

TORRENS ASSURANCE FUND

The Torrens Assurance Fund (Fund) is a statutory compensation scheme designed to compensate people who, through no fault of their own, suffer loss or damage as a result of the operation of the *Real Property Act 1900* (RPA).

Am I entitled to payment from the Fund?

You are entitled to a payment from the Fund if you have suffered loss in respect of land as a result of:

- an act or omission of the Registrar General;
- the registration of someone else as the owner of land/an estate or interest in land;
- an error, misdescription or omission in the Register;
- the land being converted to Torrens Title;
- fraud;
- an error or omission in an official search; or
- an error in recording details supplied in a Notice of Sale.

The Registrar General has delegated titling and registry functions to an authorised operator. Therefore any loss or damage suffered as a result of an act or omission of the authorised operator can be made against the Fund.

When is compensation not payable?

There are some circumstances where compensation will not be paid for a loss. These are:

to the extent that:

- your own conduct contributed to the loss;
- the loss was caused by a solicitor, licensed conveyancer, real estate or information broker;
- you have failed to mitigate the loss;
- the loss was offset by a benefit;

if the loss arises from:

- an error or miscalculation in the measurement of land;
- a breach of trust by a registered proprietor;

- the inclusion of the same land in two or more grants;
- the recording or failure to record native title;
- an error in a forestry lease plan;
- a mortgagee's failure to confirm the identity of a mortgagee;
- the recording or removal of a Registrar General's caveat;
- an attorney executing an instrument that they are not authorised to execute;
- an easement that is not recorded in the Register (except where there is an error by the Registrar General);
- the improper exercise of a power of sale;
- the execution of a document by a corporation; or
- the provision by the Registrar General of information supplied in a Notice of Sale.

How long do I have to submit a claim for compensation (Claim)?

A Claim must be lodged within 6 years from the act or omission that gave rise to the loss or within 6 years from the date that the loss was suffered.

How do I submit a Claim?

Complete and sign the [Claim for Compensation from the Torrens Assurance Fund form](#). All fields in the form must be completed.

The Claim must be supported by all information and copies of all evidence that you seek to rely on. Please provide copies of the evidence only as we will not return evidence to you. If we require original documents, we will contact you.

Post the form, information and copies of all supporting evidence to:

Attention: Torrens Assurance Fund Claims
Office of the Registrar General
McKell Building
2-24 Rawson Place
Sydney NSW 2000

Who may make a Claim?

You or your representative may lodge the Claim but the declaration on page 2 of the form must be signed by either:

- you;
- your attorney. The power of attorney must be produced; or
- an authorised officer of a corporation. The details of the registered office and names and addresses of officers must be produced.

A declaration made in an Australian State or Territory other than New South Wales must be made under the equivalent local Act and before a witness prescribed by that Act.

How much does it cost to make a Claim?

Making a Claim is free.

What if I do not know the amount of my loss?

If you do not know the amount you are claiming, please leave that part of the form blank. We will advise you of what actions need to be taken, if any, to assess the loss which may include agreeing to an independent valuation.

What are my obligations?

You are required to cooperate fully with the Registrar General. In particular, you must comply with any reasonable request to:

- produce additional information or documents; and/or
- do anything else to further your Claim.

You are also required to provide full details of:

- any potential claims that you may have against any other person e.g. if alleging fraud, full details of the alleged fraudster; and/or
- any court proceedings relating to the circumstances of your Claim.

What if I am asked for more information?

You must comply with all reasonable requests to produce additional information or documents. If you do not comply with a request within 2 months, your Claim may be refused.

What if I am alleging that the loss was caused by fraud or negligence by another person?

You must:

- provide details of the alleged fraud or negligence including:
 - the date of the fraud or negligence;
 - the name, postal address and occupation of the person;
 - your relationship, if any, with the person;
 - whether you have taken any action to recover the loss from the person;
 - police reports including the event number, the investigating officer's details or alternatively you may produce a copy of the police report;
 - full loan and security documents, if a mortgagee is involved,
- provide details of any court proceedings, mediations, negotiations or any other action you have taken to mitigate the loss; and
- provide details of any compensation received, indemnity given or compromise entered into.

Why do I have to provide the details of an alleged fraudster or negligent person?

The Registrar General is able to commence Supreme Court proceedings against any party that you are able to sue in respect of your loss.

Accordingly, the details of any such person are required to assist the Registrar General in determining whether or not to commence Supreme Court proceedings against that person.

What happens when I have lodged a Claim?

We will contact you to confirm that your Claim has been received. We may also contact you if we require more information.

The Registrar General will then assess your Claim and make a determination by either making an offer to settle the Claim or refuse the Claim.

How long will the Claim take to be determined?

The length of time depends on the complexity of your Claim and whether or not we require further supporting information or evidence.

With certain exceptions, the Claim is taken to have been refused if the Registrar General has not determined the Claim within 12 months after it was lodged.

What if I do not agree with the Registrar General's determination?

There is no avenue for internal review. If you are not satisfied with the determination, you have 3 months from the date of the determination to make an application to the Supreme Court of New South Wales.

What if I want to go to Court without making a Claim?

You cannot commence Supreme Court proceedings for compensation from the Fund unless you:

- have lodged a Claim and it has been determined, or 12 months has passed since you first lodged the Claim;
- have leave of the Supreme Court of New South Wales; or
- have the Registrar General's consent,

We suggest that you obtain independent legal advice to assess your prospects of success.