

INSURANCE AND INDEMNITIES

POLICY

EPD has implemented this policy to ensure that all insurable risks are identified and quantified and appropriate insurance cover is taken out.

Directorate staff through the Director, Finance & Operation Support must provide the ACT Insurance Authority (ACTIA) with all information and data necessary to ensure appropriate cover of the Directorate's insurable risks.

Officials are not to approve entering indemnity arrangements unless specifically authorised by the Treasurer in accordance with Section 47 of the *Financial Management Act 1996*.

A legal opinion concerning the validity of proposals must be obtained prior to submitting proposals to the Treasurer.

RATIONALE FOR POLICY

The introduction of ACTIA has brought a more modern, responsible and cost-effective approach to managing insurable risks in the Territory. The insurance process requires, for the first time, the systematic identification, quantification, reporting and management of insurable risks across Territory Directorates and agencies.

Insurance for Government Directorates has often been overtaken by other priorities, but with the increase in assets and premiums, it is imperative that all insurance matters are managed effectively, efficiently and sustainably.

RESPONSIBILITIES AND ACCOUNTABILITIES

The primary responsibilities and accountabilities for coordination of all insurance-related matters rests with the Finance & Operation Support Branch. Individual Branches are responsible for maintaining their own complete and accurate records.

Position	Responsibility
Branches	<ul style="list-style-type: none">• identify and quantify all insurable risks to ensure that appropriate cover is provided;• timely reporting and accurate recording of incidents that may have potential for claims against EPD;• provide accurate and detailed information for all claims;• maintain accurate records of claims (third party, public liability, professional indemnity etc);• meet deadlines to supply information when requested by the Finance & Operation Support Branch or ACTIA;• adhere to all procedures for submission and monitoring of claims; and• maintain comprehensive and accurate asset registers.

Executive	<ul style="list-style-type: none">• provision of accurate information to the Finance & Operation Branch and ACTIA as requested.
Finance & Operation Support Branch	<ul style="list-style-type: none">• coordinate data from Branches;• provide accurate information to ACTIA; and• liaise between ACTIA and EPD on all insurance-related issues.

NON-COMPLIANCE

Failure to comply with these procedures may result in the Directorate having insufficient insurance coverage against insurable risks.

If the Directorate fails to comply with its duty of disclosure, ACTIA may reduce its liability in respect of any claim affected by the non-disclosure.

Staff are therefore accountable to the Director-General for the fulfilment of their responsibilities under these procedures. Non-compliance will be taken as a serious matter and may result in disciplinary action or be reflected in performance reviews.

TARGET USERS

These procedural rules are for all staff of the Directorate with responsibility for insurance and indemnity.

PROCEDURES

The following procedures are addressed by these guidelines:

- about the ACT Insurance Authority;
- obtaining insurance cover/entering indemnity arrangements;
- responsibilities of the Directorate;
- duty of disclosure;
- identifying insurable risks;
- updating data for insurance;
- risk management;
- contractors and consultants;
- reporting incidents for a claim;
- incident and claim reporting procedures;
- admitting liability;
- safety issues;
- assistance to potential claimants; and
- what to do following an incident.

About the ACT Insurance Authority

Through the payment of premiums to the ACTIA, the budget of the Directorate is protected. ACTIA is a 'captive insurer' and is largely quarantined from the vagaries of the commercial insurance marketplace. As the Directorate's data is collected and a claims history develops, the amount of the Directorate's premiums will reflect the long-term cost of its own risks.

This means the Directorate's premium should not follow the cycle of troughs and peaks typical of commercial insurance premiums.

Obtaining Insurance Cover / Entering Indemnity Arrangements

ACTIA is the Directorate's insurer for insurable risks. ACTIA indemnifies the Directorate for insurable risks as specified in the notice of membership and Schedule of Cover.

The Director, Finance and Operation Support is responsible for managing the operation of the Directorate's insurance cover with the ACTIA.

Responsibilities of the Directorate

The Directorate's responsibilities include:

Duty of disclosure

It is a condition of cover that the Directorate informs ACTIA on every matter that is known, or could reasonably be expected to be known, that is relevant to ACTIA's decision to offer cover. If the Directorate fails to comply with this duty of disclosure, ACTIA may reduce its liability in respect of any claim affected by the non-disclosure.

This duty of disclosure reflects the requirements of the *Insurance Contracts Act 1984* (Commonwealth legislation).

Also, while the Directorate has cover, there is a continuing duty to disclose relevant matters to ACTIA.

This means that the Directorate must, in writing:

- give complete details of risks when joining;
- give advance notice of any significant additions or changes to their risk after joining; and
- advise ACTIA immediately of any event that might lead to a claim.

ACTIA needs this information because it has the same duty of disclosure to its reinsurers as the Directorate has to ACTIA.

Identifying insurable risks

Each year ACTIA sends the Directorates' insurance applications for the renewal of insurance. This application requests details on all the Directorate's insurable risks. This application must be accurately completed and returned to ACTIA so the Directorate's premium can be calculated.

This application covers data such as:

- asset/property insurance;
- consequential loss insurance;
- liability insurance; and
- miscellaneous insurances.

Updating Data for Insurance

The Directorate must also provide ACTIA with updated details each year of:

- numbers of volunteers;
- numbers of students;
- board and committee members; and
- hirers of Directorate premises.

This information is not requested within the questionnaire so it must be supplied separately.

Risk Management

The coverage of insurable risks provided by ACTIA is only one element in the overall management of risk (both insurable and non-insurable) by the Directorate. Effective risk management will help in managing the risks confronting the Directorate so that full advantage can be taken of opportunities while minimising the adverse impacts of risks.

The Directorate therefore, must ensure that it is implementing fully its risk management strategy. For more information on risk management refer to DGFI - Risk Management.

Contractors and Consultants

From a risk management perspective it is essential that contracts entered into by the Directorate provide for insurance and indemnity from vendors, contractors and sub-contractors indemnifying the Territory or Directorate.

For more information on contractors and consultants, please refer to DGFI - Engagement of Contractors / Consultants.

Reporting incidents for a claim

Overview

Early notification of a claim or an event or a loss that is likely to give rise to a claim is crucial to the ability of ACTIA to protect the Directorate's interests and minimise any subsequent loss.

It is imperative that the Directorate notify ACTIA of incidents that could lead to a claim of a liability nature, even if, at the time of notification, there has been no demand from a third party.

All incidents of a liability nature must be recorded by the Directorate for its own risk management purposes and be notified to ACTIA. For non-liability (property loss) incidents that are clearly below the excess, the Directorate should record those as part of their own risk management program.

For non-liability related incidents that are approaching the excess, the Directorate should record these as part of their own risk management program and report them to ACTIA as they may exceed the excess and become a claim.

For non-liability related incidents that exceed the excess, the Directorate should record these as part of their own risk management program and report them to ACTIA for processing as a claim.

Incident and claim reporting procedures

The Directorate should take the following action when they have information that there is a claim against them or that an incident has occurred that might give rise to a claim:

- notify ACTIA;

- preserve any evidence;
- complete claim form documentation;
- provide supporting documentation and information; and
- refer all communication concerning the matter to the Senior Manager, Governance.

Notification in the first instance can be by telephone, e-mail, facsimile, in person or by post. It is important to ensure that sufficient information is given to the Senior Manager, Governance regarding the claim, or possible claim. The following information needs to be given to the Senior Manager, Governance:

- name and telephone number of Directorate contact officer;
- name and address, if known, of the third party(s) involved in the incident;
- the time, date and location of the incident;
- the name of the Directorate employee or other persons involved;
- a full description of the incident;
- details of the claim made, or likely to be made against the Directorate; and
- names and addresses of witnesses.

The Directorate must ensure that a claim form is completed and forwarded immediately to ACTIA, or at least, within 5 days of an incident occurring; a claim being made against the Directorate; or where the Directorate becomes aware of circumstances that are likely to give rise to a claim against them.

This will assist ACTIA or the ACT Government Solicitor to effectively manage the claim.

When completing the claim form, the Directorate should provide supporting information, including:

- any originating application, writ, summons, demand or other correspondence from third party(s) and file notes of any telephone conversations with third party(s);
- employee statements. The statement should be confined to the facts and not express an opinion on negligence/liability;
- witness statements;
- photographs of the incident site (if relevant);
- details of any other party(s) (not employees or affected third parties) who may have contributed to the incident; and
- any other relevant information.

The Directorate should retain copies of all of the above documents and open their own file in relation to the claim.

Admitting Liability

It is very important that staff refrain from making any statement to possible claimants or witnesses to an incident, or taking any action, that could be construed as an admission of liability.

Safety Issues

Where possible and appropriate, take all necessary steps to prevent further public access to the site where the incident took place (or any other actions to prevent further loss) until it can be visited by an assessor and made safe.

Assistance to Potential Claimants

Where possible and appropriate, take all necessary steps to provide assistance to a prospective claimant and reduce the likelihood of legal action (e.g. provide reassurance, first aid, ambulance). A conciliatory attitude at this stage can help settle any claim that is ultimately commenced against the Directorate.

What to do following an Incident

Once all safety concerns have been addressed:

- take down the details of any witnesses to the incident;
- request all staff (or other persons associated such as contractors) who witnessed the incident to prepare written notes, or better still statements, dealing with the facts of the incident as observed by them. No attempt should be made to attribute blame;
- where possible and appropriate, take photographs, videos or draw a sketch of the place and surrounding area where the incident occurred;
- where property is lost or stolen take all reasonable steps to recover the property. If the loss is caused by theft, report the loss to the police immediately;
- report details of all motor vehicle accidents that involve another vehicle as required by motor traffic legislation;
- report the theft of a motor vehicle or its contents. Always notify the police of the theft; and
- if the vehicle is damaged, leave the vehicle at the premises of a repairer of your choice where it can be examined by an assessor (minor repairs will be attended to immediately).

REFERENCES

Source	Description
FMA	n/a
FMA Regs/FMOs	n/a
Other legislation/regs	n/a
Related DGFI	Risk Management Engagement of Contractors / Consultants
Related Guidelines	ACTIA Website