



10/05/17_26878

GUIDELINES FOR THE ADMINISTRATION OF THE NSW STOLEN GENERATIONS FUNERAL FUND



Aboriginal
Affairs



Contents

1. Preliminary	1
2. Date of commencement of the Fund	1
3. Eligibility	1
4. Lodging of applications	2
5. Consideration and determination of applications	2
6. Definitions	3

1. Preliminary

- 1.1 In NSW, under the *Aborigines Protection Act 1909*, the Aborigines Protection Board and its successor the Aborigines Welfare Board, had wide ranging control over the lives of Aboriginal people, including the power to remove Aboriginal children from their families and place them into care.
- 1.2 The removal of Aboriginal children in NSW occurred first under the policy of ‘protection’ and, from 1937, under an official policy of ‘assimilation’. This policy aimed to integrate Aboriginal people into the wider population by severing connection to Aboriginal social and cultural practices.
- 1.3 Removal of children from their families and communities has contributed to entrenched economic disadvantage, resulting in many members of the Stolen Generations being unable to afford the cost of their own funerals.
- 1.4 On 23 June 2016, General Purpose Standing Committee No.3 released its Report on Reparations for the Stolen Generations in New South Wales: *Unfinished Business*. Among its recommendations was that the NSW Government establish a funeral fund for Stolen Generation survivors.
- 1.5 On 2 December 2016, the Government announced, in response to *Unfinished Business*, that it would establish a Stolen Generations Funeral Assistance Fund (“the Fund”) to provide payments to contribute to funeral costs for Stolen Generations survivors.
- 1.6 There will be a standard one-off payment of \$7,000 to Stolen Generations survivors found to have been removed by, committed to, or otherwise come into the care of the Board. This amount represents the full entitlement of successful claims and no further payments will be made for additional costs or expenses incurred by the claimant and/or their executor or beneficiaries.
- 1.7 These Guidelines embody the principle of self-determination and are designed to allow claimants maximum flexibility in the use of funds.
- 1.8 It is the responsibility of claimants to make their own arrangements with regard to funeral planning and to communicate such arrangements, including the status of any claim or payment made under this Fund, to their authorised representative, executors and beneficiaries.
- 1.9 Words and expressions used in these Guidelines have the meanings given to them in the Definitions in Part 5 of these Guidelines.

2. Date of commencement of the Fund

- 2.1 The Fund will commence on upon approval of the Guidelines.

3. Eligibility

- 3.1 The following persons are eligible to apply for a payment pursuant to the Fund:

- 3.1.1 a person who

- 3.1.1.1 was living on 2 December 2016;
and

- 3.1.1.2 was removed by, committed to or otherwise came to be in the care of the Board up until the *Aborigines Protection Act 1909* was repealed on 2 June 1969, or otherwise deemed eligible under the Stolen Generations Reparations Scheme;

- 3.1.2 an Authorised Representative of a person in 3.1.1.

- 3.2 Persons who have received an ex gratia payment under the NSW Stolen Generations Reparations Scheme are considered to have satisfied the eligibility for a payment under the Fund.

4. Lodging of applications

4.1 An application:

- 4.1.1 shall be on the approved form;
- 4.1.2 shall be accompanied by copies of any two of the following forms of identification that confirms the identity of the applicant:
 - 4.1.2.1 Birth Certificate;
 - 4.1.2.2 Driving Licence;
 - 4.1.2.3 Pensioner Concession Card;
 - 4.1.2.4 Veterans Card;
 - 4.1.2.5 Medicare Card;
 - 4.1.2.6 Health Care Card;
 - 4.1.2.7 Australian passport;
 - 4.1.2.8 a current plastic credit card or account card issued by a bank, building society or credit union, showing the applicant's name and signature; or
 - 4.1.2.9 other document that establishes the identity of the applicant to the satisfaction of Aboriginal Affairs.

4.2 Where a claimant makes an application but becomes incapable before the application is determined, the application may be continued by an Authorised Representative of the claimant, on evidence of their status as an Authorised Representative having been provided to the satisfaction of Aboriginal Affairs.

4.3 The person making an application shall be referred to in these Guidelines as "the claimant".

4.4 Claimants shall have the option, in the event their application is successful, of:

- 4.4.1 receiving payment at the time of approval; or
- 4.4.2 deferring receipt of payment until a later date to be notified by the claimant or the claimant's nominated recipient.

4.5 If an eligible claimant chooses to defer receipt of payment pursuant to clause 4.4.2, they shall be required at the time of deferment to nominate in writing a person who may receive payment on their behalf if the claimant dies before receiving payment.

4.6 If a person who meets the eligibility criteria set out in clause 3.1.1 dies before making an application, another person may apply for a payment on their behalf on production of:

- 4.6.1 a copy of the death certificate of the eligible deceased person; or
- 4.6.2 a copy of the eligible deceased person's death notice; or
- 4.6.3 documentation from the Funeral Director that states the eligible deceased person's name; and
- 4.6.4 invoices (or receipts if the funeral costs have already been paid) for funeral costs for the eligible deceased person showing:
 - 4.6.4.1 the name of the eligible deceased person; and
 - 4.6.4.2 the name of the person responsible for payment of the funeral costs; and
 - 4.6.4.3 a description of the funeral services/costs.

5. Consideration and determination of applications

5.1 In considering an application, regard shall be had to the following factors:

- 5.1.1 the length of time that has elapsed and the difficulty claimants may have in substantiating their application as a result;
- 5.1.2 any deficiencies in the official written record relating to the application or similar applications;

5.1.3 the importance of oral evidence in the absence of written records and in the cultural traditions of Aboriginal people;

5.1.4 the purpose of the Fund, which is to provide funeral assistance to Stolen Generations survivors who were removed by, committed to, or otherwise came to be in the care of the Board under the policy of assimilation; and

5.1.5 any other matter which Aboriginal Affairs considers relevant.

6. Definitions

- 6.1 “Authorised Representative” means any of:
- 6.1.1 an attorney for the individual under an enduring power of attorney; or
 - 6.1.2 a guardian within the meaning of the Guardianship Act 1987; or
 - 6.1.3 person who is otherwise empowered under law to exercise any functions as an agent of or in the best interests of the individual.
- 6.2 “Board” means the Aborigines Protection Board and/or the Aborigines Welfare Board as applicable.
- 6.3 “Claimant” means a claimant who has lodged (or is taken to have lodged) an application with the Fund for a payment.
- 6.4 “Fund” means the Stolen Generations Funeral Assistance Fund commenced by the New South Wales Government on 3 March 2017.
- 6.5 “Funeral costs” means a broad range of costs related to funerals, including but not limited to, burial rights, headstones and memorials, death notices, memorial events or receptions, repatriation costs, travel and accommodation.
- 6.6 “Incapable” means lacking the capacity (whether temporarily or permanently) to understand the nature and effect of the application or to communicate their wishes and intentions with regard to their application.
- 6.7 “Nominated Recipient” means a person nominated by a claimant to receive a payment on their behalf if the claimant chooses to defer receipt of payment.
- 6.8 “NSW Stolen Generations Reparations Scheme” means the Scheme announced by the NSW Government on 2 December 2016, in response to *Unfinished Business*, to provide payments to Stolen Generations survivors for their removal by the Aborigines Protection Board or Aborigines Welfare Board and due to commence on 1 July 2017.
- 6.9 “Stolen Generations” for the purpose of these Guidelines means Aboriginal children who were removed by, committed to or otherwise came to be in the care of the Board up until the *Aborigines Protection Act 1909* was repealed in 1969.

