

CIVIL LIABILITY AGAINST THE DAMAGE CAUSED BY THE FAULT OF THE KEEPER OF THE REAL PROPERTY REGISTER



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WHO COMPENSATES THE DAMAGE?

- 1) The State (represented by public institution)**
- 2) The keeper of Real Property Register (as a legal entity)**
- 3) The registrar personally (as a natural person)**

QUESTIONS

1) Does the subject, who has compensated the loss, have the right of recourse to another subject?

2) Do you have civil liability insurance for the Real Property Register in your country?

If so, does the civil liability insurance refer to:

1) the keeper of the Real Property Register (as a legal person),

2) a registrar personally (as a natural person).

RESPONSES FROM THE ELRA MEMBERS

- 1) Austria;**
- 2) Cyprus;**
- 3) Ireland;**
- 4) Latvia;**
- 5) Luxemburg;**
- 6) Northern Ireland;**
- 7) Poland;**
- 8) Romania;**
- 9) Scotland;**
- 10) Spain;**
- 11) Sweden.**

AUSTRIA

Responsible: Ministry of Justice is liable for damages caused by faults of clerks, officers and judges at the Landbook (official liability).

The right of recourse: In case of grossly negligence and intentional action the clerks, officers and/or judges may compensate to the Ministry of Justice.

Insurance: No insurance at the Ministry of Justice covering official liability. Based on private interest some clerks, officers and judges have civil liability insurance. This is not mandatory.

CYPRUS

Responsible: Damage is compensated by the State and any civil law suit is filed against the Attorney General of the Republic.

The right of recourse: The subject then has the right of recourse against another subject i.e. the Registrar or an employee of the Department under the so called “Public Service Law” which basically describes the obligations of any Civil Servant.

Insurance: No.

IRELAND

Responsible: the State.

The right of recourse: Yes.

Insurance: No.

LATVIA

Responsible: There is no compensation mechanism regarding damages caused by the fault of the judge of Land Registry in Latvia.

The right of recourse: No compensation mechanism; if a decision is made wrongly, it can be appealed in appellate (regional) court to reverse it.

Insurance: No.

LUXEMBURG

Responsible: the registrar personally (as a natural person).

The right or recourse: It depends on the cases, eventually, if the notary made any faults, it can happen that the registrar engages the notary's liability.

Insurance: Yes, it refers to the registrar personally as a natural person. It covers within the scope of its competence in general.

NORTHERN IRELAND

Responsible: the State

The right or recourse: Yes, the Department of Finance shall be entitled to recover the amount so paid from all or any of the following persons:

(a) Any person who caused or substantially contributed to the loss in question;

(b) Any person who has, directly or indirectly, derived title or any other advantage –

(i) from such a person as is mentioned in paragraph (a); or

(ii) by reason of an error or omission giving rise to the loss.

Insurance: No.

POLAND

Responsible: the State

The right or recourse: The official will pay compensation for his errors, but the amount of 12 times a monthly harvest may not be exceeded. On general principles in the Act on functional and public offices and officials, obligations and commitments regarding the cumulative occurrence of the premises provided:

- **by virtue of a final court decision or settlement paid by the entity responsible for liability for damage caused in the exercise of public authority in gross violation of law,**
- **gross violation of the right to free use of the culpable department or omission of a public official,**
- **gross violation of the rights specified in art. 6 of the Act on Agreements of Officials.**

Insurance: No.

ROMANIA

Responsible: The keeper of Real Property Register (as a legal entity).

The right of recourse: Yes.

Insurance: No.

SCOTLAND

Responsible: The Keeper of the Registers of Scotland (RoS) warrants that a person registered as proprietor of an area of land in the Land Register of Scotland is in fact the proprietor of that area. Any person suffering loss due to reliance on information that the land register does or does not contain may apply for compensation.

RoS is headed by the Keeper, who is a non-ministerial office-holder in the Scottish Administration. The financial arrangements between the Keeper and Scottish Ministers are currently set out in the Public Finance and Accountability (Scotland) Act 2000 which provides that all sums received by the Keeper in connection with the exercise of her functions must be retained and applied to meet expenditure (including compensation).

The right of recourse: Yes. A claim against the keeper's warranty does not require the claimant to exhaust other remedies against other parties. The Land Registration etc. (Scotland) Act 2012, requires that the keeper be subrogated to the rights of the claimant in order that consideration can be given to remedies that might lie against a third party. The keeper will pursue third parties on the basis of subrogation when appropriate to do so.

Insurance: No.

SPAIN

Responsible: The registrar personally (as a natural person).

The right of recourse: No.

Insurance: Yes, it refers to a registrar personally (as a natural person).

SWEDEN

Responsible: The State.

The right of recourse: Yes, under certain circumstances if a third party has caused the damage.

Insurance: No.



THANK YOU

