

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

NEW SOUTH WALES



TABLE OF PROVISIONS

1. Short title
2. Commencement
3. Amendment of Real Property Act 1900 No. 25

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]

Real Property (Torrens Assurance Fund) Amendment Act 1992 No. 96

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 for 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 19—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.

Real Property (Torrens Assurance Fund) Amendment Act 1992 No. 96

SCHEDULE 1—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, as 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]*

FIRST PRINT

**REAL PROPERTY (TORRENS ASSURANCE FUND)
AMENDMENT BILL 1992**

NEW SOUTH WALES



EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

The Real Property Act 1900 confers certain rights of action for the recovery of compensation on persons who suffer loss as a result of the operation of the Act (such as when a person loses ownership of land as a result of the registration of a fraudulent dealing).

In some cases the right of recovery is against the Registrar-General as nominal defendant (such as when the loss is due to the incorrect creation of a folio of the Register or when the person who would otherwise be responsible has absconded). Successful claims against the Registrar-General as nominal defendant are currently paid out of the Consolidated Fund.

The object of this Bill is to amend the Act to establish a "Torrens Assurance Fund" from which all payments of compensation under the Act will in future be made. The Fund is to be financed by a levy on all dealings, caveats and withdrawals of caveats lodged under the Act.

The Bill also empowers the Registrar-General to settle claims for compensation without the need for litigation. (At present, claims can be paid only if a court has given judgment for the claimant.) However, the Registrar-General will not be able to settle a claim over \$100,000 (or such other amount as the regulations may provide) without the approval of the Minister.

Consequential amendments are also made to reflect the fact that claims will no longer be paid directly from the Consolidated Fund and transitional provisions are inserted.

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides for the commencement of the proposed Act.

Clause 3 gives effect to the Schedule of amendments to the Real Property Act 1900.

Schedule 1 contains the amendments described above.

FIRST PRINT

**REAL PROPERTY (TORRENS ASSURANCE FUND)
AMENDMENT BILL 1992**

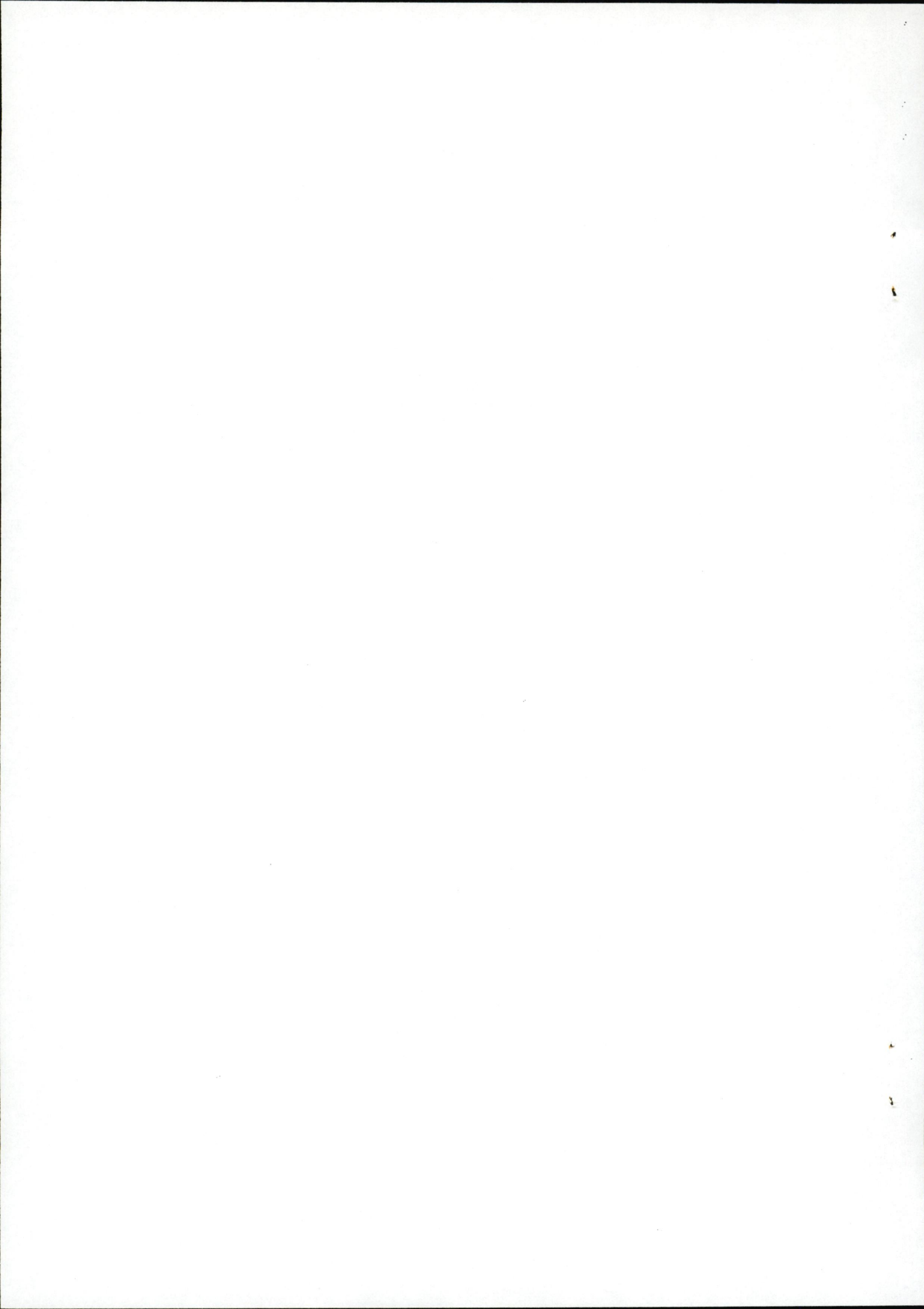
NEW SOUTH WALES



TABLE OF PROVISIONS

1. Short title
2. Commencement
3. Amendment of Real Property Act 1900 No. 25

SCHEDULE 1—AMENDMENTS



**REAL PROPERTY (TORRENS ASSURANCE FUND)
AMENDMENT BILL 1992**

NEW SOUTH WALES



No. , 1992

A BILL FOR

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.

Real Property (Torrens Assurance Fund) Amendment 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.

5 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

10

(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.

15

(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.

20

(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”.

25

(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

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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.

Real Property (Torrens Assurance Fund) Amendment 1992

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; 5
- (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. 10
- (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. 15
- (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. 20
- (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. 25
- (6) Sections 131, 132:
- From sections 131 (2) and 132 (1), omit “the Treasurer” wherever occurring, insert instead “the Registrar-General”. 30
- (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. 35

Real Property (Torrens Assurance Fund) Amendment 1992

SCHEDULE 1—AMENDMENTS—*continued*

- 5
- (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;
 - 10 (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:
- 15 (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;
 - 20 (d) the costs and expenses incurred by the Registrar-General in, or as incidental to, investigating, assessing or defending any claim or action for 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;
 - 25 (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.
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- (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.
- 35

Real Property (Torrens Assurance Fund) Amendment 1992

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:

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After section 144, insert:

PART 19—MISCELLANEOUS

Savings and transitional provisions

145. Schedule 3 has effect.

- (10) Schedule 3:

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After Schedule 2, insert:

SCHEDULE 3—SAVINGS AND TRANSITIONAL PROVISIONS

(Sec. 145)

PART 1—GENERAL

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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

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(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:

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(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

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(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.

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Real Property (Torrens Assurance Fund) Amendment 1992

SCHEDULE 1—AMENDMENTS—*continued*

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

Payment of existing claims

- 5 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

- 10 3. Section 129, as substituted by the Real Property (Torrens Assurance Fund) Amendment Act 1992, extends to a claim that arose before the commencement of that Act.
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REAL PROPERTY (TORRENS ASSURANCE FUND) AMENDMENT BILL 1992

LEGISLATIVE COUNCIL

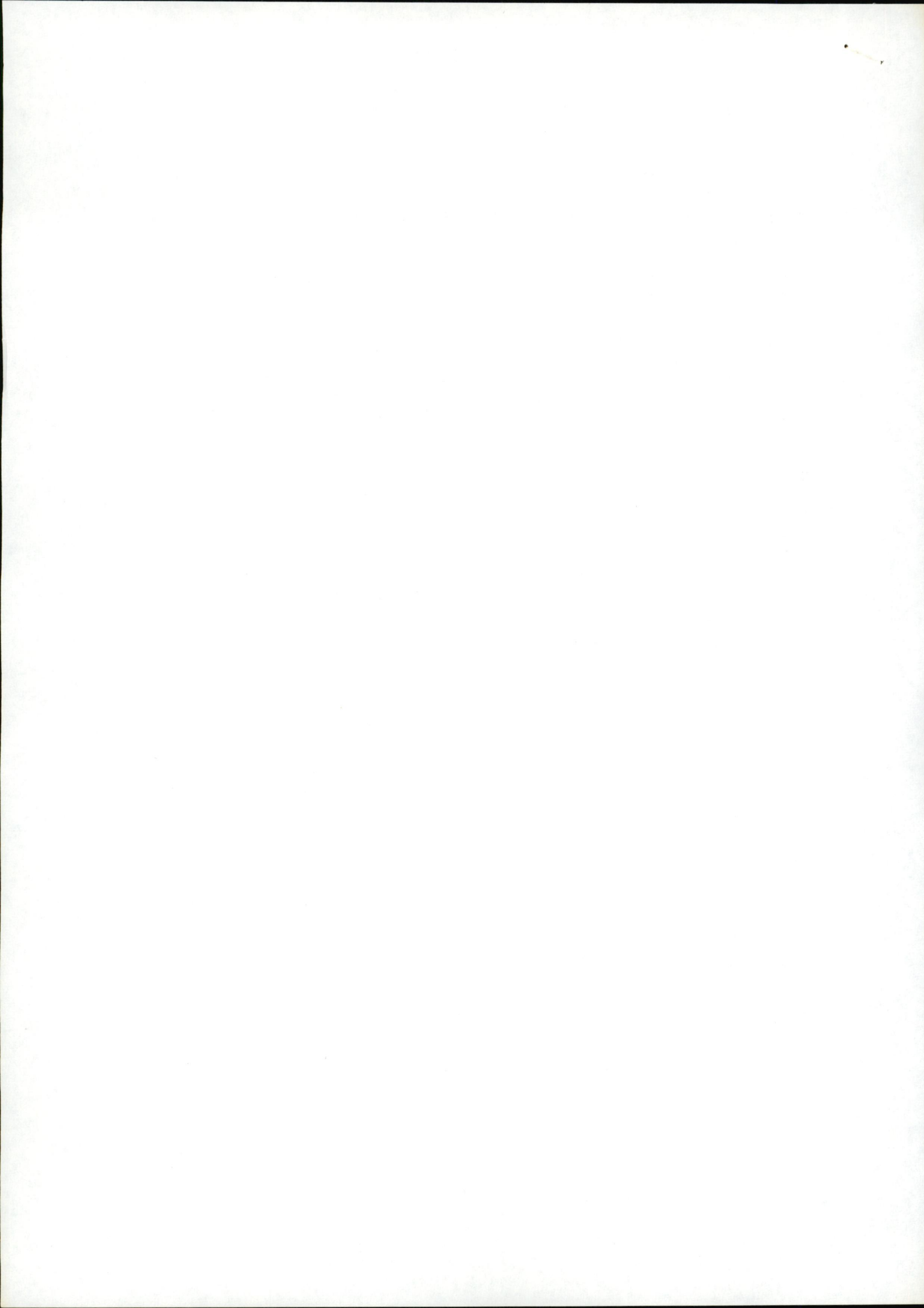
SECOND READING

THE HON. R.J. WEBSTER, M.L.C.,

MINISTER FOR PLANNING AND MINISTER FOR HOUSING

I move:

That this Bill be now read a second time.

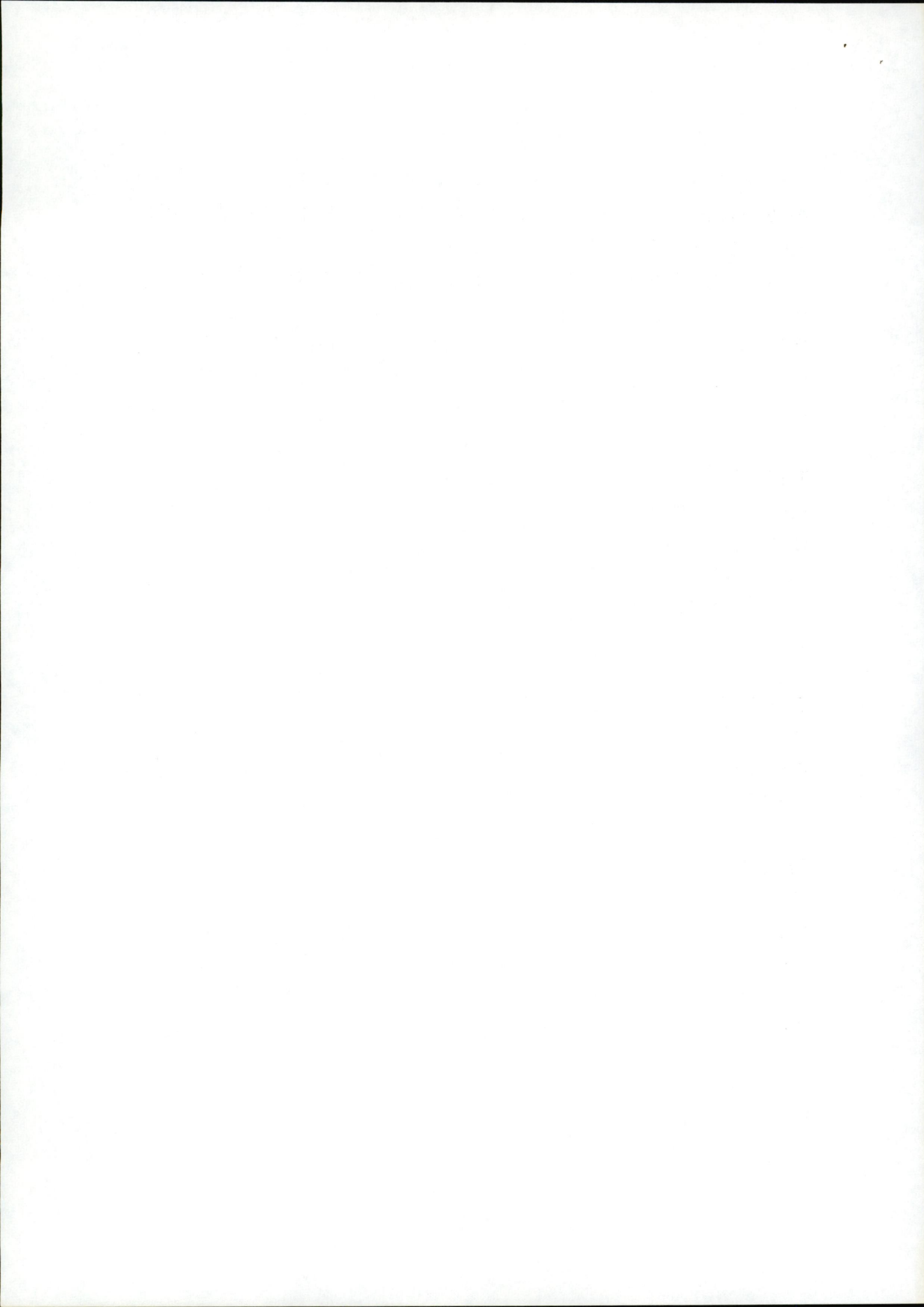


THE REAL PROPERTY (TORRENS ASSURANCE FUND) AMENDMENT BILL HAS A TWOFOLD PURPOSE. FIRSTLY, IT WILL ESTABLISH A SPECIFIC FUND, CALLED THE "TORRENS ASSURANCE FUND", FROM WHICH COMPENSATION PAYMENTS MAY BE MADE UNDER THE REAL PROPERTY ACT. SECONDLY, IT WILL CONFER ON THE REGISTRAR GENERAL GREATER POWERS TO SETTLE CLAIMS FOR COMPENSATION UNDER THE ACT.

THE TORRENS SYSTEM, WHICH HAS MANY ADVANTAGES, PARTICULARLY IN REGARD TO THE EASE AND COST OF CONVEYANCING, HAS BEEN PROGRESSIVELY REPLACING THE COMMON LAW SYSTEM OF LAND OWNERSHIP IN NEW SOUTH WALES WHICH WE INHERITED FROM ENGLAND AND WHICH IS SUITABLY CALLED THE "OLD SYSTEM".

THE TORRENS SYSTEM ESTABLISHED UNDER THE REAL PROPERTY ACT PROVIDES A STATE GUARANTEE OF THE OWNER'S TITLE TO LAND. IT IS AN ESSENTIAL FEATURE OF THE TORRENS SYSTEM THAT A PERSON WHO IS DEPRIVED OF LAND OR AN INTEREST IN LAND HAS THE RIGHT TO CLAIM COMPENSATION.

UNDER THE OLD SYSTEM, A PERSON WHO WAS DEPRIVED OF LAND BY THE OPERATION OF A FORGED OR OTHERWISE INVALID INSTRUMENT COULD RECOVER THE LAND FROM THE WOULD BE OWNER.

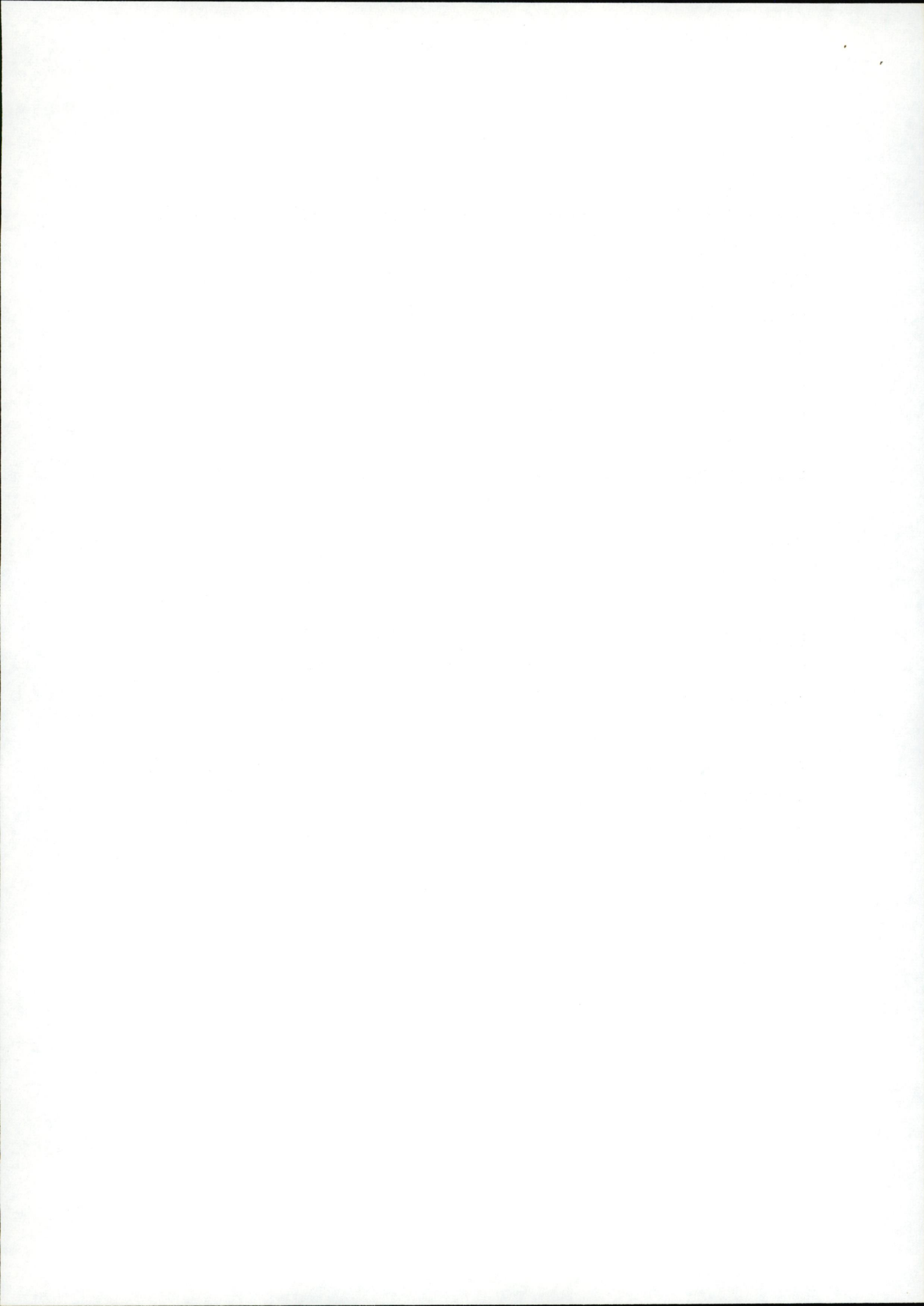


HOWEVER, THE PERSON RECORDED AS THE PROPRIETOR OF LAND IN THE TORRENS REGISTER IS IN AN ALMOST UNASSAILABLE POSITION. THIS MEANS THAT THE PERSON WHO HAS LOST, OR WHO HAS BEEN DEPRIVED OF THE INTEREST, CANNOT DISPLACE THE RECORDED OWNER UNLESS THE RECORDED OWNER HAS PERSONALLY BEEN INVOLVED IN THE FRAUD OR ILLEGALITY.

THE TORRENS SYSTEM REPLACES THE OLD SYSTEM RIGHT TO RECOVER THE LAND WITH A RIGHT TO RECOVER MONETARY DAMAGES.

BECAUSE THE STATE GUARANTEES TITLE UNDER THE TORRENS SYSTEM, AN ACTION FOR COMPENSATION ALSO EXISTS AGAINST THE REGISTRAR GENERAL, AS NOMINAL DEFENDANT, IN CERTAIN CIRCUMSTANCES WHERE THE CLAIM CANNOT BE PURSUED AGAINST THE WRONGDOER OR WHERE A LOSS OCCURS AS A RESULT OF AN ERROR BY ONE OF THE REGISTRAR GENERAL'S OFFICERS.

THIS RIGHT OF COMPENSATION BACKS UP THE STATE GUARANTEE OF TITLE BY PROVIDING MONETARY COMPENSATION FOR THOSE PERSONS WHO HAVE BEEN DEPRIVED OF LAND AS A RESULT OF THE OPERATION OF THE TORRENS SYSTEM AND WHO WOULD OTHERWISE HAVE NO REMEDY.



A FUND FOR THE PAYMENT OF THIS TYPE OF COMPENSATION HAS EXISTED IN ONE FORM OR ANOTHER EVER SINCE THE TORRENS SYSTEM WAS INTRODUCED INTO NEW SOUTH WALES IN 1863. THE ORIGINAL ASSURANCE FUND WAS ESTABLISHED BY THE REAL PROPERTY ACT 1862. IT WAS FUNDED BY THE LEVYING OF FEES WHEN LAND WAS BROUGHT UNDER THE ACT BY CROWN GRANT OR APPLICATION, OR WAS CONVEYED BY TRANSMISSION APPLICATION FOLLOWING THE DEATH OF THE REGISTERED OWNER.

IN 1906 ALL MONEYS AND SECURITIES COMPRISING THAT ASSURANCE FUND WERE TRANSFERRED TO THE PUBLIC WORKS AND CLOSER SETTLEMENT FUND. IN 1921, AMENDING LEGISLATION WAS PASSED TO PROVIDE THAT IF THE FUND WAS INSUFFICIENT TO MEET ANY CLAIM, SUCH CLAIM WAS CHARGED TO THE CONSOLIDATED REVENUE FUND.

BY 1940 THE LEVEL OF THE ASSURANCE FUND FAR EXCEEDED THE POTENTIAL CLAIMS AND THE REAL PROPERTY ACT WAS AMENDED TO ABOLISH FURTHER CONTRIBUTIONS TO THE ASSURANCE FUND.

THE REMAINING BALANCE WAS TRANSFERRED TO THE CLOSER SETTLEMENT AND PUBLIC RESERVE FUND IN 1970 AND WHEN THAT FUND WAS ABOLISHED IN 1987, ITS CONTENTS, INCLUDING THE REMAINDER OF THE ASSURANCE FUND, WERE PAID INTO THE CONSOLIDATED FUND. AT THE SAME TIME, THE REAL PROPERTY ACT WAS AMENDED TO PROVIDE THAT ANY CLAIMS BE PAID DIRECTLY FROM THE CONSOLIDATED FUND.

THE LAND TITLES OFFICE, WHICH CARRIES OUT THE FUNCTIONS OF THE REGISTRAR GENERAL, HAS, SINCE 1 JULY 1988, OPERATED COMMERCIALY AS A SELF SUPPORTING GOVERNMENT TRADING ENTERPRISE.

UNDER THE GUIDELINES FOR ITS COMMERCIAL OPERATION, THE LAND TITLES OFFICE WAS REQUIRED TO PROVIDE FOR THE PAYMENT OF ANY COMPENSATION RESULTING FROM ERRORS MADE BY ITS STAFF; WHILE THE CONSOLIDATED FUND REMAINED LIABLE FOR CLAIMS RESULTING FROM FRAUD.

THE LAND TITLES OFFICE BUDGETARY PROVISION FOR CLAIMS FOR OFFICE ERRORS WILL NOW FORM THE BASIS OF THE NEW FUND WHILE THE ONGOING FINANCING OF THE FUND WILL BE BY A \$1 LEVY ON DEALINGS AND CAVEATS.

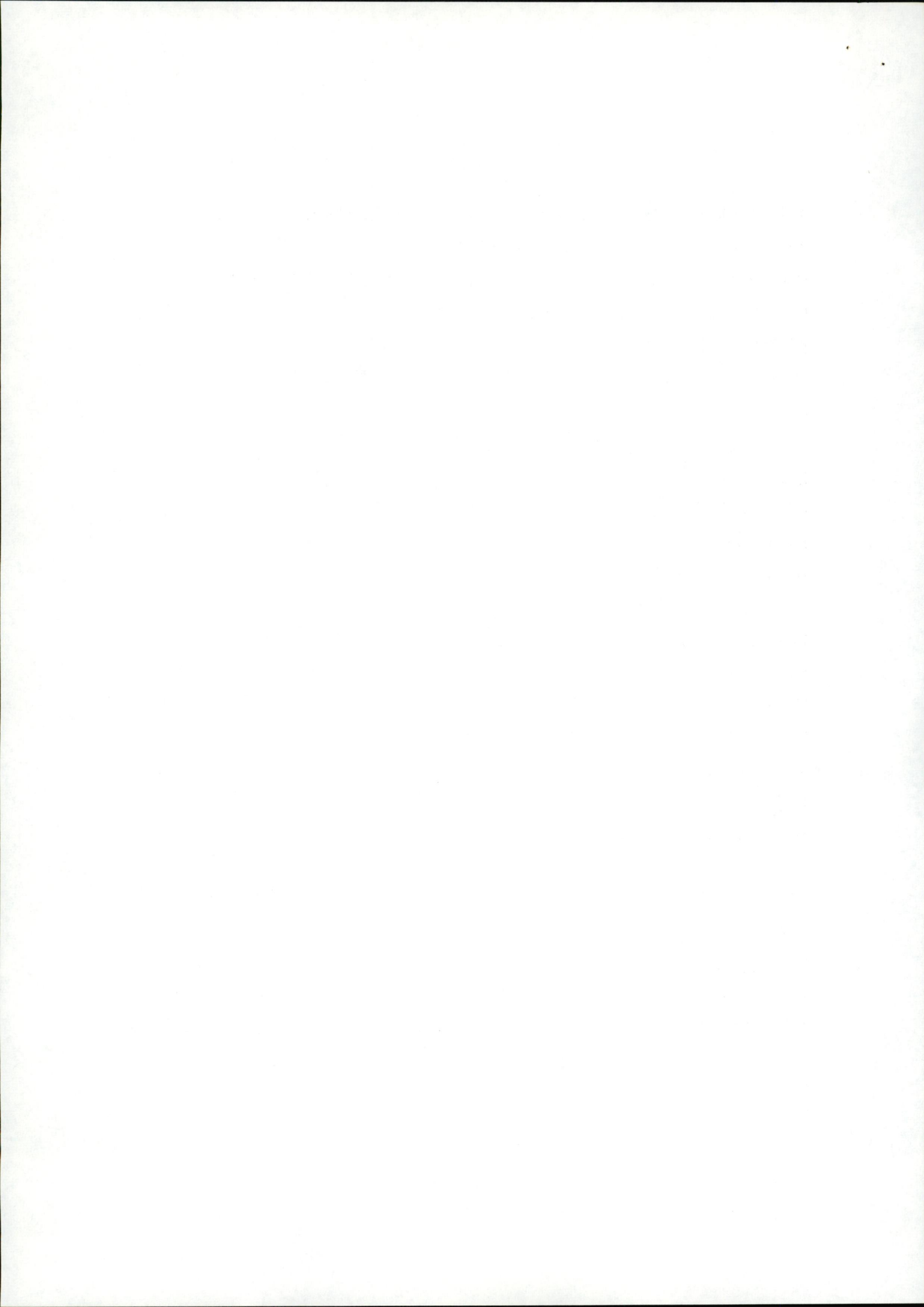
THE "TORRENS ASSURANCE FUND" , WHICH WILL BE HELD IN THE LAND TITLES OFFICE'S ACCOUNTS AT THE TREASURY, WILL BE DIRECTLY ADMINISTERED BY THE REGISTRAR GENERAL TO PROVIDE FOR THE EFFICIENT PROCESSING AND, IF APPROPRIATE, THE PAYMENT OF ALL CLAIMS FOR COMPENSATION UNDER THE REAL PROPERTY ACT.

THE BILL PROVIDES THAT ANY COMPENSATION OR LEGAL COSTS PAYABLE BY THE REGISTRAR GENERAL AND ANY LEGAL COSTS INCURRED BY THE REGISTRAR GENERAL SHALL BE PAID BY THE REGISTRAR GENERAL OUT OF THE TORRENS ASSURANCE FUND.

SIMILARLY, ANY FEES PAYABLE TO ANY CONSULTANT RETAINED BY THE REGISTRAR GENERAL TO ADVISE ON ANY CLAIM OR ON THE ADMINISTRATION OF THE FUND, SHALL BE PAID OUT OF THE FUND.

IT HAS, FOR MANY YEARS, BEEN THE PRACTICE OF THE REGISTRAR GENERAL, ACTING ON THE ADVICE OF COUNSEL, TO RECOMMEND TO THE MINISTER THAT APPROPRIATE COURT CASES BE SETTLED BY THE FILING OF A CONSENT ORDER.

IN THIS WAY THE REGISTRAR GENERAL HAS BEEN ABLE TO AVOID ADDITIONAL LEGAL COSTS, AND IN MANY CASES, TO NEGOTIATE A MUCH LOWER AMOUNT OF COMPENSATION THAN WOULD POTENTIALLY BE PAYABLE IF THE MATTER WERE FULLY LITIGATED.

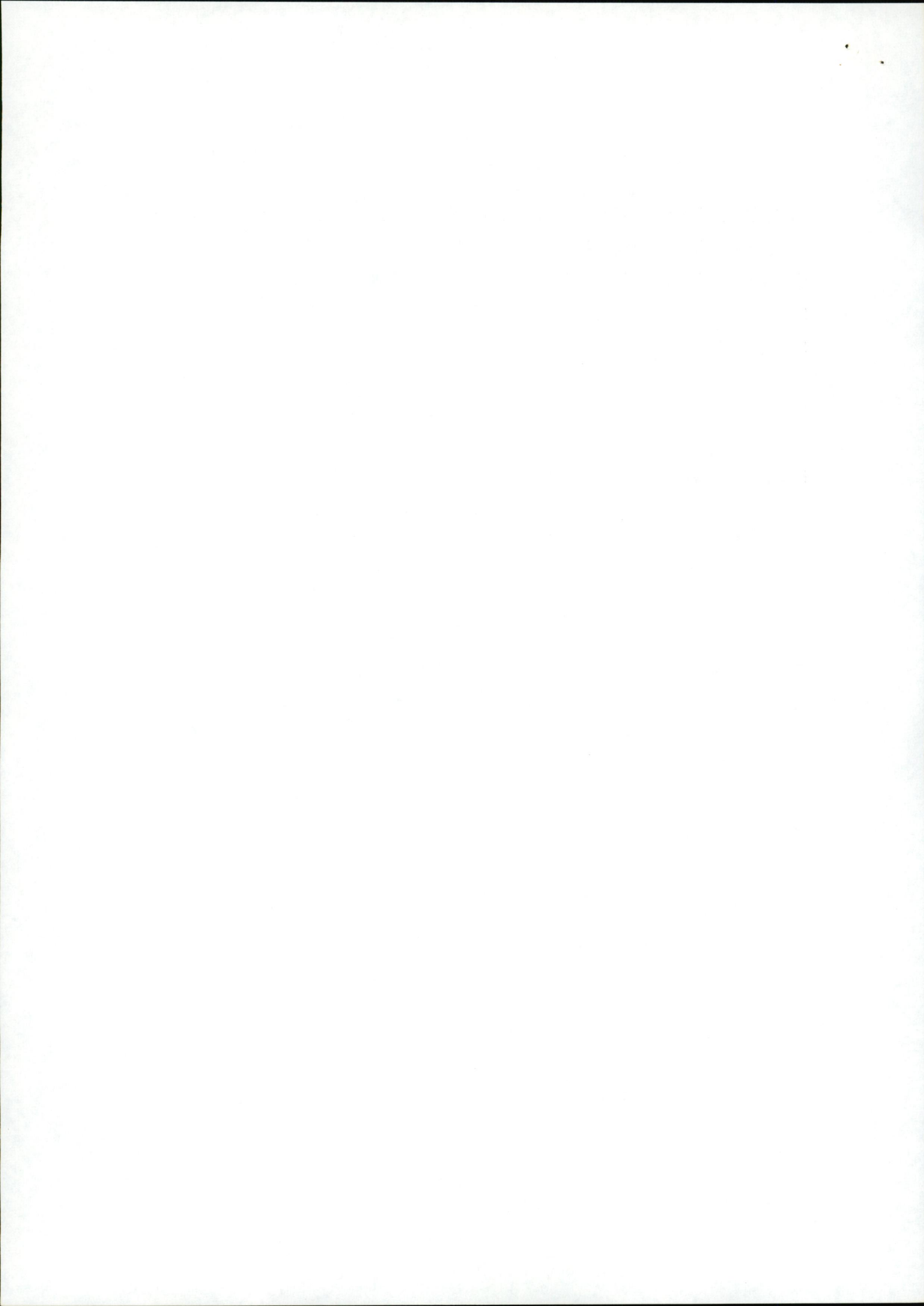


THE BILL TAKES THIS PROCESS ONE STEP FURTHER BY ALLOWING THE REGISTRAR GENERAL TO SETTLE CLAIMS WITHOUT THE NEED TO COMMENCE LITIGATION. THIS WILL FURTHER REDUCE LEGAL COSTS, DELAYS AND THE NUMBER OF MATTERS THAT MUST BE DETERMINED BY THE COURT.

OF COURSE, WHERE THE REGISTRAR GENERAL'S LIABILITY IS UNCLEAR OR A SETTLEMENT CANNOT BE NEGOTIATED THE MATTER WILL NEED TO BE LITIGATED. TO THIS END THE BILL EMPOWERS THE REGISTRAR GENERAL TO SETTLE CLAIMS FOR COMPENSATION AND PROVIDES THAT MINISTERIAL APPROVAL IS REQUIRED TO SETTLE A CLAIM OVER \$100,000.

IT IS IMPOSSIBLE TO ACCURATELY PREDICT THE POTENTIAL COMPENSATION THAT THE TORRENS ASSURANCE FUND WILL BE REQUIRED TO PAY IN ANY GIVEN PERIOD AND, WHILE THE BALANCE OF THE FUND WILL BE MONITORED TO ATTEMPT TO AVOID A DEFICIENCY, IT IS POSSIBLE THAT A CLAIM, OR SERIES OF CLAIMS, MAY EXCEED THE BALANCE OF THE FUND AT A PARTICULAR TIME.

IT IS ALSO IMPORTANT TO REMEMBER THAT THE TORRENS ASSURANCE FUND STANDS BEHIND THE STATE GUARANTEE OF TITLE. ACCORDINGLY, THE BILL PROVIDES THAT ANY DEFICIENCY IN THE FUND WILL BE MET, IF NECESSARY, FROM THE CONSOLIDATED FUND AND THAT THE AMOUNT OF ANY SUCH ADVANCE SHOULD BE REPAID BY THE TORRENS ASSURANCE FUND.



IN CONCLUSION I WOULD ADD THAT THE NEW SOUTH WALES LAW REFORM COMMISSION, WHICH IS CONDUCTING A REVIEW OF THE COMPENSATION PROVISIONS OF THE TORRENS SYSTEM GENERALLY, HAS EXPRESSED SUPPORT FOR THE PROPOSALS IN THIS BILL AND HAS ADVISED THAT IT HAS NO OBJECTION TO THE BILL PRECEDING THE PUBLICATION OF THE COMMISSION'S FINAL REPORT.

I COMMEND THE BILL TO THE HOUSE.

