

**REAL PROPERTY (TORRENS ASSURANCE FUND)
AMENDMENT ACT 1992 No. 96**

NEW SOUTH WALES



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SCHEDULE 1—AMENDMENTS

**REAL PROPERTY (TORRENS ASSURANCE FUND)
AMENDMENT ACT 1992 No. 96**

NEW SOUTH WALES



Act No. 96, 1992

An Act to amend the Real Property Act 1900 to establish the Torrens Assurance Fund and to make further provision with respect to the payment of compensation under that Act; and for other purposes.
[Assented to 2 December 1992]

The Legislature of New South Wales enacts:**Short title**

1. This Act may be cited as the Real Property (Torrens Assurance Fund) Amendment Act 1992.

Commencement

2. This Act commences on the date of assent.

Amendment of Real Property Act 1900 No. 25

3. The Real Property Act 1900 is amended as set out in Schedule 1.

SCHEDULE 1—AMENDMENTS

(Sec. 3)

(1) Section 3 (Definitions):

In section 3 (1), insert in alphabetical order:

“**Torrens Assurance Fund**”—The Torrens Assurance Fund established under section 133A.

(2) Section 96I (Effect of official searches):

At the end of section 96I (1), insert:

Any damages recovered are to be paid out of the Torrens Assurance Fund.

(3) Section 122 (Stated case when applicant dissatisfied with objection of Registrar-General):

From section 122 (2), omit “assurance fund” insert instead “Torrens Assurance Fund”.

(4) Sections 123A, 125 (6), (7), 126 (5), 131, 132 (1), 133:

Omit “Consolidated” wherever occurring, insert instead “Torrens Assurance”.

(5) Section 129:

Omit the section, insert instead:

Registrar-General may settle claims

129. (1) The Registrar-General may settle a claim for damages made against the Registrar-General under section 96I or Part 14, whether or not the person making the claim has commenced an action to enforce the claim.

SCHEDULE 1—AMENDMENTS—*continued*

(2) The power of the Registrar-General to settle a claim is subject to the following restrictions:

- (a) a claim must not be settled unless the Registrar-General is satisfied that the claimant would be successful in an action to enforce the claim or that it is reasonable in all the circumstances of the case to settle the claim;
- (b) the amount to be paid in settlement of the claim must not exceed \$100,000 (or such other amount as may be prescribed by the regulations) unless the Minister has approved of the settlement.

(3) In settling a claim, the Registrar-General may pay such amount as the Registrar-General thinks reasonable. The amount may include any costs of action incurred by the claimant before the settlement.

(4) Payment under this section in settlement of a claim is to be made from the Torrens Assurance Fund.

(5) A payment under this section in settlement of a claim is taken for the purposes of section 128 to be a payment of damages in accordance with a judgment for the plaintiff and the claimant is taken to be the plaintiff.

(6) Section 131 applies to a payment under this section in settlement of a claim.

(7) An officer or other person employed in the Land Titles Office does not have the power to settle claims on behalf of the Registrar-General, but the Registrar-General may delegate to such a person the power to settle claims.

(6) Sections 131, 132:

From sections 131 (2) and 132 (1), omit “the Treasurer” wherever occurring, insert instead “the Registrar-General”,

(7) Section 133A:

After section 133, insert:

Torrens Assurance Fund

133A. (1) There is established in the Special Deposits Account an account called the Torrens Assurance Fund.

SCHEDULE 1—AMENDMENTS—*continued*

(2) The following amounts are to be paid into the Fund:

- (a) the amounts referred to in subsection (4);
- (b) amounts recovered by the Registrar-General under sections 128, 131 and 132;
- (c) any amounts advanced by the Treasurer for payment into the Fund;
- (d) any amounts appropriated by Parliament for payment into the Fund;
- (e) any amounts required by this Act or any other law to be paid into the Fund.

(3) The following amounts are payable out of the Fund:

- (a) all amounts required to be paid out of the Fund under section 96I;
- (b) all amounts required to be paid by the Registrar-General as nominal defendant under Part 14;
- (c) such amounts as may be required to repay any advance made by the Treasurer for payment into the Fund;
- (d) the costs and expenses incurred by the Registrar-General in, or as incidental to, investigating, assessing or defending any claim or action or damages under section 96I or Part 14;
- (e) the costs and expenses incurred by the Registrar-General in, or as incidental to, the administration of the Fund;
- (f) any amounts required by this Act or any other law to be paid out of the Fund.

(4) There is to be paid into the Fund such amount as the Minister may direct from each fee paid to the Registrar-General in respect of the lodgment of any dealing, caveat or withdrawal of caveat. Such a fee may be prescribed so as to include the amount required to be paid into the Fund.

(5) Any shortfall in the Fund is to be met from the Consolidated Fund, which is appropriated accordingly. The Fund is to repay the Consolidated Fund.

SCHEDULE 1—AMENDMENTS—*continued*

- (8) Section 134 (**Registrar-General not to be liable for acts done bona fide**):

Omit section 134 (2).

- (9) Part 19:

After section 144, insert:

PART 1—MISCELLANEOUS**Savings and transitional provisions**

145. Schedule 3 has effect.

- (10) Schedule 3:

After Schedule 2, insert:

SCHEDULE 3—SAVINGS AND TRANSITIONAL PROVISIONS

(Sec. 145)

PART 1—GENERAL**Regulations**

1. (1) The Governor may make regulations containing provisions of a savings or transitional nature consequent on the enactment of the following Acts:

Real Property (Torrens Assurance Fund) Amendment Act 1992

(2) A provision referred to in subclause (1) may, if the regulations so provide, take effect from the date of assent to the Act concerned or a later date.

(3) To the extent to which a provision referred to in subclause (1) takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as

- (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication; or
- (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication.

SCHEDULE 11—AMENDMENTS—*continued*

**PART 2—REAL PROPERTY (TORRENS
ASSURANCE FUND) AMENDMENT ACT 1992**

Payment of existing claims

2. On the commencement of the Real Property (Torrens Assurance Fund) Amendment Act 1992, any liability of the Consolidated Fund under Part 14 becomes a liability of the Torrens Assurance Fund established under section 133A.

Settlement of existing claims

3. Section 129, ~~is~~ substituted by the Real Property (Torrens Assurance Fund) Amendment Act 1992, extends to a claim that arose before the commencement of that Act.

*[Minister's second reading speech made in -
Legislative Assembly on 18 November 1992
Legislative Council on 25 November 1992]*