

This is not a scam. The notice below is issued to you by the Federal Court of Australia. It provides important information about a class action relating to certain Toyota Hilux, Prado and Fortuner diesel vehicles.

Dear [NAME]

You are receiving this correspondence because records provided to us by Toyota Motor Corporation Australia Limited and/or a state or territory vehicle registration authority indicate that you may have acquired the following Toyota Hilux, Prado or Fortuner motor vehicle(s) with a diesel engine between 1 October 2015 and 23 April 2020:

Registered Owner Name

VIN

[NAME]

[VIN]

If you did, you may be entitled to be paid money under a judgment delivered by the Federal Court of Australia on 16 May 2022.

The notice below is important and provides information about:

- how you can register your interest to receive any money to which you are entitled under the judgment; and
- the information you will need to provide to establish your eligibility to receive money under the judgment and to assist us to calculate the amount of any money to which you are entitled.

It is important that you read the notice below carefully. If you have any questions, please contact Gilbert + Tobin, the representative applicants' solicitors, by submitting your query at www.toyotaclassaction.deloitte.com.au or calling us on 1800 324 984.

Kind regards

MATT MACKENZIE
PARTNER | GILBERT + TOBIN

**CLASS ACTION RELATING TO CERTAIN TOYOTA HILUX, PRADO & FORTUNER
DIESEL VEHICLES**

**THIS IS AN IMPORTANT NOTICE ISSUED TO YOU BY THE FEDERAL COURT OF
AUSTRALIA**

This notice concerns a CLASS ACTION relating to certain TOYOTA HILUX, PRADO & FORTUNER diesel vehicles.

It is sent to you because:

- it is likely that you are a Group Member because you acquired one of the relevant Toyota vehicles (and you have not opted out of the class action); and
- you may be entitled to be paid money under a judgment delivered by the Court.

It is in your interests to register so that your eligibility to receive any money to which you are entitled under the judgment (and the amount of money) may be determined.

To register your interest and establish your eligibility to receive any money to which you are entitled, please click on the following link: www.toyotaclassaction.deloitte.com.au

If you do not register, you will not be able to receive any money to which you may otherwise be entitled under the judgment.

This is not a scam. If you are concerned about clicking on the hyperlink above, you can verify that this is a genuine process by visiting the website of the Federal Court (see <https://www.comcourts.gov.au/file/Federal/P/NSD1210/2019/actions>) or by calling Gilbert + Tobin on 1800 324 984 or submitting a query at www.TCAquery.deloitte.com.au.

A. THE COURT'S JUDGMENT

- 1 On 16 May 2022, the Court delivered judgment in the class action brought by Kenneth John Williams and Direct Claim Services Qld Pty Ltd (**DCS**) against Toyota for defects in the diesel particulate filter (**DPF**) system in Toyota Hilux, Prado and Fortuner vehicles with a 1GD-FTV or 2GD-FTV diesel engine acquired between 1 October 2015 and 23 April 2020 (**Relevant Vehicles**).

2 A copy of the Court’s reasons for judgment (published on 7 April 2022) is available at <https://www.judgments.fedcourt.gov.au/judgments/Judgments/fca/single/2022/2022fca0344>.

3 The Court found that:

- (a) the Relevant Vehicles were not of acceptable quality because of their defective DPF systems;
- (b) Toyota engaged in misleading or deceptive conduct in connection with marketing and selling the Relevant Vehicles;
- (c) the value of the Relevant Vehicles at the time of initial supply was reduced because of their defective DPF systems;
- (d) the amount of the reduction in value was 17.5% (measured against Average Retail Price); and
- (e) eligible Group Members are entitled to be paid money to compensate them for this reduction in value and for the excess GST they paid as a result of acquiring their vehicles at prices which were higher than the true value of those vehicles.

4 By way of example, DCS (the second applicant) was awarded **\$7,474.59** for the **reduction in value** of its Toyota Prado, a **further \$747.46** for the **excess GST** it paid to acquire the vehicle and **interest** on these amounts.

5 Some affected buyers have already obtained refunds, replacement vehicles and/or compensation payments from Toyota relating to the defective DPF systems in their vehicles. Where this has occurred, that may be taken into account in assessing that person’s eligibility to receive money under the judgment (and the amount of any such money). This will be worked out as part of the “distribution scheme” (see paragraph 8 below).

B. REGISTER YOUR INTEREST TO RECEIVE MONEY UNDER THE JUDGMENT

6 **You can register your interest to receive money under the judgment by clicking the following link:** www.toyotaaction.deloitte.com.au. You will then need to complete the “registration of interest” form located at that website.

7 You will be asked to provide information which is needed to:

- (a) confirm your identity as a Group Member and the details of your Relevant Vehicle(s); and
 - (b) establish the date on which you acquired your Relevant Vehicle(s) and the price you paid to acquire your Relevant Vehicle(s) exclusive of taxes, government charges and accessories.
- 8 This information will then be used to confirm whether you are eligible to receive compensation under the judgment and the amount of that compensation. Money will then be distributed under what is known as a “distribution scheme”. A distribution scheme is a Court approved and supervised process for assessing the eligibility of each Group Member to receive money under the judgment and paying that money to eligible Group Members.
- 9 If you are not able to complete the “registration of interest” form online (or have any difficulties doing so), you can contact Gilbert + Tobin by calling 1800 324 984 or submitting a query at www.TCAquery.deloitte.com.au to discuss alternative methods by which you may be able to provide the necessary information.
- 10 **Please register your interest to receive money under the distribution scheme by completing the “registration of interest” form as soon as possible.**
- 11 You will not be required to pay any “out of pocket” legal costs in order to register your interest to receive money under the judgment. That is because a company called Balance Legal Capital I UK Ltd (**Balance**) agreed to pay the costs of bringing the Toyota DPF class action, including to pay the legal costs of Toyota if the class action was unsuccessful, in return for reimbursement of those costs plus a funding commission in the event the class action was successful (that is, if money was recovered from Toyota). Because it funded the litigation, Balance intends to ask the Court to deduct an amount from the damages to be paid to all eligible Group Members. Whether such a deduction can be made and, if so, the amount of that deduction, will be determined by the Court and you have a right to raise before the Court any issues you have in respect of such a deduction. You will be informed about this process when you register. If there is to be a deduction, this will occur before any money is paid to eligible Group Members. Balance does not intend to seek an amount exceeding 25% of the damages to be paid to eligible Group Members (and it may seek a lesser amount if more Group Members register their interest in receiving money under the judgment).

- 12 **If you do not register, you will not be able to receive any money to which you may otherwise be entitled under the judgment.**

C. FURTHER INFORMATION

Group Members' claims for additional damages

- 13 You may have claims against Toyota that relate to the defective DPF system in your vehicle but which go beyond those claims which have already been determined by the Court's judgment. We will send you a notice in the future regarding how you can pursue any such additional claims if you wish to do so.

Toyota's appeal

- 14 Toyota has appealed the Court's judgment. If that appeal is successful, you may lose your present entitlement to receive money under the judgment and/or the amount of money to which you are entitled may be reduced. The process for working out your entitlements will proceed despite the appeal, but payment of any money will not occur until after Toyota's appeal has been resolved. Balance intends to fund the applicants' defence of Toyota's appeal.
- 15 **You should still register your interest to receive money under the judgment notwithstanding Toyota's appeal and it is in your interests to do so.**

If you have any questions about this notice, please contact Gilbert + Tobin, the representative applicants' solicitors, by submitting your query at www.TCAquery.deloitte.com.au or calling 1800 324 984.