

TREASURER'S INSTRUCTION
FINANCIAL MANAGEMENT ACT 2016
INDEMNITIES AND GUARANTEES

EFFECTIVE DATE

1 July 2019

SCOPE

This Treasurer's Instruction applies to all agencies listed in Column I of Schedule I, Part I in the *Financial Management Act 2016* unless otherwise exempted or provided for under the provisions of the Act.

This Treasurer's Instruction does not apply to indemnities and guarantees given under the *Tasmanian Development Act 1983*.

APPLICATION

At all times.

OBJECTIVE

To ensure the Government's exposure to indemnities or guarantees given by agencies is appropriately monitored and managed.

INSTRUCTION**Interpretation and Definition**

- 15.1 **"Guarantee"** includes a legally binding promise to assume responsibility for the debt of, or performance of obligations by, another person, or entity, should that person, or entity, default. Instruments intended to be covered include those commonly known as guarantees, performance bonds and letters of credit.
- 15.2 **"Indemnity"** includes a legally binding promise to accept the risk of, or compensate for, loss or damage that another person may suffer but excludes an indemnity that is given to persons in the performance of their duties for the State of Tasmania.
- 15.3 Indemnities and guarantees given under the *Tasmanian Development Act* are to be managed in accordance with the provisions of that Act.

Indemnities and Guarantees

- 15.4 The Accountable Authority must ensure that risk management strategies, controls and procedures are established to minimise the risk associated with the giving of indemnities and guarantees.
- 15.5 The Accountable Authority must ensure that a register is maintained of indemnities and guarantees entered into by, or on behalf of, the Agency.
- 15.6 The Accountable Authority is to ensure that its register of indemnities and guarantees includes details of indemnities and guarantees given by its related entities.
- 15.7 Where the Accountable Authority is required to seek the Treasurer's approval, in accordance with Section 54(1) of the Act, the Accountable Authority must provide the Treasurer with the following information:
 - 15.7.1 the total dollar amount of the indemnity or guarantee;
 - 15.7.2 the probability of the indemnity or guarantee being invoked;
 - 15.7.3 the obligation to be indemnified or guaranteed;
 - 15.7.4 the policy objective/s to be achieved through the provision of the indemnity or guarantee;
 - 15.7.5 the recipient of the indemnity or guarantee or the person or organisation that will benefit from the indemnity or guarantee;
 - 15.7.6 alternatives to the provision of an indemnity or guarantee and the costs of implementing those alternatives;
 - 15.7.7 analysis of the financial position of the proposed recipient of the indemnity or guarantee;
 - 15.7.8 the risks to which the Government can be expected to be exposed as a consequence of providing an indemnity or guarantee; and
 - 15.7.9 where it is proposed that an indemnity or guarantee be given in respect of a Project, an evaluation of the Project, to enable an assessment to be made of the extent to which the expected costs of the Project incorporate any indemnity or guarantee.
- 15.8 If, in accordance with Section 54(2) of the Act, an event occurs in relation to an indemnity or a guarantee entered into by an Agency that may significantly affect the financial position of the Agency, or the public finances of the State, the Accountable Authority is to include in advice to the Treasurer:
 - 15.8.1 details of the circumstances of the indemnity or guarantee;
 - 15.8.2 details of the event that has occurred, in relation to an indemnity or to a guarantee, which may affect the finances of the Agency or the public finances of the State;

- 15.8.3 details of the amount of the liability that is likely to be incurred because of the event that has occurred in relation to an indemnity or guarantee; and
- 15.8.4 details of steps that have been taken, and of steps that could be taken, to minimise the financial impact on the Agency or the State.

ADDITIONAL GUIDANCE

Further information in support of this Treasurer's Instruction can be found in the *Financial Management - Better Practice Guidelines*.