

**REAL PROPERTY (COMPENSATION) AMENDMENT
BILL 1992**

NEW SOUTH WALES



EXPLANATORY NOTE

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

Under Part 14 of the Real Property Act 1900, a person sustaining loss in a way that relates to the operation of the Act has a right to recover compensation for that loss in an action against the Registrar-General.

In some cases the person may have a right to recover compensation from other sources in respect of the same event—for example, the Solicitor's Fidelity Fund, if the loss was occasioned by the default of a solicitor. The object of this Bill is to make it clear that in such cases the administrators of the relevant fidelity fund or other insurance fund, and not the Registrar-General, will be liable to pay the compensation.

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides that the proposed Act is taken to have commenced on 19 March 1992, the day on which the Minister for Conservation and Land Management made a public announcement of his intention to introduce legislation of this kind.

Clause 3 inserts proposed section 128, the effect of which is to bar the recovery of compensation from the Registrar-General by a professional indemnity fund or other insurer in respect of a loss on which a claim has been made. Furthermore, the Registrar-General, having paid a claim, is subrogated to the rights of the plaintiff against any person responsible for any part of the loss which gave rise to the action and against any insurer. (This means that any rights of the plaintiff to sue any third party in respect of the relevant loss become rights exercisable to the same extent by the Registrar-General.) The proposed section contains a saving of the rights of any person who began an action under Part 14 before the commencement of the proposed Act.
