

Stolen Wages Class Action



A. What is in this notice?

IMPORTANT: *This notice has information you need to know about a proposed settlement of the Aboriginal and Torres Strait Islander Stolen Wages Class Action and your rights in relation to that.*

This notice has been approved by Order of the Honourable Justice Murphy made on 4 September 2019.

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B. Why is this notice important?

This notice is important because it provides information about:

- (a) the proposed settlement of the Aboriginal and Torres Strait Islander Stolen Wages Class Action;
- (b) your right to object to the proposed settlement or to part of it;
- (c) the requirement to register if you wish to share in the proposed settlement; and
- (d) if you are a newly added group member, your right to opt out if you do not wish to be part of the class action and do not wish to share in the settlement.

1. What is the Class Action?

A class action is a lawsuit brought by a person (who is called the “**applicant**”) on behalf of a group of people (who are called the “**group members**”) against another person (who is called the “**respondent**”). It is called a “**class action**” when the applicant and the group members have similar claims against the respondent.

A class action has been brought in the Federal Court of Australia by Hans Pearson (who is the applicant) against the State of Queensland (who is the respondent).

The case is called **Pearson v State of Queensland** and it is about the payment for work undertaken by Aboriginals and Torres Strait Islander people in Queensland between 1939 and 1972.

We call this class action “**The Stolen Wages Class Action**”.

2. Who are the group members?

The class action was brought by Hans Pearson on behalf of:

- (a) Aboriginal and Torres Strait Islanders;
- (b) who lived in a district or on a mission or reserve in Queensland;
- (c) who at some time between 1939 and 1972 (the “Claim Period”) had a paid job; and
- (d) whose pay for his or her job was controlled by the government or the head of the mission or reserve at some time during the Claim Period.

The class action is also brought on behalf of Aboriginals who were made to work on missions or settlements in Queensland between 1945 and 1966.

The Aboriginals and Torres Strait Islanders referred to above are the group members in this class action.

A group member who has died is still a group member and it is proposed that his or her spouse or children, if they are alive, can claim on his or her behalf.

3. What is the proposed settlement?

The applicant and the respondent have agreed to a **proposed settlement** of the class action, which means that the State of Queensland will pay \$190 million for compensation and legal costs. That is called the “**settlement fund**”. The settlement fund is in addition to the approximately \$56.5m which has already been paid by the State of Queensland under the Reparation Scheme.

In return for the settlement fund being paid, the applicant has agreed that no more claims can be made by the applicant or group members against the State of Queensland about the things that the class action is about. If the proposed settlement is approved by the court, the group members will not be able to make any more claims like that.

The settlement only comes into effect if it is approved by the Federal Court at a hearing called a “settlement approval hearing”. That hearing is set to take place on 21 November 2019. **At the settlement approval hearing the applicant intends to apply to the court for orders including the following:**

- (a) the settlement of \$190m inclusive of legal costs be approved;
- (b) an amount of \$12.5m be deducted from the settlement for legal costs incurred in bringing the class action, plus an amount for the costs of obtaining settlement approval;
- (c) an amount of up to \$38m, being 20% of the settlement, for the litigation funding commission of Litigation Lending Services (**the funder**), in return for it taking on the risk of the class action and paying the legal costs incurred;
- (d) an amount, which is not yet estimated, for the cost of administering the proposed settlement scheme; and
- (e) a modest amount to compensate the applicant for the time and expense involved in representing group members.

These proposed deductions will only be approved if the court is satisfied that they are fair and reasonable in the interests of group members. If the proposed deductions are approved there will be about \$139.5m left to be paid out to group members.

The court has ordered that this notice should be published so that the group members in the class action know about the proposed settlement, and to tell the group members how they can object to the proposed settlement if they think that it or part of it is unfair, the requirement to register if you wish to share in the proposed settlement, the right to opt out if you do not wish to be part of the class action, and how the compensation will likely be distributed between group members who have registered.

4. Registration

Group members must register their claims if they are to be entitled to share in the compensation under the proposed settlement. You must do so on or before **8 November 2019**.

If you are already a client of Bottoms English Lawyers and registered with them as a group member, you do not need to register again for compensation. However, if you have not previously registered with Bottoms English Lawyers, you need to register your claim to receive any compensation. The registration form is at the end of this notice. After receiving your details, the administrator may ask you for more information if it thinks it needs to.



IMPORTANT: Only registered group members are entitled to be paid any compensation under the proposed settlement. If you are not a registered group member (or if you opt out) you will not be paid any compensation under the proposed settlement, if it is approved. If you are not already registered and wish to claim compensation under the proposed settlement, then you need to register.

If you have not opted out every group member in the class action, whether or not he or she registers, will be bound by the outcome if the settlement is approved. This means that group members that do not register and have not opted out will lose their rights to sue the State of Queensland for the same or related claims to those made in the class action.



5. Opt Out

Some group members have already had a chance to “opt out” of the proceeding and keep their legal rights against the State of Queensland (in May 2018). If you have already had a chance to opt out then you cannot now opt out without permission from the court. However, some people are newly added as group members and they did not previously have an opportunity to opt out of the class action in May 2018. They can do so now if they want to.

Details of where to obtain the opt out form are set out at the end of this notice. If you opt out of the class action, this means you will not be “bound” by the orders the court makes if it approves the settlement. You will therefore keep your rights to sue the State of Queensland for the same or related claims to those made in the class action, **but it also means that you will not get any money from the proposed settlement.**

6. What do you do if there is something you don't understand?

The law firm that helped Hans Pearson with this case is **Bottoms English Lawyers**. They are still working on this class action. If there is anything in this notice that you do not understand, you can contact Bottoms English Lawyers by calling the Stolen Wages Hotline on **07 4041 1641**. You could also speak to your own lawyer.

BELAW will be holding public meetings in a number of towns to explain the proposed settlement to the group members. If you have any questions you can go to one of the meetings. BELAW will advertise information about the time and venue of each of the information sessions as soon as possible.

C. What has already happened in the class action?

1. Legal hearings

The class action has been managed by Justice Murphy in the Federal Court of Australia. It was set down for trial commencing in February 2020.

A number of matters have already been dealt with by the court including issues about the evidence, pleadings and the documents provided by the State of Queensland. Some group members were given an opportunity to opt out of the class action, if they wished. Hans Pearson and his lawyers had prepared and served a lot of evidence in support of the case.

2. There was a mediation and the settlement was agreed

Over a number of days in 2018 and 2019, the applicant and his lawyers met with the respondent and its lawyers at a "**mediation**". A mediation is like a meeting where people try to reach an agreement with each other instead of going to court.

After the mediation, the applicant agreed to the settlement so that the class action could be brought to an end without having to have a trial.

D. What happens now in the class action?

1. The settlement needs to be approved by the Court

The proposed settlement can't go ahead unless the court says that it is fair and reasonable to all the group members, which is called "**approving**" the settlement. There will be a hearing in Brisbane where a Judge will decide whether to approve the settlement in this class action. This will be called the "**settlement approval hearing**".

You can come to the approval hearing if you want to watch the hearing or to tell the court your view about the proposed settlement or any part of it. The approval hearing will be at **10.15 am on Thursday, 21 November 2019** at this address:

Harry Gibbs Commonwealth Law Courts Building
119 North Quay (cnr Tank Street)
Brisbane QLD 3000

If the court does not approve the settlement, the trial of the class action will need to be determined by the court, unless some other agreement can be reached. There might need to be trials of many or all group members' claims, even if Hans Pearson wins. This will take a long time and be expensive. There is no guarantee that there will be another settlement.

2. What do you have to do now?

If you support the settlement, you do not need to do anything other than make sure you register your claim by **8 November 2019**.

If you don't like the proposed settlement, and want to "object" to the settlement or to some part of it, you need to fill out the form at the end of this notice called "*Objection to settlement form*" and send it to the address on the form, so that it reaches that address by no later than **8 November 2019**.

If you send an Objection to settlement form by the required date, you are also able to go to the settlement approval hearing and explain your objection to the Judge. You could also hire a lawyer to do this for you.

Even if you are objecting to the proposed settlement, you should register your claim if you want to get compensation if it is approved.

E. How does the proposed settlement scheme work?

The applicant's legal advisers have proposed a way in which the settlement fund is to be distributed and how much group members are to receive. This is called the "**settlement scheme**". It is a plan for deciding how the compensation will be paid. The settlement scheme is subject to approval by the court. The court may require changes to be made to the settlement scheme prior to any approval of the settlement scheme.

The proposed settlement scheme is complicated. This is only a summary. If you want to see a copy of the whole settlement scheme you can find it at one of the places listed at the end of this notice.

1. Who is the scheme administrator?

The proposed settlement scheme will be run by a person called the “**administrator**”.

The administrator will be the person who manages the settlement funds and organises how and when group members are paid out of the settlement fund. Bottoms English Lawyers will be the administrator’s legal advisor and assist them with the administration, unless the administrator decides to use different lawyers.

It is the administrator’s job to make sure that everything in the settlement scheme gets done in the way it is supposed to. Doing what the settlement scheme says is called “**administering**” the settlement scheme.

2. What is the settlement fund?

The State of Queensland has agreed to pay \$190m to settle the class action. This is called the “**settlement fund**”. The settlement fund will be paid into a bank account and will earn interest up until the time that it is paid out.

3. What legal fees are being paid?

The law firm that helped Hans Pearson with his case is Bottoms English Lawyers. They are still working on this class action. The legal costs cover the solicitors and barristers’ costs and include Bottoms English Lawyers dealing with over 7,000 Aboriginal and Torres Strait Islanders. They also include the cost of experts who have been engaged to assist with this matter. The experts who have provided advice and reports include forensic accountants, anthropologists, linguistic experts and historians.

The legal costs also include the costs of settling the action. These costs include the preparation of this notice and the costs of having the proposed settlement approved.

All legal costs have been or will be looked at by a third-party costs assessor who will determine whether they are appropriate. These costs will be paid out of the settlement fund. The court will have to approve Bottoms English Lawyers’ fees before they can be paid and group members will not have to pay any further legal costs.

Bottoms English Lawyers estimates that the total amount of legal costs will be about \$12.5m, plus an extra sum (to be approved by the court) for the cost of getting the settlement approved and administering it.

If approved by the court, these legal costs will be deducted from the settlement fund, meaning that all class members will share equally in the payment of legal costs. These legal costs are higher than the funding limit notified to group members by way of the Bottoms English Lawyers Update and Cost Disclosure letter dated 5 October 2018.

4. How much is being paid to the litigation funder?

The action could not have been brought without money provided by the funder who was prepared to take on the risks of the class action and pay ongoing legal costs. The funder has paid most of the legal fees to date and had agreed to pay the State's legal costs should the case be unsuccessful. By order made on 25 August 2017, the court approved for the funder to receive 20% of the settlement or such lower amount as the court considers reasonable. If the court approves a funder's commission of 20%, it means about \$38m will be deducted from the settlement for the funder's commission.

5. Payment to Hans Pearson

This action could not have proceeded without the assistance of Hans Pearson. He was instrumental in getting the action started. He has spoken with many people, travelled to different meetings in Queensland and to the mediations in Brisbane, and has assisted the lawyers in preparing his case. It is proposed that Hans will be paid a modest amount to compensate him for his time in assisting with the action. This will be in addition to what he receives as a group member.

6. How will the compensation be worked out?

After the payments have been made for legal fees and funder's commission to the funder for funding the class action and to Hans Pearson, there will be about \$139.5m of the settlement fund to compensate group members, though there will be additional costs for getting the settlement approved and administering it. The scheme administrator will then work out how much compensation will be paid to each of the group members under the proposed settlement scheme (if it is approved by the court).



IMPORTANT: This is only a summary of how the proposed payments will be worked out. If you want to understand how your compensation will be worked out, you need to read the proposed settlement scheme. The court might also change parts of the scheme, but the following sets out what is proposed by the Applicant.



There has been a lot of work done in the last year by Bottoms English Lawyers interviewing group members, taking statements and preparing for the trial. All group members do not have the same claims. The lawyers have tried to work out the differences between the claims of group members so that everyone is fairly

compensated from the settlement fund. This means that group members may get different amounts of money from each other, depending on their circumstances.

The amount of money that each group member gets will depend on their ethnicity, gender and age, as well as whether they are living or deceased. This is the information the administrator needs to determine each group member's entitlement. You give this information to the administrator by completing and returning the registration form, unless you have already registered. If the administrator thinks he needs more information from you, he will ask you for it.

In summary, this is how it is proposed this information will be used to determine the compensation for individual group members:

1. Aboriginal group members who are older will receive more money than younger Aboriginal group members. This is because older Aboriginal group members generally worked for longer during the Claim Period because they were controlled for a longer period during the Claim Period, and therefore lost more money.
2. Male group members will get more than female group members. This is because between 1939 and 1972, women were paid much less than men. We do not think this was fair but it means that male group members would be able to claim more money now if the class action went to trial. This means that it is fair that they receive slightly more compensation under the proposed settlement.
3. Aboriginal group members will get more than Torres Strait Islander group members. This is because, based on the work that Bottoms English Lawyers has done, Aboriginal group members were underpaid more than Torres Strait Islander group members. Aboriginal group members had to put more money into forced savings, and so Bottoms English Lawyers thinks that Aboriginal group members would be able to claim more money than Torres Strait Islander group members if the class action went to trial.
4. Group members who are deceased will receive less money than group members who are alive. This is because their claims are harder to prove and some parts of their legal rights were lost when they died.

After the administrator has worked out everyone's information that has been submitted, he will send a letter to all of the registered group members to tell them how much compensation they will get and the information he used to work that out, based on the scheme that the court has approved. That letter is called a "**distribution statement**".

If you are sent a distribution statement and you think that there has been a mistake, then you will be able to request a "**review**", which means that another person will look at the decision the scheme administrator made and decide if he was right. If you request a review you will need to pay for it (capped at \$800 (GST ex) for the first two hours, and \$450 (GST ex) per hour after this. This cost will be deducted from your entitlement, although the administrator will have the discretion to waive that cost.

When all of the reviews of the distribution statements have finished, the scheme administrator will be able to work out how much money each of the group members should be paid out of the settlement fund. He will pay the money to the group members after this has happened.

F. Where can I get copies of the documents?

The proposed settlement is explained in the proposed settlement scheme. This notice only has a summary of the settlement. If you want to understand how the proposed settlement will work in detail, you should read the proposed settlement scheme.

There are other relevant documents for the class action as well. These include the Fifth Amended Originating Application, the Fourth Further Amended Statement of Claim, the Further Amended Defence and the Further Amended Reply.

If you want to read any of these documents, you can:

- (a) go to the Stolen Wages Class Action website www.stolenwages.com.au or
- (b) ask Bottoms English Lawyers on the Stolen Wages Hotline - 07 4041 1641;
- (c) come to one of the public meetings
- (d) inspect them between 9am and 5pm at the offices of Bottoms English Lawyers at 63 Mulgrave Road, Cairns, Queensland 4870;
- (e) contact a District Registry of the Federal Court (contact details are available at www.fedcourt.gov.au). If you do this, you may have to pay an inspection fee; or
- (f) inspect them on the Federal Court website at www.fedcourt.gov.au

G. What if you have any questions?

Please read this notice carefully.

If there is anything you do not understand, you should ask your lawyer or speak to Bottoms English Lawyers by:

- **calling them on the Stolen Wages Hotline - 07 4041 1641; or**
- **writing to or visiting them at their office at 63 Mulgrave Road, Cairns, Queensland 4870.**

Registration Form - Group Members

The next page is the registration form for living group members. The form is there so that you can tell the administrator the information he needs to decide whether you get compensation, and how much you will get. **If you have previously registered with Bottoms English Lawyers then you do not need to do so again.**

After you have finished filling out the form, you should post it to Bottoms English Lawyers at this address, so that it reaches Bottoms English Lawyers by no later than **8 November 2019**:

Bottoms English Lawyers

P.O. Box 5196

Cairns, Queensland 4870

If you do not send in your form so it arrives by no later than **8 November 2019**, you will not be able to participate in the settlement.



Stolen Wages Class Action



Registration Form – Living Group Members

1. Personal information

Your full name:	
Are you known by any other name?	
What is your date of birth?	
What is your gender?	<input type="checkbox"/> Male <input type="checkbox"/> Female
Which of the following do you identify as (you must choose one only):	<input type="checkbox"/> Aboriginal <input type="checkbox"/> Torres Strait Islander

2. Eligibility information

Group members in the class action are people who are or were:

- (a) Aboriginal and Torres Strait Islanders;
- (b) who lived in a district or on a mission or reserve in Queensland;
- (c) who at some time between 1939 and 1972 (“the Claim Period”) had a paid job;
- (d) whose pay for his or her job was controlled by the government or the head of the mission or reserve at any time during the Claim Period;

OR

- (a) Aboriginal; and
- (b) were made to work on missions or settlements between 1945 and 1966.

Do you satisfy either or both of these requirements? Y / N



3. Payment information

Residential address:	
Postal address:	
Bank account details: [Name/BSB/Account#]	

Note: compensation payments will be made by electronic fund transfer if you provide bank details. If you do not provide bank details, you will be posted a cheque to the postal address you provide.

4. Declaration

I declare the that information I have provided in this form is true and correct to the best of my knowledge.

Signed: _____

Date: / / 2019



Registration Form - Claiming for Deceased Group Member or Members

The next page is the registration form for deceased group members. The form is there so that you can tell the administrator the information he needs to decide whether you are eligible to claim compensation on behalf of a deceased group member or more than one deceased group member, and how much you will get.

It is proposed that only spouses and (if there is no living spouse) living children are eligible to participate in the settlement on behalf of deceased group members.

After you have finished filling out the form, you should post it to Bottoms English Lawyers at this address, so that it reaches Bottoms English Lawyers by no later than **8 November 2019**:

Bottoms English Lawyers

P.O. Box 5196

Cairns, Queensland 4870

If you do not send in your form so it arrives by no later than **8 November 2019**, you will not be able to participate in the settlement.



Stolen Wages Class Action



Registration Form – Deceased Group Members

1. Your information

Your full name:	
Are you known by any other name?	
What is your date of birth?	

2. Deceased Group Member Information

Full name of the deceased group member you are claiming for:	
Were they known by any other name?	
When did the deceased group member pass away?	
What was your relationship to the deceased group member? (choose one only)	<input type="checkbox"/> Spouse <input type="checkbox"/> Child <input type="checkbox"/> Child adopted under traditional Torres Strait Islander adoption practices

Note: it is proposed only the living spouses and children of deceased group members can claim on their behalf.



What was the date of birth of the deceased group member to your knowledge?	
What gender was the deceased group member?	<input type="checkbox"/> Male <input type="checkbox"/> Female
Which of the following did the deceased group member identify as (you must choose one only):	<input type="checkbox"/> Aboriginal <input type="checkbox"/> Torres Strait Islander

3. Eligibility information

Group members in the class action are people who are or were:

- (a) Aboriginal and Torres Strait Islanders;
- (b) who lived in a district or on a mission or reserve in Queensland;
- (c) who at some time between 1939 and 1972 (“the Claim Period”) had a paid job;
- (d) whose pay for his or her job was controlled by the government or the head of the mission or reserve at any time during the Claim Period;

OR

- (a) Aboriginal; and
- (b) were made to work on missions or settlements between 1945 and 1966.

Do you satisfy either or both of these requirements? Y / N



4. Payment information

Residential address:	
Postal address:	
Bank account details: [Name/BSB/Account#]	

Note: compensation payments will be made by electronic fund transfer if you provide bank details. If you do not provide bank details, you will be posted a cheque to the postal address you provide.

5. Declaration

I declare the that information I have provided in this form is true and correct to the best of my knowledge.

Signed: _____

Date: / / 2019



Objecting to the proposed settlement

The next page is the Objection to Settlement form. The form is there so that you can tell the court if you don't like the proposed settlement (which is called "objecting" to it).

If you want to object to the proposed settlement by sending the form in, you have until **8 November 2019** to do this.

You can also object to the settlement by going to the approval hearing and telling the judge why you object. The approval hearing will be at **10.15 am on Thursday, 21 November 2019**; at this address:

Federal Court of Australia,
Harry Gibbs Commonwealth Law Courts
Building 119 North Quay Brisbane QLD 4000

Here is how to fill out the objection form:

- (a) Fill in your name, address, phone number, and email address. If you do not have a phone or email, you can leave this blank.
- (b) If you want to tell the court why you object to the settlement, you should write the reasons in the section that says, "I object to the settlement because:". If you run out of space, you can use your own paper and add it to the form.

After you have finished filling out the form, you should post it to the court at this address, so that it reaches the court by no later than **8 November 2019**:

The Registrar
Federal Court of Australia Queensland District Registry
Level 6, Harry Gibbs Commonwealth Law Courts Building
119 North Quay Brisbane QLD 4000

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IMPORTANT: you should only object if you don't like the settlement. If you support the settlement you do not need to do anything.

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Objection to Settlement Form

Stolen Wages Class Action



Hans Pearson v State of Queensland
(Federal Court of Australia, Queensland Registry, QUD714 of 2016)



Objection to Settlement Form

1. Your information

Full name:	
Date of birth:	
Address:	
Telephone number:	
Email address:	



Opting out

Some people only became group members in 2019. This was because the definition of group member in the class action was expanded to include those people who, during the years 1945 to 1966, were required by a protector or superintendent to work on the mission or settlement and who did not also work outside the mission or settlement for wages. If this applies to you, and you don't want to be part of the class action or the proposed settlement at all, you can tell the court.

If you have already been given an opportunity to opt out (in May 2018), you cannot opt out now without permission of the court. The opt out notice is intended only for those new group members described above who have not previously had an opportunity to opt out.

If you want to opt out, then you need to obtain a copy of the opt out form and send it to the address below by **8 November 2019**.

If you opt out, this means you will not be "bound" by the orders the court makes if it approves the settlement. You will therefore keep your rights to sue the State of Queensland for the same or related claims to those made in the class action, **but it also means that you will not get any money from the proposed settlement.**

It is advisable that before deciding to opt out of the class action you telephone the Stolen Wages Hotline on 07 4041 1641, or contact an independent solicitor for legal advice.

Here is how to opt out:

- (a) Download the opt out form from the Stolen Wages Class Action website www.stolenwages.com.au or call the Stolen Wages Hotline on 07 4041 1641 and ask to be sent a copy of the opt out form.
- (b) Fill in your name and sign the opt out form.
- (c) After you have finished filling out the form, you should post it to the court at this address, so that it reaches the court by no later than **8 November 2019**:

The Registrar

**Federal Court of Australia Queensland District Registry
Level 6, Harry Gibbs Commonwealth Law Courts Building
119 North Quay Brisbane QLD 4000**

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IMPORTANT: only request and use the opt out form if you do not want to be a part of the class action at all. You can object to the proposed settlement without opting out of the class action. If you opt out of the class action you will receive no money from the proposed settlement.

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