

Your Rights in the Aftermath of a Natural Disaster

After a flood, many people have immediate legal problems including tenancy, employment and family law issues. Down the track, problems with insurers, banks and neighbours can emerge. There is good-quality legal information available in the [Queensland Law Handbook](#) (QLH) and on the websites of [Legal Aid Queensland](#) and various specialist community legal centres.

If you need legal advice or social work support, Caxton Legal Centre offers a dedicated service for disaster-affected people.

Other community legal centres and Legal Aid Queensland are also good places to start.

TENANCY ISSUES INCLUDING UNLIVEABLE PROPERTIES

If you are living in flood-damaged rented accommodation that can no longer be lived in or requires urgent repairs, [Tenants Queensland](#) has reliable information for tenants and can also provide advice.

If your rental accommodation is damaged, you must notify the lessor or agent as soon as possible. If your rental property is destroyed or otherwise non-liveable because of flood or storm damage you can give notice to leave within one month of the event that caused the non-liveability. If a repair issue is an emergency repair, there is a process for having those repairs completed quickly.

If the property is dirty because of flood, usually the lessor is responsible for cleaning the property and inclusions, and tenants are responsible for cleaning their own goods and possessions.

EMPLOYMENT PROBLEMS

Some people need time off work during or after a severe weather event. Some employers may be

unable to trade temporarily or permanently. The [Fair Work Ombudsman](#) has produced some information specifically for people in this flood event.

If you are stood down or lose your job (even if it was a casual job), it is important to get legal advice as soon as possible as you may only have 21 days from the date of dismissal to make a claim. There is more information in the QLH section on employment law. Free legal advice about [employment law](#) is available from your union, Caxton Legal Centre, Legal Aid Queensland, [Basic Rights Queensland](#) (women only) and some other community legal centres.

FAMILY LAW

Safety and transport difficulties associated with flooding can potentially affect the ability of separated parents to comply with parenting orders. If your parenting arrangements have been affected by the weather, the QLH section on [contravention of parenting orders](#) may assist.

Domestic and family violence may be more difficult to deal with during a disaster event, especially if a household becomes isolated. In an emergency call:

- Triple Zero 000
- DV Connect Womensline 1800 811 811
- DV Connect Mensline 1800 600 636.

Caxton Legal Centre, Legal Aid Queensland, Women's Legal Centre and other community legal centres can give legal advice about family law and domestic and family violence.

FENCING AND TREE DISPUTES

Fallen trees and branches can often cause damage in bad weather. Dividing fences can also be damaged. Trees are generally the responsibility of the 'tree-keeper' (usually the owner of the

land the tree is growing on]). When a dividing fence is damaged, it is the shared responsibility of both neighbours, and it is important to come to a decision about what to do together. You can find information about [fencing disputes](#) and information on [rules about neighbouring trees](#) in the QLH and on the Queensland Government page about [neighbourhood matters](#).

If your problem relates to a tree growing on land that is not private property, you should contact the relevant local council. Damage caused by and the removal of trees may also be covered by insurance.

INSURANCE CLAIMS

If you have any insurance and have sustained damage, you should make a claim even if you are unsure whether it will cover this specific event. The legal distinctions between included and excluded events can be complicated. This is especially the case for water inundation that occurs during a rain or storm event as some policies distinguish between rainwater run-off and flood water, and the coverage may vary.

If your initial claim is refused, you have internal and external review options. There are legal services available to help people disputing insurance refusals, including Caxton Legal Centre and other community legal centres. Legal Aid Queensland has stood up its Natural Disaster Legal Help hotline 1300 527 700.

If your property is damaged in a storm or flood, you must take reasonable steps to prevent further loss. This may include moving undamaged items from an area that was flooded or making temporary repairs such as putting a tarp on your damaged roof. You should take photographs and videos of any damaged items or damage to your property as soon as possible after the damage occurs.

You can find information about [insurance](#) law generally in the QLH and [flood specific insurance information](#) from Legal Aid Queensland.

RETIREMENT VILLAGES AND MANUFACTURED HOME PARKS

If you need emergency housing because your house in a residential park or retirement village has sustained damage and you have had to evacuate, contact

[Regulatory Services](#) who can assist you with the Emergency Housing Assistance process: 07 3008 3450.

Repairs to common property and maintaining access to your home are typically the responsibility of the park owner or village operator. However, damage to your home will generally be the responsibility of you as the home owner or village resident. Caxton Legal Centre can provide legal advice to help you understand your rights under your site agreement or residence contract, or you can access general information on [our webpage](#).

During the clean-up process, please remember your obligations to observe your neighbours' rights to reasonable peace, comfort and privacy. If you are concerned that your rights under your site agreement or residence contract are being infringed, you can contact Caxton Legal Centre for advice.

FLOODING IN A COMPLEX MANAGED BY A BODY CORPORATE

Many flooded properties are managed by a body corporate, and a range of problems can arise when widespread damage occurs in a complex with shared ownership, especially if there is inadequate insurance or pre-existing maintenance issues. The [Commissioner for Body Corporate and Community Management](#) provides a dispute resolution service to owners in dispute with their body corporate and produces some [general information about responsibilities following storm damage](#).

DAMAGE TO LEASED GOODS AND SECURED VEHICLES

If you have leased goods or borrowed money to buy household items (including rent-to-buy or flexi-rent type arrangements) and those goods are damaged or made unusable by severe weather, you might still have ongoing obligations such as continuing to make repayments under the lease or loan agreement. Sometimes terms in consumer contracts, especially leases, are unfair or too complex to be properly understood and may be unenforceable.

If you are paying for an item you cannot use, you should get legal advice about your options. There may be legal protections that exist to assist you under the

Australian Consumer Law and the National Credit Code. The QLH contains relevant information about [consumer protection legislation](#) and consumer credit. Caxton Legal Centre provides advice about [consumer credit](#) and leases for household essentials.

FINANCIAL DIFFICULTY AND LOAN REPAYMENTS

The *National Credit Code* provides for variations to credit contracts to provide temporary relief where borrowers are experiencing hardship. If you anticipate having difficulty making any loan repayments as a result of the rain and floods, you should talk to your lender as soon as possible. Find out more about [hardship variations](#).

It is important to know that you can ask for multiple hardship variations, so even if you were on a hardship arrangement during the COVID-19 pandemic, you can ask for another if you have also been affected by the flood. If you are having trouble with your bank or lender, the [Australian Financial Complaints Authority](#) may be able to help. Financial counsellors are an excellent resource for people in financial difficulty, just be careful you are talking to a free financial counsellor funded or provided by the government or a charity, not someone who might make a profit from your situation. The [National Debt Helpline](#) is a good place to start, you can call the helpline on 1800 007 007.

Caxton Legal Centre can provide legal advice if there is a problem with a bank or lender that is too complex for you to work through on your own. We can only help with loans for domestic and household purposes including home, car, personal and payday loans.

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CHARGED WITH AN OFFENCE DURING A NATURAL DISASTER

If you are charged with an offence during a natural disaster, it is important to get prompt legal advice especially if the criminal act or omission occurred in the context of a sudden or extraordinary emergency (e.g. a driving offence that occurred while evacuating). There is more information about [criminal law](#) in the QLH. Caxton Legal Centre, Legal Aid Queensland and many community legal centres can give advice about criminal and traffic law.

HELPING OUT AFTER A NATURAL DISASTER

It is important not to collect and keep things that have been displaced by flood. If it is safe to do so you can help by retrieving and cleaning things, but they must be returned to their owners. If you come across something of value while you are helping with the clean-up, we recommend contacting a community recovery agency to facilitate the return of the item. It is important that you do not enter a property, including to start helping with the clean-up, before you have permission from the occupier.

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Know Your Rights! www.queenslandlawhandbook.org.au

This information is current at May 2022.

Disclaimer

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