

**REAL PROPERTY (COMPENSATION) AMENDMENT
ACT 1992 No. 52**

NEW SOUTH WALES



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**REAL PROPERTY (COMPENSATION) AMENDMENT ACT
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Act No. 52, 1992

An Act to amend the Real Property Act 1900 so as to bar certain actions for damages against the Registrar-General by professional indemnity insurers and to provide for subrogation of the Registrar-General to the rights of claimants against such insurers and other persons. [Assented to 22 September 1992]

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the Real Property (Compensation) Amendment Act 1992.

Commencement

2. **This Act is taken to have commenced on 19 March 1992.**

Amendment of Real Property Act 1900 No. 25

3. The Real Property Act 1900 is amended by inserting after section 127 the following section:

Professional indemnity funds or other insurance

128. (1) A professional indemnity insurer cannot be subrogated to the rights or remedies of any person against the Registrar-General under section 126 or 127. This subsection has effect despite any provision of the Legal Profession Act 1987 or any other Act, law or agreement.

(2) On the payment of damages in accordance with a judgment for the plaintiff in any action brought under section 126 or 127, the Registrar-General is subrogated to the rights and remedies of the plaintiff, in respect of the same loss, against:

- (a) any person who was wholly or partly responsible for the loss;
and
- (b) any professional indemnity insurer.

(3) This section does not apply to an action under section 126 or 127 of this Act commenced before 19 March 1992, but does apply to any such action commenced after that date (and so applies irrespective of when the cause of action accrued).

(4) In this section, “**professional indemnity insurer**” means an insurer, scheme or fund (whether or not established by or under any Act or law) by or from which claims are payable, being claims made by persons sustaining loss or damage owing to the negligence, fraud or wilful default of a person carrying on business in a particular profession, trade or calling.

*[Minister's second reading speech made in—
Legislative Assembly on 30 June 1992
Legislative Council on 16 September 1992]*