

TREASURER'S DIRECTIONS
RISK MANAGEMENT – INSURABLE RISK FRAMEWORK
Section M2.1: Insurance Arrangements

STATEMENT OF INTENT

This Direction provides a framework for Agencies and Government Business Divisions to:

- *interpret the extent of the Government's self insurance provisions; and*
- *consider when it may be appropriate to procure commercial insurance cover.*

MAIN FEATURES

Section 38 of the *Financial Management Act* requires every Accountable Officer and every employee of an Agency to comply with Treasurer's Directions. This Treasurer's Direction does not apply to a Government Owned Corporation established under the *Government Owned Corporations Act*.

Risk Identification, Management and Mitigation

An Agency is required to develop and maintain an appropriate risk management framework so that applicable risks are identified, managed and minimised. Strategies to mitigate risk include establishing operational policies to reduce exposure to loss and/or damage of assets or undue claims as the result of Agency activities. In certain circumstances commercial insurance coverage may be appropriate.

Insurance

As a general principle, an Agency subject to the *Financial Management Act* as prescribed in the Administrative Arrangements Order will self insure its risks and meet costs as they emerge, unless a net benefit can be demonstrated to warrant the purchase of commercial insurance cover.

Where commercial insurance premium costs exceed \$10 000 an Agency must apply to the Treasurer, using the *Insurance Request Form* at Appendix C, for approval to enter a commercial insurance contract. Applications will only be approved where a business case identifies a net benefit to the Territory.

A Government Business Division established under section 3(1) of the *Financial Management Act* (see Appendix A) is excluded from Northern Territory Government self insurance provisions. A Government Business Division is to ensure that insurance arrangements consistent with its risk management framework are in place.

For authoritative instruction and guidance reference should be made to related Treasurer's Directions and associated commentary.

CONTENTS

M 2.1.1	<u>RISK IDENTIFICATION, MANAGEMENT AND MITIGATION</u>
M 2.1.2	<u>INSURABLE RISKS</u>
M 2.1.3	<u>REPORTING</u>
M 2.1.4	<u>GOVERNMENT BUSINESS DIVISIONS</u>
M 2.1.5	<u>SELF-INSURANCE</u>
M 2.1.5.2	<u>Management</u>
M 2.1.5.3	<u>Exclusions</u>
M 2.1.5.7	<u>Workers Compensation</u>
M 2.1.5.9	<u>Property and Assets</u>
M 2.1.5.10	<u>Public Liability</u>
M 2.1.5.11	<u>Indemnities</u>
M 2.1.6	<u>COMMERCIAL INSURANCE</u>
M 2.1.6.3	<u>Procurement</u>
M 2.1.6.4	<u>Approval Processes</u>
Appendix A	<u>Government Business Divisions</u>
Appendix B	<u>Approved Entities for Inclusion for Self Insurance</u>
Appendix C	<u>Commercial Policies for External Entities</u>
Appendix D	<u>Insurance Request Form</u>

AUTHORITIES

Section 38 Financial Management Act

REFERENCES

Related Treasurer's Directions:

G2.5 Guarantees and Indemnities

A2.1 Accounting – Assets: Overview

Related NTG Directions:

DBE: Procurement Direction – Process Series

RISK IDENTIFICATION, MANAGEMENT AND MITIGATION

M 2.1.1

An Agency or a Government Business Division must maintain an appropriate risk management framework that identifies, manages and mitigates risks to the Agency or Government Business Division.

- (i) Identifying potential risks is an essential component of effective risk management, as is assessing the extent and nature of risks, the circumstances under which risks may arise, their causes, and contributing factors to the realisation of risks.
- (ii) In managing insurable risks Accountable Officers shall apply risk management strategies to ensure necessary and appropriate safeguards are employed to protect Agency or Government Business Division (GBD) resources from potential risks.
- (iii) Agencies and GBDs must consider appropriate strategies to mitigate risks. Risk mitigation includes establishing and maintaining policies and procedures that minimise risk and, where appropriate, ensuring necessary approvals are obtained to transfer risk to a third party through commercial insurance arrangements.
- (iv) The Auditor-General may, pursuant to the provisions of the *Audit Act*, require an Agency or a GBD to make available a copy of its risk management framework where the Auditor-General deems it necessary for the purposes of an audit.
- (v) Agencies and GBDs are encouraged to seek independent advice and assistance in developing and maintaining an appropriate risk management framework. This advice may be internal or external to Government. The Department of the Chief Minister is available to provide advice in relation to risk assessment and management.

INSURABLE RISKS

M 2.1.2

An Insurable Risk is a risk that:

- may give rise to damage to the physical assets of an Agency or Government Business Division or which may cause economic or physical injury to a natural person and which may result in an Agency or Government Business Division being required to provide compensation; and
- could normally be insured within the commercial insurance market.

Risks of an insurable nature are to be managed and insured through the appropriate means.

- (i) Risks of an insurable nature are generally related to workers compensation, assets and inventories, public liability and indemnities.
- (ii) Risks which are not Insurable Risks and which could not be insured within the commercial insurance market include financial risks, legal costs in an action brought by an Agency or GBD, or liability arising solely from a decision by an Agency or GBD to terminate any contract or agreement.
- (iii) In managing insurable risks, Agencies and GBDs need to assess the impact on its business objectives and operational environment if the risk is realised.

REPORTING

M 2.1.3

An Agency or a Government Business Division is to detail the following information in its annual report:

- Mitigation strategies and processes employed to reduce the risk for each insurable risk category;
- Total number, value, and average cost of self insurance claims for each insurable risk category for the current and previous year;
- Total commercial insurance premium expenditure for the current and previous year; and
- Total number, value, and average cost of commercial insurance claims for the current and previous year.

- (i) In the event the publication of the above requirements may identify an individual claimant an Agency may elect not to publish associated information. A statement of the grounds for this election must be reported.
- (ii) An Agency manages risk on a day to day basis and is best placed to report these risks.

GOVERNMENT BUSINESS DIVISIONS

M 2.1.4

A Government Business Division established under section 3(1) of the *Financial Management Act* (see Appendix A) is excluded from Northern Territory Government self insurance provisions.

A Government Business Division should ensure that insurance arrangements are consistent with its risk management framework.

M 2.1.4.1

A Government Business Division may elect to pay a premium to the host agency for workers compensation insurance, in lieu of purchasing commercial insurance for workers compensation.

The host agency will meet all claim costs for Government Business Divisions who elect to pay the premium for workers compensation insurance.

M 2.1.4.2

A Government Business Division does not require the Treasurer's approval to procure commercial insurance.

- (i) GBDs are required to comply with competitive neutrality principles which ensure that advantages do not accrue as a result of Government ownership.
- (ii) GBDs should consider competitive neutrality principles when assessing applicable risks and procure commercial insurance policies where appropriate.
- (iii) Competitive neutrality principles do not preclude GBDs from self insuring for their applicable risks. However, if a self insured risk is realised, GBDs must meet these costs from within existing resources.
- (iv) GBDs will not self insure for those risks outlined at M 2.1.5.3 to M 2.1.5.6 *Exclusions*.

Section M 2.1: Insurance Arrangements

- (v) GBDs may elect to pay a premium to the host agency for workers compensation cover in lieu of purchasing commercial insurance for worker's compensation. The premium is determined by Treasury as a portion of standard salary costs, and reviewed annually.
- (vi) Where a GBD elects to pay this premium, the host agency will meet all costs for workers compensation claims.
- (vii) GBDs will notify the Treasurer of all commercial insurance policies procured where the premium costs exceed the threshold detailed at M 2.1.6 *Commercial Insurance*, although approval is not required to purchase these policies.
- (viii) Further directions provided in this section do not apply to GBDs except where specified.

SELF INSURANCE

M 2.1.5

Self insurance is an arrangement whereby an entity bears its own risks and meets costs as they emerge.

An Agency subject to the *Financial Management Act* as prescribed in the *Administrative Arrangements Order* is covered by the Government's self insurance arrangements.

However, an Agency may enter into commercial insurance arrangements where a net benefit to the Territory can be demonstrated.

M 2.1.5.1

Motor vehicle, workers' compensation and office building risks are covered by self insurance arrangements, and the Treasurer's approval is required prior to the purchase of any commercial insurance policy for these risk classes.

- (i) To the greatest extent possible the Territory self insures risks of an insurable nature. Self insurance for an Agency represents a cost effective arrangement and is to be considered as the principal mechanism for managing insurable risk. However, this does not prevent an Agency from engaging in commercial insurance arrangements where a net benefit for the full or partial transfer of risk can be demonstrated.
- (ii) The Government's self-insurance arrangements extend to assets which are owned by the Government (for a definition of assets refer Section A 2.1 Accounting - Assets: Overview) and employees who are employed by an Agency while acting in the performance of their duty.
- (iii) Subject to insurance premium thresholds detailed in M 2.1.6 *Commercial Insurance*, the Treasurer's or Accountable Officer's approval is required to obtain commercial insurance.
- (iv) For motor vehicle, workers' compensation and office building risks it is generally more cost effective for an Agency to meet claims of an insurable nature on an emerging cost basis. This reflects the Government's financial capacity to meet claims from within existing resources while avoiding insurance premium costs.

MANAGEMENT

M 2.1.5.2

An Agency or a Government Business Division must have appropriate processes to manage, settle and report self insurance claims.

(i)

At a minimum, processes and procedures for an Agency or a GBD to manage, settle and report self insurance claims include:

- documentation of policies and procedures within Agencies' and GBDs' accounting and property manual;
- establishment of service level agreements with service agencies defining roles and responsibilities;
- procedures for handling claims against the Territory Government;
- procedures for handling incidents or claims involving Territory Government employees;
- recovery procedures;
- processes for dealing with insurance companies and other self insurers;
- processes for dealing with claims from other Northern Territory Government entities; and
- statutory reporting requirements.

EXCLUSIONS

M 2.1.5.3

NT Government entities not covered by the *Financial Management Act* are excluded from self insurance arrangements. In exceptional circumstances, application may be made to the Treasurer for inclusion.

The application must provide analysis demonstrating the net benefit to the Territory Government for providing self insurance to the entity, including financial implications and risk exposure and associated risk management framework to be employed by the entity.

If approved for inclusion for self insurance, the entity will be registered in Appendix B of this Direction.

M 2.1.5.4

Contractors or consultants acting on behalf of an Agency are excluded from self-insurance arrangements. Where a consultant is employed on an ongoing contractual basis, application may be made to the Treasurer for inclusion.

M 2.1.5.5

Territory owned property that is hired or loaned to an entity external to Government is not covered under the self insurance arrangements.

M 2.1.5.6

International travel by NT Government employees is not covered under the self insurance arrangements.

(i)

In exceptional circumstances the Treasurer may approve Northern Territory Government entities not covered under the *Financial Management Act* being included in Government self insurance arrangements. Such an application may result in an assessment of the entity's status within the Northern Territory Government.

Section M 2.1: Insurance Arrangements

- (ii) With the exception of public liability, risks that arise from engaging contractors or consultants are not covered under self insurance arrangements.
- (iii) An Agency should ensure that contractors or consultants have appropriate insurance coverage as part of the procurement process. However, where a consultant is employed on an ongoing contractual basis, application may be made to the Treasurer for inclusion in the Government's self insurance arrangements.
- (iv) Where Territory owned property is hired or loaned to an entity external to Government self insurance arrangements do not apply. In such circumstances, the Accountable Officer is to ensure adequate insurance cover is arranged by the hiring or loaning entity.
- (v) International travel by NT Government employees is excluded from the self insurance arrangements. An Agency must purchase an appropriate commercial insurance policy for its employees who are travelling overseas in the performance of their duty.

WORKERS COMPENSATION

M 2.1.5.7

An Agency must have appropriate processes and strategies in place to provide a safe working environment.

M 2.1.5.8

Territory appointed members of councils, boards or committees established under Northern Territory Government legislation are covered under self insurance arrangements. Application may be made to the Treasurer for inclusion of Territory appointed members of councils, boards or committees not established under Northern Territory Government legislation.

- (i) Workers compensation in the Northern Territory is a statutory no-fault system of compensation for work related injuries. Workers compensation covers workers medical expenses, lost income, compensation for incapacitation and compensation for dependents in the case of death.
- (ii) An Agency is bound by the *Workers Rehabilitation and Compensation Act* and is required to develop appropriate occupational health and safety strategies and processes to identify and minimise risks to workers as far as it is practical to do so. For the purposes of the *Workers Rehabilitation and Compensation Act* the Territory Government is an approved self insurer.
- (iii) Territory appointed members of councils, boards or committees established under Northern Territory Government legislation are covered under self insurance arrangements as if they were Northern Territory Public Sector employees while undertaking their legislated functions. The Agency responsible for the legislation, as per the Administrative Arrangement Orders, has carriage for self insurance of these members.
- (iv) Where an Agency deems appropriate, and a net benefit can be demonstrated, to provide workers compensation cover to Territory appointed members of councils, boards or committees not established under Northern Territory Government legislation, application may be made to the Treasurer for inclusion under the self insurance arrangements. If approved, the Agency responsible for the council, board or committee has carriage for self insurance of these members.

Alternatively, application may be made to the Treasurer to purchase commercial insurance for these members in accordance with R 2.1.6 *Commercial Insurance*.

PROPERTY AND ASSETS

M 2.1.5.9

An Agency is to ensure appropriate safeguards are in place to minimise the occurrence of risks against assets under its effective control.

An Agency will not claim costs for damage caused to a vehicle or property if the damage is directly or indirectly caused by a vehicle or assets of another Agency.

- (i) The Northern Territory Government's asset base primarily consists of land, buildings, vehicles and equipment. These assets require ongoing management by an Agency to prevent damage, loss or misappropriation.
- (ii) Self insurance arrangements only extend to property and assets owned and/or under the effective control of the Northern Territory Government.
- (iii) An Agency will not enter 'knock for knock' arrangements with insurance companies or other self insurers.
- (iv) An Agency will meet its respective third party property liability and recover costs arising from accidents.
- (v) The 'knock for knock' principle will apply between Agencies (and GBDs) where damage to a vehicle or public property of one Agency (or GBD) is caused either directly or indirectly by a vehicle or asset under the effective control of another Agency (or GBD). In such circumstances each Agency (or GBD) will bear its own costs without claiming on the other.
- (vi) Where Territory owned property is hired or loaned to an entity external to Government self insurance arrangements do not apply. In such circumstances, the Accountable Officer is to ensure adequate insurance cover is arranged by the hiring or loaning entity.

PUBLIC LIABILITY

M 2.1.5.10

An Agency must consider appropriate strategies to reduce the risk of public liability claims arising through inappropriate activities or asset related risks.

- (i) Public liability relates to the liability owed to a third party who suffers loss or damage by reason of an Agency's activities.
- (ii) An Agency should assess the potential for public liability claims as a result of their activities and/or assets, and implement strategies and procedures to reduce the scope and likelihood of occurrence for such claims.

INDEMNITIES

M 2.1.5.11	Indemnities may be issued in limited circumstances. All indemnities require approval under section 34 of the <i>Financial Management Act</i> . Where indemnities are approved, appropriate peer review mechanisms should be established to identify and rectify unprofessional practices which may lead to claims.
M 2.1.5.12	Application may be made to the Treasurer to provide professional indemnity cover to Territory appointed members of decision making boards.
M 2.1.5.13	Commercial Director and Officer insurance policies may be purchased for board members at the discretion of the Accountable Officer.
(i)	Indemnities provide the recipient with immunity against the consequences of a breach of their duty and negligence, provided acts have been done in good faith.
(ii)	An Agency is to ensure that once an indemnity has been issued, appropriate mechanisms are in place to review practices to limit the scope for claims of negligence.
(iii)	Indemnities can only be issued in accordance with section 34 of the <i>Financial Management Act</i> . For further information on indemnities refer Section G 2.5 Guarantees and Indemnities.
(iv)	In certain circumstances, appointed members of boards may request additional cover in the form of professional indemnity or a commercial Directors and Officers policy. Professional indemnity cover for Territory appointed members of decision making boards may be issued in accordance with section 34 of the <i>Financial Management Act</i> (refer Section G 2.5 Guarantees and Indemnities).
(v)	Application to purchase a Directors and Officers policy may be made to the Accountable Officer in accordance with M 2.1.6 <i>Commercial Insurance</i> .

COMMERCIAL INSURANCE

M 2.1.6	<p>Prior to entering into commercial insurance arrangements an Agency must provide analysis to demonstrate the net benefit to the Territory Government of transferring insurable risks to an outside provider, including intangible benefits and costs avoided as a result of the insurance.</p> <p>A threshold for commercial insurance premiums is set at \$10 000, above which the Treasurer's approval is required prior to an Agency entering general agreements with commercial insurers and other self-insurers.</p> <p>Where a commercial insurance premium is less than the threshold, the Accountable Officer is authorised to approve the policy.</p>
M 2.1.6.1	Additional appropriation will not be provided for liability in excess of a commercial insurance policy's provisions, unless an Agency can demonstrate that a reasonable attempt was made to accurately assess the risk and level of cover required.

M 2.1.6.2

In exceptional circumstances an Agency may procure commercial insurance on behalf of an external entity or person(s), subject to the Treasurer's approval. If approved as an ongoing policy, the entity or person(s) and applicable policies will be registered in Appendix C of this Direction.

- (i) Commercial insurance provides a mechanism for transferring risk to an outside party in exchange for the payment of a premium.
- (ii) As self insurance is generally the most cost effective mechanism to manage insurable risks, an Agency must be able to demonstrate a net benefit to entering commercial insurance arrangements by providing a thorough risk assessment. Each request is assessed on individual merit.
- (iii) Where a commercial insurance premium is less than \$10 000 per annum per policy the Accountable Officer is authorised to approve the policy. Where the insurance period is less than one year the threshold is not *pro rated*. For example, if a policy is to cover a period of 3 months, the threshold is \$10 000 and not \$2500.
- (iv) Where a commercial insurance premium is greater than \$10 000 per annum per policy the Treasurer's approval is required before the purchase of the policy. Where the insurance period is less than one year the threshold is not *pro rated*.
- (v) A policy may cover more than one insurable risk. For example, a broad form public liability policy could cover 20 volunteers.
- (vi) The threshold gives agencies flexibility in making appropriate, timely and administratively efficient risk management decisions.
- (vii) Agencies should ensure that commercial insurance policies provide adequate cover for the applicable risk(s). Once a policy has been procured, agencies should not seek additional appropriation (or Treasurer's Advance) for liabilities in excess of the policy's provisions. In exceptional circumstances, and where it can be demonstrated that a reasonable attempt was made to accurately assess the risk(s) and level of commercial cover required, an Agency may seek additional appropriation (or Treasurer's Advance) for excessive additional outlays as a result of a claim.
- (viii) Circumstances may arise where it is in the public interest for the Territory Government to provide ongoing cover to external entities or persons. In such circumstances, and where a net benefit can be demonstrated, the Treasurer may approve an Agency purchasing a commercial policy on behalf of the entity, or persons. If approved as an ongoing policy, the entity or persons and the applicable policies will be registered in Appendix C of this Direction.

PROCUREMENT

M 2.1.6.3

An Agency must procure commercial insurance on the basis of merit. No preference is to be given to Northern Territory Government insurance providers.

- (i) In purchasing commercial insurance an Agency must follow Northern Territory Government procurement guidelines. Government insurance providers (a provider

in which the Northern Territory Government has a financial interest) should not receive any preference in the procurement process.

- (ii) For further information regarding procurement refer to the Procurement Directions Framework Series.

APPROVAL PROCESS

M 2.1.6.4

The Treasurer's approval is required to obtain commercial insurance for all policies where the annual cost of a premium exceeds the \$10 000 threshold, and for all policies covering motor vehicles, workers' compensation and office buildings.

Where a commercial insurance premium is less than the threshold, the Accountable Officer is authorised to approve the policy.

- (i) In submitting a commercial insurance request to the Treasurer an Agency is to include the completed request form at Appendix D.
- (ii) The request for commercial insurance must be endorsed by the Agency's Accountable Officer. This should accompany the request form along with quotes for commercial insurance.
- (iii) Completed documentation is to be forwarded to the Economic Policy and Frameworks business unit within Northern Territory Treasury.
- (iv) Where commercial insurance premiums fall below the prescribed threshold requests for commercial insurance are to be assessed and, if deemed appropriate, approved by the Agency's Accountable Officer.

FINANCIAL MANAGEMENT ACT

GOVERNMENT BUSINESS DIVISIONS

The following Government Business Divisions have been established under section 3 (1) of the *Financial Management Act* as at 11 October 2011:

Construction Division

Darwin Bus Service

Darwin Port Corporation

Data Centre Services

Department of Housing, Local Government and Regional Services: NT Home Ownership

Government Printing Office

Land Development Corporation

Northern Territory Treasury Corporation

NT Fleet

Territory Wildlife Parks

Territory Discoveries

APPROVED ENTITIES FOR INCLUSION FOR SELF INSURANCE

The following Northern Territory Government entities are approved for inclusion under the self insurance arrangements in accordance with section M 2.1.5.3, as at 15 December 2011:

AGENCY	ENTITY / PERSONS	CONDITIONS / LIMITATIONS
The Department of Employment, Education and Training	School Council Employees and Volunteers specifically for activities relating to- Relief Teachers, Teacher's Aides, Inclusion Support Assistants, Vocational Education and Training instructors, and similar; Bus drivers; Crossing guards; Canteen operation; Grounds maintenance; Homework Centres; Building repairs, maintenance and cleaning; Child care; and Fundraising activities and events.	Commercial operators and third parties participating in or running activities using Territory or school council property are required to continue to purchase their own commercial insurance cover.

COMMERCIAL POLICIES HELD ON BEHALF OF EXTERNAL ENTITIES

The following Northern Territory Government Agencies are registered to purchase commercial insurance policies on behalf of external entities or persons as at 15 December 2011:

AGENCY	ENTITY / PERSONS	POLICY HELD
The Department of Health and Community Services (Family and Children's Services)	Foster Carers	Public Liability Motor Vehicle Building and Contents
The Department of Primary Industries, Fisheries and Mines	Volunteers (15)	Personal Accident Broadform Liability
Northern Territory Police, Fire and Emergency Services	Junior Police Rangers	Broadform Public Liability