



FORMAL RECOGNITION OF COMMON LAW CLAIMS AND WORK INJURY DAMAGES

This operational instruction provides information on the formal recognition of Common Law Claim and Work Injury Damages.

The Scheme Agent is required to adhere to the following requirements for the formal recognition of a Common Law Claim or Work Injury Damages:

- Common Law Claims be formally recognised upon receipt of statement of Claim;
- Work Injury Damages be formally recognised upon receipt of pre-filing statement, even if the Scheme Agent considers the pre-filing statement to be defective.

Additionally, the Nominal Insurer requires that the Scheme Agent adhere to the following requirements for estimating legal and other costs prior to this formal recognition point:

- There is to be no formal common law case estimate raised prior to the receipt of the statement of Claim or the pre-filing statement;
- The common law case estimate should be in accordance with standard Claim estimating procedures and reflect the anticipated value (i.e. most likely outcome) of the Claim. In accordance with standard estimating practice the Claim estimate should be reviewed from time to time and upon receipt of new information.
- Any legal and other costs incurred prior to the receipt of the statement of Claim or the pre-filing statement should be incorporated within the standard Claim estimating process.

References

Deed, Schedule 2, clause 2.9

Workers Compensation Act 1987, Part 5

Workplace Injury Management and Workers Compensation Act 1998, Part 3 - Division 4 and Part 6

WorkCover Guidelines for Claiming Compensation Benefits

Document name: Operational Instruction 1.17	Prepared by: Agent Operations
Version: 2.0	Issue date: June 2008
Revision: 0	Review date: June 2009
Page 1 of 1	TRIM file 2005/047717