avoid:
 - exposing the property to damage,
 - exposing a person to the risk of injury, or
 - causing undue hardship or inconvenience to you, the tenant.

If your repairs are **URGENT**, contact the lessor as soon as possible. If it is after hours and the property is managed by a real estate agent, contact the after-hours number they have provided. Make sure you confirm any communication in writing.

If the repairs meet the definition of an urgent repair above, the lessor must ensure that the repairs are carried out by a suitable repairer as soon as practicable after being notified of the need for the repair. That means that the lessor must have a suitable repairer conduct the urgent repair at the earliest opportunity after they are notified of the need for repair.

You can organise urgent repairs without the lessor's permission if:

- Within 24 hours of the need for repair of an essential service, or 48 hours of the need for any other urgent repair, you cannot contact the lessor, or
- You have told the lessor of the need for the repair, and the lessor has failed to have the repairs carried out as soon as practicable.

If you arrange for any urgent repairs to be carried out (and you were allowed to for the reasons outlined above), the lessor must reimburse you for the reasonable costs that you paid in getting the urgent repairs carried out. The repairs must only be done to the minimum extent necessary and must be done by a qualified tradesperson.

RENT REDUCTION

If your use of the property is reduced due to a repair issue, you can request a rent reduction.

You and the lessor should negotiate an amount you both feel is reasonable in the circumstances.

You can apply to Court for a rent reduction, but you should seek advice first as you will need to have evidence of a range of factors the Court will consider. You generally have thirty days from when your use of the property is reduced to apply to Court, but if you apply outside of the thirty days, the Court can extend the thirty day period in certain circumstances.

See our Rent Increases fact sheet for more information on the process to apply to reduce your rent.

APPLYING TO COURT

You can apply to the Magistrates Court if:

- The lessor has failed to arrange the repairs within the required period (after you have given them written notice of any necessary repairs and/or issued them with a [Form 23](#)); or
- The lessor will not reimburse you for any urgent repairs you arranged.

You will need to complete a [Form 12 – Application for Court Order](#) which can be lodged on the [Magistrates Court of WA website](#). See our Applying to the Magistrates Court fact sheet for more information.

RELEVANT FORMS

[Form 23 - Notice to Lessor of Breach of Agreement](#)

[Form 12 – Application for Court Order](#)

Disclaimer:

This fact sheet only contains general information. This fact sheet is not legal advice and should not be relied on as a substitute for legal advice. You may wish to seek advice from a lawyer regarding your own particular circumstances. We are not responsible for any consequences arising from your use of, or reliance on, the information contained in this fact sheet.

Further information about our disclaimer and your use of this fact sheet can be found here: <https://circlegreen.org.au/disclaimer/>

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FURTHER HELP – TENANTS’ ADVICE AND ADVOCACY

Circle Green Community Legal

(08) 6148 3636

www.circlegreen.org.au

Department of Mines, Industry Regulation and Safety

www.dmirs.wa.gov.au, **Consumer Protection** for consumer and tenancy related matters

commerce.wa.gov.au/consumer-protection | 1300 304 054

METROPOLITAN COMMUNITY LEGAL CENTRES

Fremantle CLC

(08) 9432 9790

www.fremantle.wa.gov.au/fclc

Gosnells CLC

(08) 9398 1455

www.gosclc.com.au

Midland Information Debt & Legal Advocacy Service

(08) 9250 2123

www.midlas.org.au

Northern Suburbs CLC (Joondalup)

(08) 9301 4413

www.nsclegal.org.au

Northern Suburbs CLC (Mirrabooka)

(08) 9440 1663

www.nsclegal.org.au

Southern Communities Advocacy & Legal Education Services (SCALES)

(08) 9550 0400

murdoch.edu.au/School-of-Law/Clinical-Legal-Education-SCALES

Sussex Street CLS

(08) 6253 9500

www.sscls.asn.au

Welfare Rights & Advocacy Service

(08) 9328 1751

www.wraswa.org.au

REGIONAL COMMUNITY LEGAL CENTRES

Albany CLC

(08) 9842 8566

www.albanyclc.com.au

Goldfields CLC

(08) 9021 1888 | 1300 139 188 (if outside Kalgoorlie-Boulder)

www.gclc.com.au

Kimberley Community Legal Services :

www.kcls.org.au

- **Kununurra**
(08) 9169 3100 | 1800 686 020 (freecall)
- **Broome**
(08) 9192 5177

Peel CLS

(08) 9581 4511

www.peelcls.com.au

Pilbara Community Legal Services:

www.pcls.net.au

- **Karratha**
(08) 9185 5899
- **Newman**
(08) 9140 1613
- **Roebourne**
(08) 9185 5899
- **South Hedland**
(08) 9140 1613

Regional Alliance West

(08) 9938 0600

www.raw.org.au

South West CLC

(08) 9791 3206 | 1800 999 727 (freecall)

www.swclc.org.au

Wheatbelt CLC

(08) 9622 5200

www.wheatbeltclc.com.au