

In this issue:

Welcome	1
Public Liability Insurance	2
Professional Standards Act 2005	3
TRMF Annual Report Online	3
Extension of the Fund Administration Agent Contract	4
Quotable Quote	4
Marsh Pty Ltd – Team Update	4
TRMF Unit Staff Update	4
Risk Management – Risk Management Process	5
Risk Management – Tips for Effective Communication and Consultation	5
Information Sharing Sessions, Seminars and Workshops	6
Upcoming Training/Conferences	7
Upcoming TRMF Meetings	7
Treasury Contacts	8



Welcome

Welcome to the December 2005 edition of the Tasmanian Risk Management Fund (TRMF) newsletter, *riskmatters*, published by the Department of Treasury and Finance.

This has been a successful year for the Fund in terms of its risk management initiatives. Regular forums were introduced for agencies to discuss occupational health issues and guidelines were finalised to assist agencies determine the types and levels of insurance that contractors should be required to hold when providing goods and services to the Government. The TRMF Unit also facilitated an increased number of workshops and training sessions on risk related issues.

In addition, the Unit successfully implemented a new contribution cycle to provide agencies with more certainty when budgeting for TRMF contributions and commenced work on performance indicators for the Fund. There were no significant issues raised following peer reviews of both the Fund's Actuary, Bendzulla Actuarial Pty Ltd and the TRMF Unit.

I would like to take this opportunity to wish everyone a safe and enjoyable Christmas and New Year.

Tony Ferrall
Chairman
Tasmanian Risk Management Fund
Steering Committee

Contributions to *riskmatters* on any subject relating to insurance or risk management can be forwarded via email to trmf@treasury.tas.gov.au.

Public Liability Insurance

This is the first in a series of articles from Marsh Pty Ltd providing an overview on different types of insurance cover.

Scope of Cover

Public liability insurance has been developed to cover areas of potential liability for death, injury or damage or other activities which do not fall within the scope of other, more specific forms of liability insurance.

The description below is general and relates to the scope of cover most widely provided.

Public liability policies are written in broad form. That is, the scope of cover is very wide and relies on subsequent exclusion and limitation clauses to define the scope of cover.

The insurer will indemnify the insured for all sums he may become legally liable to pay as compensation for bodily injury or damage to property that happens during the currency of the policy and has been caused by an accident in connection with the insured's business.

For an occurrence to fall within the scope of the policy, the following factors must all be present:

1. an accident;
2. bodily injury or permanent damage to a third party (or their property) which:
 - happens during the period of insurance;
 - is caused by the accident; and
 - occurs in connection with the business defined on the policy.
3. a legal liability on the insured to pay an amount as compensation for that injury or damage.

Principal Exceptions and Limitations

Exceptions fall into three broad categories:

- risks which are more suitably insured by other, more specific policies;
- risks which are uninsurable; and
- risks which require special underwriting consideration.

Risks insurable under specific policies. These exceptions are expressed in such a way that they exclude from Public Liability cover, as precisely as possible, those risks which can be covered by the more specific policies while avoiding over-lapping and uninsured gaps between them.

The relevant exceptions relate to the risks listed below and are shown with the related class of specific policy:

Use of registered motor vehicles.	Motor vehicle policies – (Property Damage) & MAIB (Personal Injury).
Use, ownership or possession of aircraft.	Aviation insurance.
Use, ownership or possession of watercraft.	Marine hull insurance.
Explosion of boilers and pressure vessels.	Boiler explosion insurance.
Defective goods sold.	Products liability insurance.
Breach of professional duty.	Professional indemnity insurance.
Injury to employees, etc.	Workers compensation insurance.

Uninsurable Risks. Most risks are insurable but the following are usually considered quite inappropriate to be covered under public liability insurance:

- faulty workmanship and non-completion of work;
- war risks; and
- radioactivity.

Risks for Special Consideration. Exceptions in this category relate to risks that are insurable wholly or in part but that require additional premium, special limitations or controls, or additional information for the assessment of risk. Unless special arrangements are made to remove or modify them, these exceptions stand to protect the insurer from unknowingly bearing the risks for which no appropriate premium has been received. Excluded risks of this kind are:

- building work;
- liability overseas;
- aircraft landing areas;
- vibration;
- pollution;
- property in custody or control;
- contractual liabilities; and
- oil pollution.

For further information on Public Liability Insurance contact Tim Johns at Marsh Pty Ltd on telephone 6281 3130 or e-mail timothy.johns@marsh.com.



Please
Note

Professional Standards Act 2005

The introduction of the *Professional Standards Act 2005* has implications for anyone managing contracts.

Under this Tasmanian legislation, which came into effect on 1 August 2005, approved occupational associations can limit the professional liability of their members.

The liability cap set by the Act will override contract provisions.

Although no scheme has currently been approved in Tasmania, a limitation of liability under a future scheme will apply retrospectively to contracts signed from 1 August 2005.

Avoiding the effects of contracts being overridden in the future.

To avoid the effects of retrospectivity and to preserve the integrity of the contract, agencies must ensure that the following clauses are added to contracts:

1. **A clause waiving rights in respect of a future scheme.** This approach will only be useful prior to a scheme being established.
2. **A clause providing that if a scheme applies during the contract, that the contractor will, if required, obtain an approval from the occupational association for a higher maximum amount of liability** not lower than the level specified in the contract.

(See also page 6 - Insurance Clauses in Contracts Workshop)

TRMF Annual Report Online

The 2004-05 TRMF Annual Report is now available in HTML format on the TRMF Web site. The report can be found under Annual Reports at:

www.treasury.tas.gov.au/trmf.



For further information on how the *Professional Standards Act 2005* will impact on your purchasing contracts, contact Cheryl Johnston on 6233 4751 or e-mail cheryl.johnston@treasury.tas.gov.au.

Extension of the Fund Administration Agent Contract

The Agreement with Marsh Pty Ltd to provide FAA services to the TRMF has been extended for a further two years to 30 June 2008.

Responses to the TRMF survey on the performance of Marsh in the role of Fund Administration Agent for the Tasmanian Risk Management Fund indicated overall satisfaction with the level of service.

A special thank you to all agency representatives for providing responses and in particular your comments and suggestions for improving the service.

As part of the extension, Marsh will be addressing particular issues and suggestions put forward by agencies through the survey.

Marsh Pty Ltd – Team Update

Terrie Elliot has replaced Christie Smith as a claims consultant in Launceston.

Terrie joined the Marsh General Claims Team in Launceston on 30 November 2005. She replaces Christie Smith who has moved into the Risk Management area at Marsh.

Terrie has experience in both the insurance and banking sectors, having worked for HBF Home and Car Insurance in Western Australia for 10 years and Westpac in Launceston for the last three years.

Terrie can be contacted on 6333 3210.

Quotable Quote

These days, the need for effective risk management permeates all facets of private and public sector business. For it to be effective, it needs to be an integral part of a sound management and governance framework and it must be continuously reviewed and refined to address the changing risk profiles of any organisation.

Mr Jeffrey Lucy AM, Chairman of the Australian Securities and Investments Commission (ASIC) addressing delegates at Comcover's CEO Forum.

TRMF Unit Staff Update

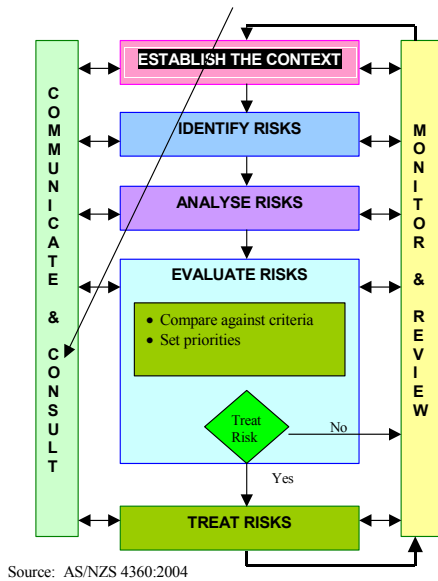
Recent staff change

Rachael Barron has been appointed to the position of Senior Policy Analyst. Rachael will be acting in the position of Principal Policy Analyst during Alison Lyne's absence on maternity leave and will be responsible for the daily management of the TRMF Unit.

Rachael can be contacted on 6233 3677.



Risk Management



an accurate picture of the opportunities and costs of various courses of action.

Developing a risk communication strategy at an early stage will help to establish two-way consultation with stakeholders. The creators of the risk management proposal should identify key stakeholders to start the consultation process.

Perceptions of risk

Consultation involves balancing the legitimate interests of stakeholders who hold differing opinions and have different levels of knowledge about issues, including experts and laypersons.

Continuous communication

It is vital to communicate and consult with stakeholders at each step in the risk management process.

Source: Risk Management Guide for Small Business, NSW Department of State and Regional Development

Risk Management Process

In this edition of *riskmatters*, the focus on the risk management process is on:

Communicate and Consult

Communication and consultation ensures that informed decisions can be made.

Communication and consultation should be a continuous, integral part of the management of risk.

At each stage of the process, the risk manager should communicate and consult with all stakeholders, both internal and external. All decisions should be made through a consultative process and, once made, these decisions should be effectively communicated to all stakeholders.

Communicate and consult

Communicating and consulting with people who have differing perceptions of risk will help to build

Tips for Effective Communication and Consultation

- Determine at the outset whether a communication strategy and/or plan is required.
- Determine the best method or media for communication and consultation.
- The significance or complexity of the issue or activity in question can be used as a guide as to how much communication and consultation is required: the more complex and significant to the organisation, the more detailed and comprehensive the requirement.

Information Sharing Sessions, Seminars and Workshops

Insurance Clauses in Contracts

Over sixty agency representatives attended this workshop, presented by Melvyn Carr from the Office of the Crown-Solicitor and David Kent from Marsh Risk Consulting.

Melvyn's session provided an overview of liability and insurance issues relevant to contracts for the provision of goods and services to government, with a focus on the particular features of Crown insurance clauses and the importance of undertaking a proper risk assessment.

Of particular interest was Melvyn's examination of the implications of Tasmania's *Professional Standards Act 2005*. The Act, which commenced in August 2005, enables occupational associations such as professional or trade groups to register schemes, thereby limiting their professional liability. The liability caps set by the Act can override contract provisions and it is therefore important, in appropriate cases, for agencies to require a contractor to obtain an approval under the relevant scheme for a higher level of liability. Melvyn highlighted the importance of agencies being aware of the implications of the Act and the complexities it presents for contract management in the future.

In his presentation, David Kent highlighted the differences between indemnity and insurance clauses in general as well as conducting a detailed examination of the different types of insurance cover policies. David also referred to the new Guidelines for Determining Appropriate Levels of Insurance For Goods and Services Contracts (*available on the TRMF Web site at <http://www.treasury.tas.gov.au/trmf>*) and demonstrated how to use the worksheets to conduct an initial risk assessment and determine an appropriate insurance level by reference to different contract requirement scenarios.



For a copy of these presentations, refer to the TRMF Web site at www.treasury.tas.gov.au/trmf. This site is updated regularly and includes information about upcoming training, information sessions, seminars and STARSWeb User Group meetings. It also has a previous training section which provides copies of notes or presentations from past sessions.



Participants at the Insurance Clauses in Contracts Workshop held on 12 December 2005.

Please let the TRMF Unit know if you have attended a course on a risk management topic recently that you thought was particularly good, so that we can share this information with others.

Upcoming Training/Conferences

Upcoming Workshops from IPM Injury Prevention & Management

Asbestos Management

8 February 2006 and
8 March 2006

Accountable Person

9 February 2006

Accident Investigation

15 February 2006

Dangerous Goods & Hazardous Substances

23 March 2006

All courses to be held at IPM's training room, 176 New Town Road, Hobart, unless otherwise indicated.

For more information or to register contact IPM at ipm@ipmsafety.com.

Disclaimer

Non-TRMF sponsored events or courses noted in this newsletter are provided for information purposes only. It is not an endorsement.

Unsubscribe

If you no longer wish to receive *riskmatters* please send an e-mail to trmf@treasury.tas.gov.au with the word 'Unsubscribe' in the subject line.

***riskmatters* Subscription Service**

Why not become a subscriber to the electronic version of *riskmatters* on www.treasury.tas.gov.au and receive an e-mail alert and link to the site on the day of publication.

To register, contact the newsletter editor, Di Hope, at the Department of Treasury and Finance on (03) 6233 6597 or e-mail trmf@treasury.tas.gov.au.

Upcoming TRMF Meetings

Committee Meetings

TRMF Steering Committee
21 February 2006, Hobart

TRMF Workers' Compensation
Sub-Committee
21 March 2006, Hobart

TRMF Property/Liability Sub-Committee
23 March 2006, Hobart

Contact: trmf@treasury.tas.gov.au

Treasury contacts

Di Hope (Property and editor of *riskmatters*)

Senior Policy Analyst
Ph: 6233 6597

Rachael Barron (Workers' Compensation and Personal Accident)

Principal Policy Analyst
Ph: 6233 3677

Penny Macintyre

Principal Policy Analyst
Ph: 6233 6626

Annette Wright (Liability and Financial Management)

Senior Policy Analyst
Ph: 6233 6710

Linda Voumard

Assistant Research Officer
Ph: 6233 8531

