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Accountable Authority Instructions (AAIs)

Effective date – 27 June 2024

The Director General's Instructions to All IP Australia Officials



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3.4.1. Scheme for Compensation for Detriment caused by Defective Administration

Accountable authorities (other than the departments of the Parliament) may compensate individuals or other bodies who:

- have experienced detriment (i.e., quantifiable financial loss) as a result of an entity's defective administration
- have no other avenues of redress.

Ministers are responsible for making CDDA Scheme decisions; however, they may authorise accountable authorities, who in turn authorise officials, to approve CDDA Scheme payments.

Instructions – all officials

You must refer claims for compensation arising from defective administration to the Director Assurance and Governance, Governance Group.

If a CDDA Scheme payment has been approved, the official must ensure, before making the payment, that:

- there is an available appropriation for the payment
- the CDDA application was approved for payment by IP Australia's Director General or a Deputy Director General, or the minister under section 71 of the PGPA Act
- a record of the approval is kept in accordance with section 18 of the PGPA Rule (see [*Procurement, grants and other commitments and arrangements*](#)).

Legislative requirements	Constitution: s. 61 PGPA Act: s. 16, s. 21, s. 23, s. 25, s. 52, s. 71 PGPA Rule: s. 18 PGPA Financial Reporting Rule
Guidance	Resource Management Guide No. 401: Requests for discretionary financial assistance under the <i>Public Governance, Performance and Accountability Act 2013</i> Resource Management Guide No. 409: Scheme for Compensation for Detriment caused by Defective Administration
Related AAls	Risk management Disclosure of interests
Internal delegations	Financial Delegations Register

Other relevant documents	IP Australia's Information and Advice Policy – provides clear guidance on the information and advice staff can provide to customers, to help customers make informed decisions about IP Australia's products and services. Making Payment Policy – provides instructions on making payments of relevant money including discretionary compensation payments, payments pending probate and under the CDDA Scheme. CDDA Authorisation Instrument IP Australia Form – Application for Compensation for Detriment Caused by Defective Administration
Contacts	Chief Legal Counsel, Office of Legal Counsel, Governance Group

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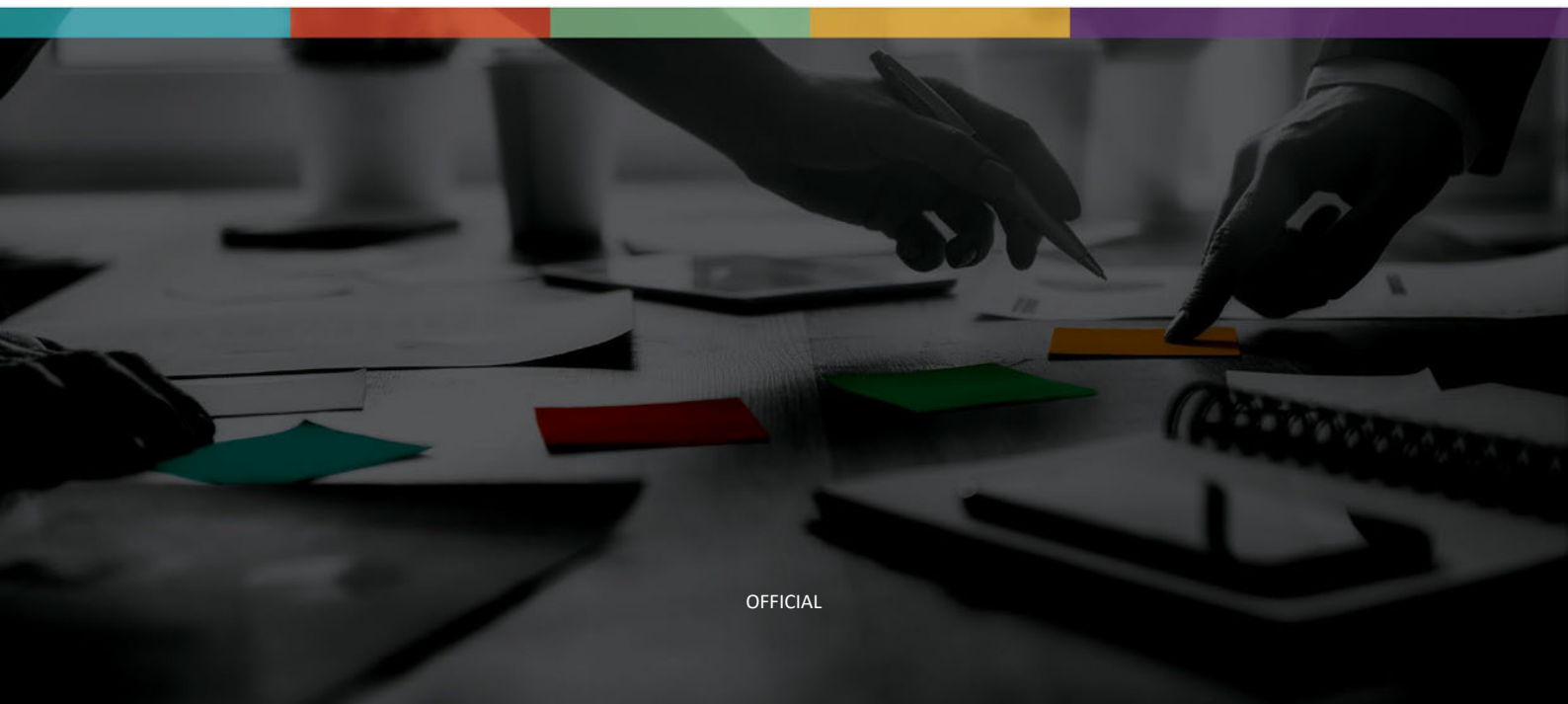
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Information and Advice Policy

Prepared: Office of Legal Counsel, Governance Group

Authorised: General Manager, Governance Group



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Revision history

Date	Amendments
25 Jun 19	Document reinstated and content reviewed updates make to responsible area for FOI and location of CDDA Authority Instrument.

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5.3 Compensation for Detriment caused by Defective Administration (CDDA)

The CDDA scheme is an administrative scheme established to allow Australian Government agencies to provide compensation where this is a moral rather than legal obligation to do so. Members of the public who believe they have suffered loss or damage because of our mistakes or poor administrative practice and are unable to seek a remedy through administrative appeal, litigation or other legal mechanisms should be directed to the CDDA scheme.

Guidance as to the application of the CDDA scheme within IP Australia can be found on the [IP Australia website](#).

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Making Payments Policy

Revision History

Effective Date	Changes
s22	
24 June 2024	Updated the link to the CDDA Instrument and Application form

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10. The Scheme for Compensation for Detriment caused by Defective Administration (CDDA Scheme)

Overview

The 'Scheme for Compensation for Detriment caused by Defective Administration' (CDDA Scheme) was established in October 1995 to enable Australian Government agencies to compensate persons who have been adversely affected by defective actions or inaction of those agencies, but who have no other avenues of redress.

Detriment means financial loss that a claimant has suffered that can be quantified. The three types of detriment are:

- detriment relating to a personal injury, including mental injury (personal injury loss),
- economic detriment that is not related to a personal injury (pure economic loss), or
- detriment relating to damage to property.

Defective administration means:

- a specific and unreasonable lapse in complying with existing administrative procedures,
- an unreasonable failure to institute appropriate administrative procedures,
- an unreasonable failure to give the proper advice to/for a claimant, that was within the official's power and knowledge to give (or reasonably capable of being obtained by the official to give), or

- giving advice to (or for) a claimant that was, in all the circumstances, incorrect or ambiguous.

Compensation is only available under the CDDA Scheme where the detriment found to have been suffered by a claimant has arisen as a direct result of the defective administration. Payments are to be approved on the basis that there is a moral, rather than a legal, obligation to the person or body concerned.

The non-corporate Commonwealth entity which is the subject of a CDDA Scheme claim is the entity responsible for considering and making a decision on that claim.

The Department of Finance does not manage CDDA Scheme claims relating to the actions of another entity, nor does it review CDDA Scheme decisions made by other entities.

The authority to make payments under the CDDA Scheme has been provided to Portfolio Ministers under the executive power of sections 61 and 64 of the Constitution.

Process

▪ Decision Maker

The Director General and Deputy Director General are [agents of the Portfolio Minister](#) and can decide CDDA claims and approve payments for IP Australia.

The Director General or the Deputy Director General will consider any CDDA claim in consultation with the Chief Financial Officer and the Chief Legal Counsel/Office of the Legal Counsel, and in accordance with any directions issued by the Finance Minister.

▪ Documentary evidence

[Claims](#) are to be supported by all relevant history/background, details of the detriment and defective administration, evidence of a quantifiable financial loss, the claim amount and how it was calculated and any relevant files or copies of all correspondence pertaining to the claim.

Sufficient evidence should be provided by the claimant to enable the IP Australia decision-maker to form an opinion as to whether defective administration has occurred.

Any documents relevant to the claim, held by IP Australia but not known to the claimant, should be shared with the claimant in accordance with procedural fairness.

▪ Timeframe

All CDDA claims received will be acknowledged by the Chief Legal Counsel of IP Australia within 10 working days of receipt.

IP Australia will aim to determine all CDDA claims within 90 working days of receipt however where the claim is determined to be complex and will take longer than normal to resolve, this time target may not be met. In such instances, the Chief Legal Counsel of IP Australia will advise the applicant in writing of processing delays.

▪ Privacy

In accordance with the principles of the *Privacy Act 1988*, all aspects of an investigation should be treated as confidential to ensure adequate protection of the claimant's privacy.

▪ Calculation of Offers of Compensation

Offers of compensation to applicants will be calculated on the basis of what is fair and reasonable in the circumstances and what would restore the applicant to the position they would have been in had the defective administration not occurred. The Commonwealth should not take advantage of its relative position of strength to minimise payment.

There is no financial limit on the amount of compensation payable under the CDDA Scheme.

Before a final decision is made by IP Australia, the claimant can be invited to fill in any gaps in their claim by providing additional material, or to comment on relevant adverse information.

▪ **Review of Final Decision**

IP Australia will provide the claimant with progress updates relating to their claim and once a final decision has been made, the claimant will be provided with adequate information on the decision, including a written summary of reasons for IP Australia's acceptance, partial acceptance or rejection of their claim.

Where a claim is rejected or the claimant is dissatisfied with IP Australia's decision or the handling of the claim, IP Australia will advise the applicant in writing of their appeal or review rights and the Ombudsman's role in the review of decisions.

IP Australia can choose to reconsider an application if it is determined that the applicant can make additional supporting documentation (new evidence/facts/argument to support their application) available. However, IP Australia is under no obligation to review a decision simply because the applicant does not accept IP Australia's decision.

▪ **Payments**

CDDA payments will be funded through IP Australia's corporate budget.

Compensation awarded under the CDDA scheme is paid only, after the claimant has signed a Deed of Release.

▪ **Register of Amounts Paid**

A register of amounts paid under the CDDA scheme will be maintained by the Chief Legal Counsel in a secure file in IP Australia's records and document management system, with access granted to relevant staff in FPSG.

▪ **Reporting**

Any CDDA payments made during a financial year are to be reported in IP Australia's Annual Financial Statements.

Any potential problem areas and/or opportunities to improve IP Australia's administrative or processing areas that are highlighted as a result of a CDDA claim, will be logged and reported by the Chief Legal Counsel to the Executive team with remedial action recommendations for consideration and approval.

▪ **Contacts**

Officials who receive a claim for compensation arising from defective administration must refer the matter to the **Chief Legal Counsel** for investigation and appropriate referral.

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Commonwealth of Australia

Minister for Industry and Science

**SCHEME FOR COMPENSATION FOR DETRIMENT
CAUSED BY DEFECTIVE ADMINISTRATION – IP AUSTRALIA AUTHORISATION
INSTRUMENT 2024**

I, ED HUSIC, Minister for Industry and Science, hereby make this instrument.

Dated:

ED HUSIC

Minister for Industry and Science

1 Name

This instrument is the *Scheme for Compensation for Detriment Caused by Defective Administration – IP Australia Authorisation Instrument 2024*.

2 Commencement

This instrument commences on the day it is made.

3 Authority

This instrument is made under the *Scheme for Compensation for Detriment Caused by Defective Administration* that operates on the authority provided to portfolio Ministers under sections 61 and 64 of the Constitution.

4 Definitions

In this instrument:

Agency means IP Australia.

Deputy Director General means the Deputy Director General of IP Australia.

Director General means the Director General of IP Australia.

Finance Law and Policy refers to the *Public Governance, Performance and Accountability Act 2013* and any applicable instruments, policies or procedures made under or issued in accordance with that Act, along with relevant policy guidance including Department of Finance Resource Management Guides (RMGs) relating to the Scheme such as RMG 409 *Scheme for Compensation for Detriment caused by Defective Administration*.

Minister means the Minister for Industry and Science.

Scheme means the Scheme for Compensation for Detriment Caused by Defective Administration.

5 Authorisation

I, the Hon. Ed Husic, Minister, authorise the persons holding, occupying or performing the duties of a position in the Agency specified in column 1 of the following table to determine the outcome of applications and claims for compensation under the Scheme on my behalf and in accordance with all applicable Finance Law and Policy requirements, and including determinations on whether to:

- a. Make a payment up to the financial limit specified in column 2 of the table.
- b. Reconsider decisions made under the Scheme, along with the outcome of any reconsidered decision.

Item	Column 1 Position in the Agency	Column 2 Financial limit on amounts that may be approved
1	Director General	Limit of available funds
2	Deputy Director General	Limit of available funds



Application for Compensation for Detriment Caused by Defective Administration (CDDA Scheme)



Privacy Notice

The personal information collected on this form is collected for the purposes of assessing your application under the CDDA Scheme and is protected by the *Privacy Act 1988* (www.comlaw.gov.au/series/c2004a03712).

All personal information you provide on this form is handled and stored in accordance with IP Australia's Privacy Policy (www.ipaustralia.gov.au/about-us/what-we-do/privacy-policy/).

The Privacy Policy contains relevant information, including:

- how you may seek access to and correction of the personal information we hold;
- how you may make a complaint about a breach of the Privacy Act and how we will deal with your complaint; and
- IP Australia's Privacy Contact Officer details.

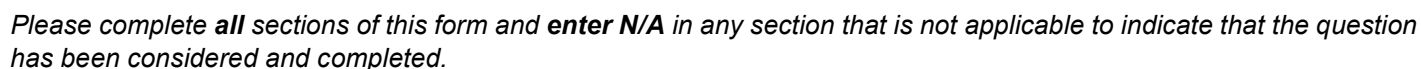
Any personal information you provide will be used by IP Australia staff to assess your claim for compensation and may also be disclosed to other Australian Government entities or APS employees if necessary due to government restructure following changes in portfolio responsibility.

If you do not provide the personal information required on the form, IP Australia may not process your claim and may not be able to assess if any compensation is payable to you.

IP Australia will not otherwise use or disclose your personal information without your consent, unless authorised or required by or under law.



Application for Compensation for Detriment Caused by Defective Administration (CDDA Scheme)



Director Audit
IP Australia
PO Box 200
Woden ACT 2606

Section 1: Personal details

Title:			Surname:			
Given Names:				Date of birth:		
Residential						
Address:			State		Postcode	
Postal address (if same as residential address, write 'as above')						
Address:						
			State		Postcode	
Home Phone:		Work Phone:		Mobile Phone:		
Email Address						

Section 2: Application details

Please explain how IP Australia's administration was [defective](#). You should outline the events and circumstances which you consider contributed to the defective administration. *Please attach any available supporting documents. If there is insufficient space, please attach a separate document.*

[illegible]

Please explain what [detriment](#) you have suffered. *Please attach any available supporting documents. If there is insufficient space, please attach a separate document.*

What is the total amount of compensation you are seeking for this detriment?

\$

Please specify how this amount is calculated. *Please attach any available supporting documents (eg. medical bills). If there is insufficient space, please attach a separate document.*

Supporting Documents (eg. medical bills)	Amount (\$)

Please explain how the defective administration [directly caused](#) the detriment you have suffered. *Please attach any available supporting documents. If there is insufficient space, please attach a separate document.*

[illegible][illegible]
