

NSW Stolen Generations Reparations Scheme and Funeral Assistance Fund

Fact Sheet 2 – Application Guide

How to apply

The Scheme commenced on 1 July 2017, and closed for new applications on 30 June 2023.

Late applications may be accepted in some circumstances. To request to submit a late application please write to the Manager.

Legal Aid's Civil Law Team can also assist you to request a late application. You can contact them on 1300 888 529. There is no charge for this service.

Eligibility

Under the Scheme's Guidelines to be eligible for a reparations payment, a person must:

- a. have been removed by, committed to, or otherwise have come under the care of the Aborigines Protection or Welfare Boards, up until the *Aborigines Protection Act 1909* was repealed on 2 June 1969; and
- b. be living; and
- c. have lodged a valid application – that is an application that has been signed by the applicant and to which copies of current identification documents have been attached.

If a claimant who meets the eligibility criteria above and has submitted an application dies before a decision is made, the Scheme's guidelines include discretionary power to continue to process the application if a request in writing is received from the person responsible for the claimant's estate.

Fees and charges

Access to the Stolen Generations Reparations Scheme is free of charge. Applicants who require assistance to lodge a claim should contact the Stolen Generations Reparations Unit on 1800 019 998.

Consideration and determination of claims

Once an application is received and it is determined that the person making the claim is able to meet the eligibility requirements, the Stolen Generations Reparations Unit in Aboriginal Affairs will search government records and compile the necessary evidence, if possible, from the Board's records.

This information will then be provided to the Scheme's Independent Assessors who will, after considering all available evidence, make recommendations regarding payment to the Minister for Aboriginal Affairs. Independent Assessors have been appointed by the Governor of NSW. The Independent Assessors are Aboriginal and are empowered to consider all available evidence, including oral evidence and statutory declarations.

The Minister will then consider this advice and make a decision about whether an ex-gratia reparation payment can be made.

Review of decisions

The Minister's decision to make or not make a reparations payment is final. However, if you believe that there is relevant information that has not been taken into consideration or that the Scheme's Guidelines have not been followed in determining your claim, you can request a review of process.

The request for a review must be in writing and provide details of the relevant information that you consider was not taken into account or the process in the Guidelines that was not followed.

A review of process will be conducted by an Independent Assessor other than the Independent Assessor who originally considered the claim.

Support person

If you need assistance in making an application you can formally nominate a 'support person', for example, a family member or friend. This will authorise Aboriginal Affairs to communicate with your 'support person' about your application. It is possible for applicants to authorise more than one support person.

Authorised Representative

There may be situations where a person applying to the Reparations Scheme has an 'Authorised Representative' who is legally allowed to submit an application on their behalf.

If there is such an arrangement in place, evidence of this will need to be provided to Aboriginal Affairs at the point of applying to the Scheme, in order for the application to proceed.

For further information on Authorised Representatives, see Factsheet 3 – Glossary of Terms or the Scheme's Guidelines.

Centrelink payments and income tax

Stolen Generations reparations payments will not be taxed and will not affect pensions and other Centrelink payments.

A Fact Sheet detailing the Department of Social Services and the Australian Tax Office advice on this matter can be found at aboriginalaffairs.nsw.gov.au/healing-and-reparations/stolen-generations/reparations-scheme.

Legal representation

The Stolen Generations Reparations Scheme is an administrative-based rather than legislative based scheme, designed to place minimal evidentiary burden on claimants.

The Stolen Generations Reparations Unit will search the Aborigines Welfare Board records for evidence of a claimant's removal by the Board. As such, it is not anticipated that legal assistance would be required to lodge an application and such legal assistance will not be funded by the Scheme.

Funeral Assistance Fund

Eligibility

To be eligible for a payment under the Funeral Assistance Fund, a person must:

- a. have been removed by, committed to, or otherwise came to be in the care of the Aborigines Protection or Welfare Boards, up until the *Aborigines Protection Act 1909* was repealed on 2 June 1969; and
- b. have been living on 2 December 2016.

How to apply

Persons who have received a payment under the Stolen Generations Reparations Scheme are considered to have satisfied the eligibility for a payment under the Fund. The letter sent to successful applicants under the Stolen Generations Reparations Scheme will contain a form asking whether claimants wish to receive a payment from the Funeral Assistance Fund.

If a person who would have been eligible for payment under the Funeral Assistance Fund dies before making an application, another person may apply for a payment on their behalf. The person making such an application will need to provide the deceased person's death certificate (or other proof of death) and invoices for funeral costs.

Different ways in which Funeral Fund payments can be made

Claimants can choose, if their application is successful, to receive payment at the time of approval. Or, if they wish, can defer receipt of the payment to a date to be advised. If a person chooses to defer payment, they will be asked to nominate a person who, if necessary, may receive the payment on their behalf.

Centrelink payments and income tax

Funeral Assistance payments will not be taxed and will not affect pensions and other Centrelink payments. A Fact Sheet detailing the Department of Social Services and the Australian Tax Office advice on this matter can be found at aboriginalaffairs.nsw.gov.au/healing-and-reparations/stolen-generations.