

## **RECOVERY FROM A THIRD PARTY**

This operational instruction provides information about how a Scheme Agent must report to WorkCover information regarding Recovery action against another liable third party or insurer.

Section 151Z of the 1987 Act provides that if an Injury for which compensation is payable under the Act was caused under circumstances creating a liability in some person other than the Worker's Employer, then the person who paid the compensation is entitled to be indemnified by the person liable to pay those damages.

Recoveries are most commonly made against motor accident insurers. A Scheme Agent must pursue all possible Recoveries in their capacity as fiduciaries of the Nominal Insurer, except in a case where the liable third party is an individual who is a volunteer protected under the *Civil Liability Act 2002*. In this case, the Nominal Insurer must be advised that no action will be taken, citing the reason that the liable third party was a volunteer.

A Scheme Agent is responsible, on behalf of the Nominal Insurer, for ensuring the Recovery of those damages from the person liable to pay.

By the seventh Business Day of each month, the Scheme Agent is to forward to the Nominal Insurer, via email, a report that identifies Recovery action commenced, undertaken or finalised on behalf of the Nominal Insurer. A template of the report is attached to this operational instruction.

The report includes the following fields:

Claim number	Unique Identifier issued for each Claim by a Scheme Agent.
Claimant name	name of the Worker.
Recovery type/third party insurer	type of Recovery – eg. CTP, public liability etc – and the name of the third party insurer. Where the Recovery is being sought from a party other than a third party insurer, the name of the third party.
Referral date	date that Recovery investigation action commenced.
Recovery agent/legal firm (if any)	name of the Recovery agent/legal firm being used to pursue the Recovery.
Workers Compensation being sought	dollar amount of damages being sought from the third party.
Percentage prospective Recovery	estimated Recovery percentage given the totality of the Claims costs against a particular Claim.
Status	current status of the Recovery.
Finalisation date	date the Recovery action was finalised.
Amount recovered (including interest)	amount that was recovered, including any interest that was recovered.
Finalisation percentage	amount recovered divided by the amount of Workers Compensation being sought, shown as a percentage figure.
Total costs (including disbursements)	total costs incurred in pursuing the Recovery (including disbursements).

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Costs recovered from third costs incurred in pursuing the Recovery that have been recovered. party

## References

Workers Compensation Act 1987, section 151Z

Civil Liability Act 2002

Deed, Schedule 2, clause 2.2.12

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## **Recovery action report**

Claim numbers	Claimant names	Recovery type/ third party insurer	Referral	Recovery agent/ legal firm (if any)	W/Comp being sought	Percentage prospective Recovery	Status	Finalisation date	Amount recovered (incl interest) \$	Interest received \$	Finalisation percentage	Total costs (incl disburse- ments) \$	Costs

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