

ASSIGNMENT OF CLAIMS WITH EARTHQUAKE DAMAGE

If you are planning to buy a home, it is important to seek legal advice to understand your potential rights, benefits and obligations relating to claims that may be assigned to you.

Assigning (or transferring) an EQC claim

If a property you are looking to buy has a claim with EQC, this claim can be transferred to you from the current homeowner. This process is called an *assignment of claim*.

When an EQC claim is assigned, the new homeowner may have the same entitlements as the previous owner. That means they will receive any remaining entitlement up to EQC's liability under the Act for an event, for natural disaster damage to residential dwellings and land covered by EQC. This remaining entitlement is referred to as residual benefit(s).

The documentation used to assign claims must clearly outline what is being assigned. Typically, the documentation used to assign a claim could be:

1. a clause in the sales and purchase agreement, or
2. a deed of assignment.

A new homeowner with an assigned claim has the same rights as the previous homeowner¹ had. However, assigned claims may have no residual benefits, or residual benefits may be limited by previous settlements.

Where a property is sold without an assignment of claim, any benefits the claim may have will remain with the previous owner. This will only change if and when the appropriate assignment of claim documentation is received.

It is important to note that if the property has been sold multiple times, the assignment of claims must carry through from the original owner to each subsequent owner.

If you're in the process of purchasing a Canterbury property, here are some questions to consider:

- Is there an existing EQC claim on the property?
- Have funds settled by EQC with a previous homeowner been used to do the repairs?
- Are there any quality issues or substandard repairs on work originally undertaken by EQC to settle the claim, or any missed earthquake damage still needing reinstatement?
- Is there any pre-existing damage to the property that is not related to a natural disaster?

If, as a purchaser, you are unsure whether this relates to you or the home you are purchasing, your real estate agent or lawyer may be able to provide further information.



¹ An insurance company may have different requirements for assignment of claim documentation.

Limitations on assigned claims

Having an assigned claim is no guarantee that the new homeowner will have any entitlement to benefits. For example, there will be no remaining entitlement if EQC has already settled the claim up to EQC's liability under the Act or has settled repairs that have not been completed.

Funds already settled to a previous homeowner remain with the previous owner. In cases where the previous homeowner did not use those funds to complete repairs, the new homeowner has no further entitlement for that natural disaster damage. It is important to undertake due diligence to find out whether work associated with a claim that EQC has previously settled has been completed.

There is also no guarantee that costs of unsettled natural disaster damage will stay under EQC's liability. EQC is generally not liable for costs that exceed EQC's liability under the Act.

Purchasers should confirm there is no missed earthquake damage, and where there is, address this with the previous owner (using their private insurance policy coverage if relevant) before the sale.

New homeowners may be unable to take out private house insurance until repairs have been completed. This means they would also be unlikely to have EQCover for any future natural disaster damage.

It is important to check with the relevant parties for confirmation or further information about this.

Reopening an assigned claim

Subsequent purchasers of properties with settled earthquake claims may seek to reopen EQC claims that have been assigned to them where:

- Earthquake damage has been missed, and/or
- Repairs managed by EQC did not meet statutory replacement standards.

To reopen a previously settled claim following a property sale, EQC will need the new homeowner to provide any expert reports relevant to the claimed damage that they received as part of the sale process.

A sale and purchase agreement will generally note when prepurchase reports have been a condition of the contract, and therefore EQC may request a copy of the sale and purchase agreement.

EQC may also ask for disclosure of prepurchase reports that could indicate any damage or concerns that were known to the purchaser and whether those concerns were attributed to missed or un-repaired natural disaster damage or substandard repairs.

Contact us if you would like further information

If you would like to know more about assignment of claims, or have any questions, please contact us at info@eqc.govt.nz or on **0800 DAMAGE (326 243)**.

You can also access further information online at www.eqc.govt.nz/get-help-now-claims/transferring-a-claim.