

Earthquake Insurance

Description

This fact sheet is for information only. You should get legal advice about your personal situation.

Main ideas

- Know what your policy covers – policies vary between insurers.
- Get evidence of loss and damage. Photos/videos can help.
- Negotiate with the insurer. Tell them how you would like the claim settled.
- Get legal advice if you are unsure about your policy or settlement.

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Understand your policy

Your policy is made up of your Product Disclosure Statement and your policy schedule. These documents set out the scope of your insurance cover. Insurance policies vary about what events they cover and what they don't cover (exclusions). Read your policy to make sure you get all the benefits you are entitled to, and understand what losses are not covered. [Read our fact sheet about Understanding your insurance policy.](#)

Most insurance policies will cover you for damage caused by earthquake.

If the earthquake causes landslide, subsidence or earth movement, this may be covered if it happens 'immediately' or over a set timeframe, for example, within 72 hours of the earthquake. Check your policy for details.

Most policies also cover 'impact damage', such as damage to buildings caused by falling trees and power poles. However, the cost of cutting down or removing trees that have not caused damage to buildings may not be covered. Cover for tree damage from earthquake will be similar to storm cover, so [read our fact sheet about Tree damage in a Storm.](#)

If you notice damage to your property after an earthquake, you should make a claim without delay.

Type of cover: replacement or indemnity

Indemnity cover: The policy will generally cover you for actual losses up to the 'sum insured'. Your policy schedule or certificate of insurance will state the amounts – for example 'up to \$500,000 for building, \$30,000 for contents'.

Replacement cover: The policy will generally cover you for the amount it would cost to replace or repair damaged building/contents to the condition it was in just before the storm.

Under or overinsurance

If you have indemnity cover, **underinsurance** is when your sum insured is not enough to cover your loss. This can be a problem when there is a widespread natural disaster – increased demand can increase the cost of tradespeople and building materials. Changes in local building codes can also increase costs.

Some insurers offer a 'safety net' for an additional premium. For example, 'Safety net home protection – 25% extra of the home sum insured'.

Overinsurance is where your sum insured is more than you need to cover your loss or damage. Overinsurance can create a buffer to make sure you are fully covered. However, the insurer will only pay the amount of your actual loss if it is less than your sum insured. And you won't get a refund of the higher premiums you paid.

When you take out a policy, and at every renewal, it is up to you to make sure the amount of

cover meets your needs. If you are not satisfied with the amount of cover you are offered, you can negotiate with your insurer or shop around other insurers.

If you were misled by your insurer into getting too little or too much insurance, get legal advice. If you relied on the insurer's sum insured calculator, get legal advice.

Additional benefits

Check your policy to see what additional benefits you have; these are **generally** on top of your sum insured. For example:

Emergency or temporary accommodation

If you can no longer live in your home, your insurer may pay for alternative accommodation for a time. For example, your policy may include a clause like: *We [the insurer] will pay the reasonable costs incurred by you for comparable accommodation for up to 12 months while your building is being rebuilt or repaired.*

Check if there is a limit on the cost of accommodation, for example

- a percentage of policy sum insured
- 'reasonable costs'.

There could also be a limit on the time the accommodation will be paid for, for example:

- up to a specific period (say, 12 months)
- 'reasonable time'.

You may also be able to argue for additional accommodation if you need it because your insurer has acted unfairly towards you (for example, by delaying repairs so your home remained unliveable for longer than necessary). Get legal advice immediately – you may need to argue for these benefits and it may take time.

Demolition / removal of debris

Your policy may cover the cost of removing debris and clearing your land.

Check your policy to see what types of debris are covered. For example, debris from trees, shrubs and plants may not be included.

Architects, surveyors, and legal fees

Your policy may cover for the services of architects, surveyors and legal fees reasonably required to rebuild or repair the building. It may be limited, for example, up to 10% of the sum insured.

Costs of complying with new regulations

Your policy may cover the cost of bringing your home up to standard with new building or safety regulations introduced since your home was originally built. For example: *We will also pay any additional costs required for your buildings to comply with government or local authority by-laws.*

If you have total replacement cover, you may be covered for additional compliance costs.

Claiming on your policy

Insurers must respond to catastrophes and disasters in a fast, professional and practical way. They must act in a fair and reasonable manner.

Insurance claims management services

Think carefully about whether to hire someone to help you manage the claim. Insurance claims management services are commercial businesses that charge a fee to represent you and do the paperwork on your insurance claim. Understand the risks before signing up.

[Read our fact sheet about Insurance Claims Management Services.](#)

1. Contact your insurer

If you are unsure whether you will be covered, make a claim and see what the insurer says. Reading a policy can be difficult; contact us if you need help.

Your insurer will have an electronic record of your policy documents, so don't be concerned if your copies have been lost or destroyed.

Ask your insurer about organising temporary accommodation under your policy. Be careful about your insurer putting you in an expensive temporary property which will use up your accommodation allowance quickly. If it is going to take 12 months to rebuild your home, you will need a sustainable housing arrangement.

2. The insurer will appoint an assessor

The assessor will come to your property to assess the damage and whether you are covered under the policy.

The insurer has the right to inspect your property. They decide whether buildings or contents should be repaired/ rebuilt/ replaced and by who. Talk to your insurer to get their consent

before doing any repairs. If you are worried about more damage happening, and your insurer is not doing anything, get legal advice.

While you are waiting for the assessor:

- **Your safety is the highest priority.** Only enter damaged buildings if it is safe to do so. Always follow directions of emergency services.
- **Protect your belongings if it is safe to do so.** You must take reasonable steps to prevent further damage. For example, you might put a tarp over your contents or move them under shelter. Document what you have done with before and after photos, invoices, and copies of any directions from council or local emergency services.
- **Take photos of damaged items and buildings.** Make a list of all the things that have been lost or damaged.
- **Do not throw away any items unless it is a danger.** Try to get the insurer's permission before you throw anything away. Take photos and keep a record of what you have done.

Some insurers ask for a room-by-room list of damaged items. But if everything is lost, ask them to pay your total sum insured. If they insist on a detailed list, ask why they want it and seek legal advice. The insurance should not ask for a list if they are satisfied your claim is a total loss.

Exclusions that may apply

Possible exclusions for earthquake claims may include:

- Landslide or earth movement that happens after the time period you are covered for (such as 72 hours).
- Cracks in buildings that were there before the earthquake, or that are caused by wear and tear or gradual deterioration, building defects or ground movement.

The insurer must be able to show it is more likely than not that an exclusion is a significant cause of the damage.

If the cause of the damage is unclear (earthquake, or wear and tear over time) or the extent of damage is difficult to determine, the insurance company may employ experts (such as an engineer) to prepare a report.

You are entitled to copies of all documents the insurance company relied on to decide your claim.

You can employ your own expert to challenge the evidence provided by the insurer's expert. But this may be expensive, and you may not be reimbursed for the cost of your expert's report.

If you only had minor cracks that had little or no impact on the amount of damage caused by

the earthquake, you should be covered.

If the earthquake and an exclusion were both significant causes of the damage, and acting at the same time, the insurer can reject the whole claim. For example, if the damage the earthquake caused was significantly more than it should have been because your building already had structural issues or design defects, you may not be covered.

If your insurer rejects your claim, ask the insurer for the reasons for the rejection in writing, along with any information and reports they relied on to reject your claim. If you don't think the rejection is fair, get free legal advice from the Insurance Law Service on 1300 663 464.

3. Negotiate a settlement

Check the amount you are insured for, and for any additional benefits in your policy. Make sure you understand what you are entitled to under your policy.

The insurer can decide whether to repair, replace or cash settle a claim. You can challenge that decision if it is not fair or reasonable, but usually you won't be able to force the insurer to do repairs for you (get advice if your circumstances prevent you from organising the repairs yourself).

Consider getting your own builder or engineer to review the insurer's 'scope of works' to check it is appropriate. Sometimes the insurer may ask you how you would prefer to settle, and you can negotiate. Be clear about what is being settled – the whole claim or only part.

If you have a mortgage over your home, the insurer may pay your claim directly to your home lender. You then need to negotiate with your lender to release the funds to rebuild or repair. If there is a problem, get legal advice about your options.

Think carefully before accepting a cash settlement offer. Consider:

- If an insurer repairs or rebuilds, they are responsible for and guarantee the work. If you agree to a cash settlement and engage your own repairer, you will need to sort out any problems about the quality of repairs yourself.
- Insurers manage the repair process which can sometimes be complicated. If the repair is complex, think about your ability to project manage the repairs and whether the settlement amount gives you enough money to hire someone to project manage the works for you.
- Insurance companies may be able to get cheaper quotes because of their purchasing power. You may not be able to get the job done for the same price. Get your own quotes to make sure the amount being offered is realistic.
- Sometimes repair costs are uncertain – a cash settlement may leave you out of pocket. If the insurer insists you do the repairs yourself, ask if the insurer will pay you an uplift (for example an additional 10-25%) on top of your repair quote for unexpected

expenses. You usually will not be able to go back to your insurer for more funds later if you run out of money to finish the repairs.

- In contents claims, the insurer may pay your claim in store credit instead of cash – but only if the policy states they can do this. If the policy doesn't say anything about store credit, you can ask for cash. The insurer may offer you more in store credit than cash (because they get discounts). Get advice if you think the insurer is acting unfairly.

How long should the claim take?

Once they receive your claim, the insurer should move it forward reasonably quickly.

The insurer should decide your claim within 4 months. If there are exceptional circumstances (including situations such as a major bushfire or flood), the insurer should decide your claim within 12 months. This does not mean an insurer can sit on your claim and do nothing for 4 or 12 months – they must still move the claim forwards during this time, and you can complain if they are not. [Read our fact sheet about Insurance claim delays.](#)

If the Insurance Council of Australia declared the earthquake a catastrophe and the insurer finalises your claim within one month of the bushfire, but you believe the assessment was not complete or accurate, you can ask your insurer to review your claim. You can do this up to a 12 months after the claim was finalised – even if you have signed settlement or release papers.

If you are worried that further damage could happen in the meantime, give details to your insurer and ask if they can do urgent make-safe repairs to prevent that from happening.

Get legal advice if they say no.

If you are in **urgent financial need**, your insurer must fast-track your claim. They must make an advance payment within 5 business days of you demonstrating your urgent financial need. The advanced payment will be deducted from your final claim payment.

Government emergency payments may also be available if you have been affected by earthquake. Also contact your lenders – they can offer financial hardship arrangements.

Complaining about an insurer

You can complain if you are unhappy with the progress of your claim, or any decision made by the insurer. You can also complain about the conduct of an assessor, repairer or anyone else hired by the insurer.

Get as much evidence as you can to support your complaint. You may need to get your own independent expert report to argue against the insurer.

First, complain to the insurer's internal dispute resolution department. [You can find contact details on the Australian Financial Complaints Authority \(AFCA\) website](#) or by phoning 1800 931 678

If the insurer does not resolve the matter and does not respond in 30 days, you can complain to AFCA. [Read our fact sheet about Insurance Complaints to AFCA](#). Time limits apply.

You can also consider court proceedings. **Get legal advice first as court is risky** – you may end up paying for the insurer's legal costs. Time limits apply.

Keeping on top of your finances during an insurance claim

Contact your creditors

If you have a mortgage or other loans, contact your lender immediately to ask for hardship assistance. They may allow you to reduce or postpone your repayments for a few months, or they may reduce interest for a time. Some lenders have generous disaster recovery assistance – ask what they can offer. Read our fact sheets about [Financial Hardship](#) and [Credit Reports](#).

Utility and telecommunications companies can also provide hardship assistance. If your provider won't help, [contact the Telecommunications Industry Ombudsman through their website](#) or by calling 1800 062 058, or the Energy & Water Ombudsman in your state. [Contact details are included in our Useful Links page](#).

Do not just miss payments while you are waiting for an insurance claim. Most creditors will provide some form of help when there has been a catastrophe.

Talk with a free financial counsellor

Financial counsellors can help you work through the financial implications of your loss and insurance claim. They can put you in touch with community organisations and charities that can provide help with food and emergency accommodation. They can also refer you to other services, like the No-interest loans scheme (NILS), to pay for essential household items such as whitegoods.

You can talk to a free financial counsellor by calling National Debt Helpline on 1800 007 007.

Need more help?

The following fact sheets will provide more information:

- [Understanding your insurance policy](#)
- [Tree damage in a Storm](#)
- [Storm Insurance](#)
- [Home or Contents Insurance Claims](#)
- [Home or Contents Insurance Claim refused](#)
- [Car Insurance Claim](#)
- [Car Insurance Claim refused](#)
- [Insurance Claim Delay](#)
- [Insurance Complaints to AFCA](#)

Call the Insurance Law Service on 1300 663 464, or [contact us through our web enquiry form available on our Accessibility page](#).

Legal Advice

- [Find your local community legal centre](#)
- **Legal Aid** in your state
 - [Legal Aid New South Wales](#): 1300 888 529
 - [Legal Aid ACT](#): 1300 654 314
 - [NT Legal Aid Commission](#): 1800 019 343
 - [Legal Aid Queensland](#): 1300 651 188
 - [Legal Services Commission South Australia](#): 1300 366 424
 - [Tasmania Legal Aid](#): 1300 366 611
 - [Victoria Legal Aid](#): 1300 792 387
 - [Legal Aid Western Australia](#): 1300 650 679
- In **NSW LawAccess** has a dedicated bushfire number: 1800 801 529
- In **Victoria Legal Aid** has the Disaster Legal Help Victoria 1800 133 432
- If you are a tenant affected by an earthquake, contact a **Tenants Union in your state or territory**.
 - [Tenants Union NSW](#)
 - [Legal Aid ACT](#) or [Canberra Community Law](#)
 - [NT: Darwin Community Legal Centre](#)
 - [Tenants Queensland](#)
 - [SA: RentRight](#)
 - [Tenants Union TAS](#)
 - [Tenants Victoria](#)
 - [WA: Circle Green Community Legal Centre](#)

Other services

- [National Debt Helpline](#) –1800 007 007 for free financial counselling
- [Ask Izzy](#) – an online directory of community assistance programs (such food, clothing, emergency relief, emergency and community housing)
- Family and Community Services (FACS) Housing Contact Centre 1800 422 322
- [Insurance Council of Australia](#) Disaster Insurance Hotline 1800 734 621

[For a list of other resources, visit our Useful Links page.](#)

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