



# Policy and Disclosure Document

*of the*

## Tasmanian Risk Management Fund

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Department of Treasury and Finance



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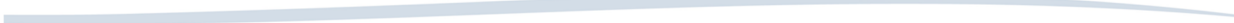
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# 1. About the Fund

## Overview

The Tasmanian Risk Management Fund is the Tasmanian Government's self-insurance fund. It was established on 1 January 1999 and provides a whole of government approach to funding and managing specific identified insurable liabilities of participants.

## Mission

Minimise the cost of risk to government through the management of an efficient self-insurance arrangement.

## Objectives

The Fund's objectives are to:

- ensure adequate financial provision is made for the cost of risk;
- be responsive to changing conditions in the insurance environment; and
- provide an efficient and effective claims administration service to participants.

## Structure, Roles and Responsibilities

### Governance Structure

The Department of Treasury and Finance is responsible for the administration and management of the Fund and reports to the Minister for Finance on policy issues.

### Internal Advisors

#### Tasmanian Risk Management Fund Steering Committee

The Steering Committee serves as a consultative forum through which participants can provide input into the operations of the Fund and feedback to Treasury, the Fund Administration Agent and the Actuary.

The role of the Steering Committee is to:

- monitor the financial performance of the Fund;
- monitor the performance of the Fund Administration Agent;
- provide input on policies to improve the performance of the Fund and of participants in the Fund;
- review and provide feedback on issues affecting participants' performance; and
- identify opportunities for participants to collaborate on issues and share information.

## Department of Treasury and Finance

The key activities of Treasury in relation to the Fund are: operational policy and advice, administration of the Fund, stakeholder relations and the management of relevant contracts.

Its responsibilities include:

- managing the Fund Administration Agent Agreement;
- managing the Fund's actuarial contract;
- managing panel arrangements procured by Treasury;
- administering the financial aspects of the Fund, including determining and invoicing participant contributions and managing the placement of external insurance where a determination has been made that the risk will be covered through the Fund;
- providing advice to participants on risks covered by the Fund; and
- reporting at both strategic and operational levels to all stakeholders involved with the Fund.

## External Advisors

### Fund Administration Agent

JLT Public Sector (JLT) is retained on a contract basis for claims administration, provision of advice in relation to claims management and for the placement of insurance as required.

JLT's main responsibility is to provide claims administration for risks on behalf of and in accordance with, the requests and directions of participants. This includes:

- file management, processing of payments and reimbursement of wages, collecting recoveries from third parties, and estimating the cost of claims;
- reviewing all claim and payment documentation to make sure that it is complete, accurate and appropriate. JLT has the authority to refuse incomplete or incorrect claims for payment;
- providing claims management (but not legal) advice to participants, either proactively or in response to a request by participants (it is the responsibility of participants to decide whether to accept or reject the advice);
- providing regular reports to participants on the progress of, and actual and outstanding costs associated with, each claim;
- reporting to Treasury and the Tasmanian Risk Management Fund Steering Committee as required;
- maintaining a database of all claims made by participants that are covered by the Fund. The database includes actual costs incurred to date as well as estimated outstanding costs for each claim; and
- brokering the purchase of external insurance cover as required, together with providing advice on external cover available and coverage of external policies in place.

## Actuary

GM Actuaries Pty Ltd is contracted to estimate future liabilities, advise on contributions and excesses, and report on the Fund's performance.

The Actuary provides the following services to the Fund:

- calculation of the total contribution required from participants for each self-insured risk;
- calculation of the proportion of the total contribution required from participants;
- calculation of excess levels and appropriate discounts in contribution levels for optional higher excess levels;
- provision of reports on the administrative arrangements for the Fund and the calculation of participant contributions;
- attendance at meetings with participants to discuss contributions as required; and
- provision of an annual report on the Fund's performance as at 30 June each year, including estimating liabilities of the Fund.

## Internal Auditor

As part of Treasury's internal audit program, an annual audit is undertaken on the controls and processes put in place by the Fund Administration Agent for the administration of claims and to verify the figures used in Treasury's Financial Statements.

## Office of the Solicitor-General

The Office of the Solicitor-General is exclusively responsible for providing legal advice on claims and provides legal representation in various courts and tribunals as required.

## 2. Purpose of the Fund

### Overview

All inner-Budget agencies are required to participate in the Fund and, subject to its date of joining, are covered for identified risks to which it is exposed or for which it wishes to accept responsibility and which the Fund agrees to cover. A number of other Government entities and agency-related entities also participate in the Fund and may only be covered for specific risks (refer to Section 4). The risks covered by the Fund are:

- workers' compensation/personal accident;
- legal liability;
- property; and
- travel.

Marine hull and travel insurance are insured through the private sector: the former due to cost efficiencies, the latter in order to benefit from a worldwide emergency assistance scheme. All other categories of risk are self-insured.

The Fund operates on a cost-recovery basis with contributions set to ensure adequate financial provision for the cost of risk now and in the future. All participants pay annual contributions to meet claim costs, administrative expenses, and where applicable, insurance premiums and reinsurance costs. The level of a participant's contribution is determined by an independent actuary and reflects their coverage, risk exposure, claims experience and nominated excess amounts.

In setting contributions, the Fund aims to achieve:

- the collection of sufficient moneys each year to fund claims costs and alleviate the financial impact of large unexpected events;
- equity for participants with minimal cross-subsidisation;
- stability in contributions over time; and
- incentives for risk management, through recognition of claims experience.

The Fund's finances are managed through the Tasmanian Risk Management Fund in the Public Account.

## Statement of the Fund

The Fund is not an insurer, but a self-insurance arrangement, to manage a set of well understood, identified insurable risks. The Fund does not deal with, nor cover, all insurable risks for Government nor does it provide cover to all Government entities.

Information on the identified, insurable risks covered by or through the Fund is outlined in Section 3. Information on the entities covered by or through the Fund is outlined in Section 4.

The general approach for determining whether cover will be extended for new risks outside those in Section 3, whether this arises through the acquisition of an asset or the undertaking of a new activity, is for a participating entity to:

- make a formal decision that it is prepared to accept the risk;
- contact Treasury and provide information necessary to enable Treasury to evaluate whether the risk can be properly identified, assessed and covered either by the Fund or through the Fund.

When determining whether a matter should be covered by or through the Fund, Treasury will have regard to:

- whether the risk arises during the normal course of business for the participating entity;
- the nature of the risk exposure, quantum of any potential loss and adequacy of notification period;
- actuarial advice taking into account the viability of the Fund for the already identified set of risks covered by the Fund, the overall liabilities of the Fund and the capacity to provide effective provisioning for the new risk through the Fund over the long term; and
- insurance industry advice on the cost and scope of insurance cover provided by external insurers which might otherwise be available.

Where a decision is made that the risk will be covered by the Fund, the Fund's Actuary will determine an appropriate contribution.

Where a decision is made that the risk will be covered by the Fund but not self-insured, Treasury will coordinate the purchase of external cover through the Fund Administration Agent and seek reimbursement from the relevant participant(s).

Where a decision is made that the risk will not be covered either by or through the Fund, then all decisions relating to, and management of, the risk will reside fully with the participant.

In summary, the Fund will cover:

1. either by or through the Fund, the set of identified, insurable risks specified in Section 3;
2. for the participants, in accordance with their approved risk coverage (detailed in Section 4); and
3. any new risks or entities deemed appropriate for the Fund to accept for cover either by or through the Fund (by applying the decision-making process above), subject to adjustments to contributions or payment of external premiums.



# 3. Risks covered by or through the Fund

The categories of cover provided by or through the Fund are outlined below.

## Workers' Compensation

### Introduction

The *Workers Rehabilitation and Compensation Act 1988* provides that all “workers” (as defined by the Act) are eligible for workers’ compensation if they suffer or aggravate an injury at work, or contract a disease for which work was the major contributor.

### Cover

The Fund provides workers’ compensation cover to participating entities. For clarity, this includes:

- for injuries incurred:
  - while working interstate or overseas (for the relevant participant) where Tasmania is the ‘State of connection’ for the injured worker. For information and guidance on the ‘State of connection’ tests refer to the section on cross-border claims in *A Guide to Workers Compensation and Rehabilitation in Tasmania* issued by WorkCover Tasmania;
    - Note: Participants with employees for whom the ‘State of connection’ is not Tasmania *may* need to take out separate workers’ compensation cover. For advice contact either the Office of the Solicitor-General or the Fund Administration Agent, JLT. The payment of such premiums is facilitated through JLT.
  - whilst the worker is on loan or has been hired out to another employer; or
  - from a motor vehicle accident whilst the worker was on authorised business;
- workers participating on internal or external boards as part of their normal employment duties; and
- volunteers deemed to be ‘workers’ of a participating entity by the Act, ie volunteers working in an emergency capacity, including firefighting, fire prevention, ambulance services, police operations, and marine search and rescue operations.

Cover is not provided for employees with respect to illnesses or injuries that are excluded by the *Workers Rehabilitation and Compensation Act 1988*. These include:

- where an injury occurs on routine journeys between an employee’s residence and workplace;
- where an injury is intentionally self-inflicted;
- where an injury results from an act of gross misconduct (unless the injury results in the worker’s death, or serious or permanent incapacity);
- for a disease or illness, of the mind, resulting from:
  - reasonable action taken by the employer in a reasonable manner regarding transfers, demotions, discipline, counselling or cessation of employment;
  - a decision of an employer, based on reasonable grounds, not to award or provide a promotion, transfer or benefit;
  - reasonable administrative action taken in a reasonable manner in connection with an employee’s employment;

- the failure of the employer to take action as above, if there are reasonable grounds not to do so; or
- reasonable action taken by an employer under the *Workers Rehabilitation and Compensation Act 1988*, affecting an employee.

## Exclusions

Workers' compensation cover is **not** provided in relation to:

- external Board members (if a Board member is participating on the Board as part of his/her normal employment duties, then his/her substantive employer's workers' compensation should respond);
- members of Parliament;
- students involved in workplace learning; or
- contractors (except as provided under section 4B of the *Workers Rehabilitation and Compensation Act 1988*).

Contractors must obtain and maintain their own workers' compensation or personal accident cover (as applicable) for the duration of their contract with the Government and supply evidence of the same when requested. JLT will provide advice on appropriate cover, if requested.

## Extent of cover

Subject to nominated excesses, the benefits detailed in the *Workers Rehabilitation and Compensation Act 1988* apply.

Refer to the information contained in Section 6 - Important Information and Definitions for further information in relation to excesses.

## Further information

See the *Workers Rehabilitation and Compensation Act 1988* or the WorkCover Tasmania publication *A Guide to Workers Rehabilitation and Compensation in Tasmania* for detailed information on who can claim workers' compensation and under what circumstances.

# Personal Accident

## Cover

The Fund provides no-fault personal accident cover to participating entities for people who are not covered under the *Workers Rehabilitation and Compensation Act 1988* where that person (or category of persons) has been afforded cover by the Fund prior to the incident giving rise to the claim and they:

- suffer or aggravate an injury which arises out of, and in the course of, their assistance to the government; or
- contract a disease (as defined in the *Workers Rehabilitation and Compensation Act 1988* or the *Asbestos-Related Diseases (Occupational Exposure) Compensation Act 2011*) for which their assistance to the government was the major contributor.

This includes nominated participating entity volunteers, board members, Parliamentarians and students involved in workplace learning. Further information in relation to each of these approved categories is provided below.

Generally, people that are covered by the Fund for personal accident are under direct participant control. The indicative factors evidencing the presence of control are:

- the individual/group being appointed directly by the participant;
- the existence of a high level of participant supervision over the activities of the individual or group; and
- the participant having the power to dismiss the individual or group.

### Volunteers

The Fund provides personal accident cover to persons who are acting in the capacity of a volunteer provided the control test referred to above is met.

A risk assessment of volunteer tasks should be undertaken to ensure that the proposed activity is appropriate, and that the volunteer has the ability and capacity to undertake the tasks in a safe manner. Subject to such a risk assessment being conducted, there is no age limit on personal accident cover provided to volunteers.

Note: Personal accident cover does not apply to volunteers deemed to be workers for the purposes of the *Workers Rehabilitation and Compensation Act 1988*.

### Parliamentarians

The Fund provides personal accident cover to Ministers and Members of the Tasmanian Parliament if they:

- suffer or aggravate an injury which arises out of, and in the course of, their official parliamentary duties; or
- contract a disease for which their official parliamentary duties was the major contributor.

### External board members

External board members (ie non-participant employees) participating on boards, committees or commissions for whom agency-related entity approval has been given (refer to Section 4, Part C) are provided with personal accident cover **provided** their employer's workers compensation does not provide cover.

### Students involved in Workplace Learning

#### *Government schools and colleges*

The Fund provides personal accident cover for students if they are enrolled at a government school or college when participating in:

- school-initiated workplace learning activities, provided that the student is placed with a Department of Education approved business in Tasmania or interstate; or
- Department of Education approved workplace learning activities as part of a Vocational Education and Training (VET) course; or
- Department of Education approved Special and Alternative Learning Programs.

Students participating in regular school activities including excursions, school camps, after-hours school sports etc (other than for school-initiated workplace learning activities, workplace learning activities as part of a Vocational Education and Training (VET) course and Special and Alternative Learning Programs) are not covered in respect of personal accident.

The Fund provides personal accident cover for students if they are enrolled at TasTAFE when participating in work placements approved by that entity.

Students participating in regular school activities including classroom work, workshops etc are not covered in respect of personal accident.

### Other persons who may be covered

Where there is no employment relationship between a participating entity and a person but the circumstances are such that the entity wishes to offer the person cover for no-fault personal injury, the Fund *may* provide personal accident cover. In these circumstances, the entity must discuss the matter with Treasury to determine whether cover will be extended. Direct control will generally be required and may be subject to specific conditions or requirements.

As an example, persons approved for cover for personal accident include<sup>1</sup>:

- young offenders subject to community service orders issued pursuant to the *Youth Justice Act 1997* and offenders undertaking community work for failure to comply with a drug treatment order issued pursuant to section 27B of the *Sentencing Act 1997*;
- refugees placed with a participating entity under the State Service Work Placement Program;
- young people undertaking work as part of a formal police caution under the *Youth Justice Act 1997*; and
- residents of the Ashley Youth Detention Centre when undertaking approved off-site activities.

### Extent of cover

Subject to nominated excesses, personal accident cover includes the reimbursement of reasonable medical expenses and the payment of benefits equivalent to benefits payable under the *Workers Rehabilitation and Compensation Act 1988*. However:

- the reimbursement of reasonable expenses (medical, hospital, ancillary, out-of-pockets etc) is limited to costs that are not recoverable under Medicare or private health insurance; and
- there is a **two-year limit** on the reimbursement of reasonable expenses and payment of benefits. This period commences from the date of incapacity.

### Exclusions

Personal accident cover is not provided in circumstances where workers' compensation would not apply to an employee in the same circumstances. For further information refer to Workers Compensation cover.

In addition, the Fund will not respond in circumstances where a person:

- acts outside the scope of the activities authorised by the participant, or contrary to its instructions; or
- is affected by alcohol or certain other drugs at the time of the incident; or

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<sup>1</sup> Note: details on the conditions upon which cover is provided in relation to any of these examples should be sought in the first instance from the relevant agency and/or the Treasury.

- is involved in a motor vehicle accident; or
- the personal injury occurs during time off – even if this has been sanctioned by a relevant officer or authorised representative.

Specific categories of persons to whom personal accident is not extended are detailed below.

#### *Home educated students*

The Fund does **not** provide personal accident cover for students registered with the Office of the Education Registrar (OER) when participating in VET workplace learning activities.

#### *Students from Non-government schools*

Students enrolled in non-government schools are **not** covered by the Fund and need to be insured by the schools in which they are enrolled.

#### *Students from the University of Tasmania*

Students from the University of Tasmania are **not** covered by the Fund when on work experience with a participating entity as part of their course. Students from the University should be asked to provide the participating entity with evidence that they are covered by the University's personal accident insurance policy prior to commencement.

# Legal Liability

## Introduction

This section covers legal liability claims where the participating entity is legally liable<sup>2</sup>. It includes what is commercially known as public liability, product liability, professional indemnity liability, employment practices liability and directors and officers liability.

Participants should contact Treasury to seek advice if in doubt as to whether any particular matter is covered under the Fund.

The Fund may provide cover for other liability risks where the entity concerned is prepared to accept responsibility for that risk and wishes to manage its financial exposure through the Fund. In these circumstances, participants are required to contact Treasury and provide all information necessary to enable Treasury to evaluate whether the risk can be properly identified, assessed and covered by, or through, the Fund.

## Cover

Cover is provided to participating entities for any amount they are legally required to pay (or would have been legally required to pay if sued) in relation to:

- personal injury<sup>3</sup> or property damage (including consequential economic loss) to a third party, caused by the actions of a participating entity and/or participating entity representative acting within the course and scope of his or her employment (“public [general] liability”). This includes third party injury or damage for which the participating entity is legally liable, caused by the activities of groups working on behalf of an agency, such as volunteers and work experience students. Further information is provided below;
- a wrongful act, error or omission in the discharge of the managerial duties by a director, manager, officer or any other person involved in the management of a participating entity (“directors and officers liability”);
- a breach of the professional duties of a participating entity or its representative (“professional indemnity”). Examples could include:
  - incorrect advice given to a third party on a child welfare matter;
  - incorrect advice given to a third party employer regarding employee safety;
  - and
  - incorrect advice given to a land owner/occupier for a crop management problem.
- personal injury or property damage (including consequential economic loss) arising from anything manufactured, serviced, altered or prepared by a participating entity (“product liability”). Examples could include:
  - illness caused by contaminated food prepared in a hospital or school canteen;
  - injury to a member of the public caused by a protruding nail on an item of furniture manufactured by an agency; or

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<sup>2</sup> Legally liable does not include liability for or of third parties assumed by a participant pursuant to an agreement with the third party, where such risk otherwise would rest with the third party.

<sup>3</sup> If a claim is made in relation to a latent medical condition (eg asbestosis), the date of the claim will be taken to be the date on which the condition was first medically diagnosed.

- injury or damage resulting from incorrect or insufficient labelling or instruction on or about a product.
- from 1 November 2010, employment practices claims brought by an employee against a participating entity, such as unfair dismissal claims and sexual or workplace harassment claims (“employment practices liability”). However, this cover is only provided on a case by case basis, and is subject to the claim being confirmed as appropriate and legitimate by both the Fund Administration Agent and the Office of the Solicitor-General. This cover does not extend to mistakes by a participating entity in relation to its employees for example, incorrect payment of entitlements or incorrect advice provided to employees.

The cover provided above extends to any liability of the participating entity arising from the operation of law such as under the *Civil Liability Act 2002*, which effectively transfers liability from a volunteer to an agency in specified circumstances.

For clarity, set out below are examples of activities by groups or persons for which a participating entity will be covered for public liability claims where the Crown is found to be liable:

- volunteers who are under the direct control of a participating entity, ie they are directly appointed by the participating entity (and can be dismissed by the participating entity) and there is a high level of participating entity supervision;
- students involved in workplace learning if they are enrolled at a government school or college when participating in:
  - school-initiated workplace learning activities, provided that the students are placed with a Department of Education approved business in Tasmania or interstate; or
  - Department of Education approved workplace learning activities as part of a Vocational Education and Training (VET) course; or
  - Department of Education approved Special and Alternative Learning Programs;
- home-educated students registered with the Office of the Education Registrar (OER) when participating in a work placement, or a vocational placement as part of a Vocational Education and Training (VET) course, where all relevant parties involved in the placement have complied with the relevant policies, procedures and guidelines as prescribed by OER;
- students of TasTAFE participating in work placements approved by that entity;
- offenders undertaking community work associated with a drug treatment order issued pursuant to section 27B of the *Sentencing Act 1997*;
- young offenders undertaking community service orders issued pursuant to the *Youth Justice Act 1997*; and
- young people undertaking work as part of a formal police caution under the *Youth Justice Act 1997*.<sup>4</sup>

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<sup>4</sup> Details on the conditions upon which cover is provided in relation to any of these examples should be sought in the first instance from the relevant participant and/or Treasury.



## Other persons provided with cover

Generally the cover provided by the Fund is limited to the liability of the Crown and does not extend to personal liability cover for third parties. However, the Fund will cover personal liability where an indemnity has been provided to a Public Officer of a participating entity by the Panel established to consider an application from a Public Officer for an indemnity and/or legal assistance. 'Public Officer' is defined in *Employment Direction No 16 - Indemnity and Legal Assistance*. This Direction specifies the circumstances in which indemnity and legal assistance may be granted to employees and officers, including Heads of Agency, appointed under the *State Service Act 2000*.

In addition, cover is provided by the Fund for:

- volunteers who are under the direct control of a participating entity;
- students involved in workplace learning if they are enrolled at a government school or college when participating in:
  - school-initiated workplace learning activities, provided that the student is placed with a Department of Education approved business in Tasmania or interstate; or
  - Department of Education approved workplace learning activities as part of a Vocational Education and Training (VET) course; or
  - Department of Education approved Special and Alternative Learning Programs; and
- home-educated students registered with the Office of the Education Registrar (OER) when participating in a work placement, or a vocational placement as part of a Vocational Education and Training (VET) course, where all relevant parties involved in the placement have complied with the relevant policies, procedures and guidelines as prescribed by OER;

In these cases, the Fund will not respond in circumstances where the covered person:

- acts outside the scope of the activities authorised by the participating entity, or contrary to its instructions; or
- is affected by alcohol or certain other drugs at the time of the incident; or
- the claim arises in relation to a motor vehicle accident.

Personal liability cover for other third parties will only be provided by the Fund in extra-ordinary circumstances and where the Government's policy in relation to the granting of indemnities does not otherwise apply. Such cover should be discussed with Treasury.



## Exclusions

### *Capital Works contracts*

The Fund does not provide liability or other types of cover for work done under a capital works contract. Civil and civic works contractors are required to either obtain their own insurance in relation to public liability and works or retain Principal Nominated Contract Works and Legal Liability Insurance through commercial policies organised by Treasury through the Fund Administration Agent, JLT.

See the Purchasing website ([www.purchasing.tas.gov.au](http://www.purchasing.tas.gov.au)) for further information.

### *Third party personal injuries claims – motor vehicles*

Liability cover is also **not** provided for third party personal injury claims arising from the use of a registered motor vehicle. This is insured through the Motor Accidents Insurance Board which operates a motor accident scheme providing medical and income benefits, on a no fault basis, to persons injured in motor vehicle accidents whilst still enabling access to common law.

### *Other*

Liability cover is **not** provided for:

- claims in respect of which the circumstances afford to a claimant(s) an entitlement to seek redress under the *National Redress Scheme for Institutional Child Sexual Abuse Act 2018 (Cth)*; nor claims made under that Act;
- students participating in regular school activities including excursions, school camps, after hours school sport etc (other than school-initiated workplace learning activities, workplace learning activities as part of a Vocational Education and Training (VET) course and Special and Alternative Learning Programs);
- apprentices/trainees;
- students from the University of Tasmania when on work experience with a participating entity as part of their course. Students from the University should be asked to provide the participating entity with evidence that they are covered by the University's public liability insurance policy prior to commencement; or
- parliamentarians (unless an indemnity has been granted).

It should be noted that legislation establishing Boards and Commissions usually includes a provision ensuring that Board and Commission members are immune from personal liability claims.

## Extent of cover

Subject to nominated excesses, cover is provided for:

- the amount that a participating entity, or indemnified person, is legally liable to pay to a third party; and
- any claim investigation and/or legal fees provided that the claim investigation fees are considered reasonable by the Fund Administration Agent and the legal services have been provided or sanctioned by the Office of the Solicitor-General.

Cover does not include the cost of penalties or fines payable under statute (unless otherwise determined by the Panel established to consider an application from a Public Officer of a participating entity for an indemnity and/or legal assistance).

# Medical Liability

## Cover

Cover is provided for any amounts that a participating entity is legally required to pay (or would have been legally required to pay if sued) in relation to any act, error or omission in the provision of medical services (“medical liability”).

Cover is provided to:

- public hospitals and other public health facilities; and
- third parties (for example, doctors, visiting medical officers “VMOs”, nurses and other health professionals employed by the Department of Health) where an indemnity has been provided by the Panel established to consider an application from a Public Officer of a participating entity for an indemnity and/or legal assistance. 'Public Officer' is defined in *Employment Direction No 16 - Indemnity and Legal Assistance*. This Direction specifies the circumstances in which indemnity and legal assistance may be granted to employees and officers, including Heads of Agency, appointed under the *State Service Act 2000*.

## Exclusions

Medical liability cover is not provided to locums or contracted specialists (as opposed to visiting medical officers “VMOs”). These persons are expected to hold their own liability cover.

The Fund does not provide cover in relation to a private business such as a medical staffing firm.

## Extent of cover

Subject to nominated excesses, cover is provided for:

- the amount that a participating entity, or indemnified person, is legally liable to pay to a third party; and
- any claim investigation and/or legal fees provided that the claim investigation fees are considered reasonable by the Fund Administration Agent and the legal services have been provided or sanctioned by the Office of the Solicitor-General.

Cover does not include the cost of penalties or fines payable under statute (unless otherwise determined by the Panel established to consider an application from a Public Officer of a participating entity for an indemnity and/or legal assistance).

# Property

## Introduction

The Fund provides property cover to participating entities for loss of or damage to property and/or machinery breakdown from sudden or unexpected or unforeseen circumstances, as well as any reasonable consequential costs due to business interruption arising from the damage. It also covers loss of or damage to property caused by theft, theft of monies, and loss of or damage to goods in transit.

## Cover

Cover is provided for:

- loss of (including theft) or damage to (excluding normal wear and tear) all property (including money) a participating entity owns or has an interest in or for which the participating entity is responsible (“property and business interruption”). This includes:
  - buildings and contents;
  - any built structure or improvement to land, for example landscaping or gardens;
  - building fit-out, stock or mobile plant,
  - any consequential additional expenditure required to maintain service at pre-incident levels (but not normal operational expenses);
- subject to a police investigation, the fraudulent misappropriation of goods or monies by officials or employees (“fraud/fidelity”);
- damage to machinery (eg lifts, boilers, medical diagnostic equipment, computers and servers), and any consequential loss of records, resulting from a mechanical or electronic breakdown (“machinery breakdown”);
- loss of or damage to a marine vessel and its equipment (including its trailer if that trailer is declared for the purpose of the Fund) (“marine hull”). If the vessel is normally carried on a trailer, cover includes periods when the vessel is being towed or garaged. “Marine hull” cover is purchased from the private sector and coverage includes third party property damage and personal injury for which the participating entity is liable. Please note that only those vessels that are specifically declared to the private insurer are insured. If a vessel is not declared it is not insured;
- loss of or damage to a government vehicle under the control of:
  - a government employee;
  - a member of a government employee’s family or a person required to use a private plated vehicle in accordance with section 8.4 of the *Tasmanian Government Motor Vehicle Allocation and Use Policy*; or
  - a person authorised to use a government vehicle in accordance with section 7.3 of the *Tasmanian Government Motor Vehicle Allocation and Use Policy* (“motor vehicle property”);

- any associated third party property damage for which the participating entity is legally liable<sup>5</sup> provided the government vehicle is under the control of:
  - a government employee;
  - a member of a government employee's family or a person required to use a private plated vehicle in accordance with section 8.4 of the *Tasmanian Government Motor Vehicle Allocation and Use Policy*; or
  - a person authorised to use a government vehicle in accordance with section 7.3 of the *Tasmanian Government Motor Vehicle Allocation and Use Policy*<sup>6</sup> ("motor vehicle liability").

However, participating entities should consider recovering claim costs from an employee if that employee was not acting in 'good faith' (based on advice from the Fund Administration Agent and Crown Law) at the time of the incident (eg whilst driving under the influence of alcohol or certain other drugs).

Where an indemnity has been provided to a Public Officer of a participating entity by the Panel established to consider an application from a Public Officer for an indemnity and/or legal assistance ('Public Officer' is defined in *Employment Direction No 16 - Indemnity and Legal Assistance*), the Fund will cover the Public Officer in relation to third party property claims incurred whilst using a government vehicle.

"Government vehicle" includes:

- vehicles subject to user charges through the Government's Fleet Manager; and
- any other motor vehicle (eg light commercial motor vehicles, motor bikes, trailers, etc) owned and operated by a participating entity;

Third party personal injury costs are insured through the Motor Accidents Insurance Board.

- loss of or damage to goods (including items borrowed or loaned) in transit worldwide, including loading, unloading, and incidental storage ("transit"). Transit cover also extends to employee-owned household goods and personal effects up to \$200 000 (excluding jewellery and cash) in transit, where relocation expenses have been approved by a Head of Agency pursuant to *Ministerial Direction No. 21-Travel and Relocation Assistance with Respect to Appointment, Promotion or Assignment of Duties for Officers and Employees*. A condition of cover is that the goods have been professionally packed and transported. Cover includes storage for up to 90 days.

Note: Treasury must be advised of any significant ( $\pm 10$  per cent) change to the total value of property assets held by the participating entity (through acquisition, disposal or major property redevelopment) to ensure that contributions are adjusted to properly reflect the risk exposure of the participating entity. In addition, Treasury must be advised of any property

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<sup>5</sup> Cover extends to the liability of government entities that utilise vehicles subject to user charges through the Government's Fleet Manager that are not participants in the Fund.

<sup>6</sup> This does not include liability for or of a person assumed by a participant pursuant to an agreement with the third party, where such risk otherwise would rest with the third party.

acquisition with a replacement value of \$20 000 000 and above for the purpose of insuring the asset in the event of a catastrophe.

## Exclusions

Cover is **not** provided for:

- normal wear and tear, including rust or corrosion;
- motor vehicle breakdowns, either mechanical or electronic;
- hired or borrowed vehicles. Treasury has established a common-use contract for rental of passenger vehicles in Tasmania and throughout Australia. Under the agreement, the hire vehicle and any associated liability is covered by the hire company and there is no excess payable by agencies (subject to terms and conditions). See the Purchasing website ([www.purchasing.tas.gov.au](http://www.purchasing.tas.gov.au)) for further information;
- buildings and other improvements where the Crown is part of a body corporate made up of all the lot owners in a strata scheme. The body corporate is responsible for maintaining the insurance required by the *Strata Titles Act 1998*;
- damage to or loss of employee or volunteer property (other than employee household goods in transit), including loss or damage to private motor vehicles or vessels. If employees or volunteers are required to use private motor vehicles or vessels as part of their employment or assistance to government, it is their responsibility to have the vehicle / vessel comprehensively insured (see *Ministerial Direction No. 1.1 2002-Administration*); or
- work done under a capital works contract. Building contractors are required to purchase Public Liability Insurance and Insurance of the Works through special policies organised by the Department of Treasury and Finance with the Fund Administration Agent, JLT. Building consultants wishing to do work for government agencies are required to maintain their own public liability and professional indemnity insurance. See the Purchasing website ([www.purchasing.tas.gov.au](http://www.purchasing.tas.gov.au)) for further information.

## Extent of cover

### General

Subject to nominated excesses, cover is provided for expenses relative to the cost of dealing with the property. For clarity this includes:

- the replacement, repair and/or reinstatement of the property<sup>7</sup>;
- where appropriate, any temporary repairs required to render premises safe or prevent further damage; and
- any claim investigation and/or legal fees provided that the claim investigation fees are considered reasonable by the Fund Administration Agent and the legal services have been provided or sanctioned by the Office of the Solicitor-General.

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<sup>7</sup> At the discretion of the Fund, the replacement value may be limited to the value calculated by a Quantity Surveyor at the time of the incident giving rise to the claim to repair or rebuild on a “like for like” basis with allowances to make the property compliant with current building legislation.

Cover is limited to an asset's replacement value as declared by participating entities in Treasury's biennial review of participant assets. Further information on the declaration of participant assets is provided in Section 6.

Cover does not extend to the cost of undertaking any risk mitigation work.

In circumstances where destroyed premises are not to be rebuilt, payment outside of clean-up costs is not automatic and will be determined on a case-by-case basis by Treasury following a submission by the participating entity.

Cover for consequential "business interruption" costs is limited to any increased working costs incurred by the participating entity to maintain services at pre-incident levels.

Cover for special items (curios, antiques and works of art) is based on the cost to replace, repair or restore the article to the condition that it was in immediately prior to the insured event, or the lesser of two valuations provided by independent, qualified valuers.

## Motor Vehicles

Subject to nominated excesses, motor vehicle cover includes:

- the cost to repair a vehicle – provided that the repair cost does not exceed the market value of the vehicle;  
If the cost to repair a vehicle is more than its market value, the Fund will pay its market value in settlement (unless the vehicle is less than 12 months old, in which case the Fund will pay the full replacement value).
- third party property damage for which the participating entity is legally liable;
- reasonable costs incurred in removing the vehicle to an approved repairer or a place of safety;
- costs incurred to clean up or remove debris resulting from goods falling or leaking from an agency vehicle;
- fixed vehicle accessories supplied at the time of ordering a vehicle. Subsequently fitted, fixed accessories/modifications are not included under the Fund's motor vehicle cover. Subsequently fixed and non-fixed property and equipment would be a separate property claim; and
- any claim investigation and/or legal fees provided that the claim investigation fees are considered reasonable by the Fund Administration Agent and the legal services have been provided or sanctioned by the Office of the Solicitor-General.

# Travel

## Introduction

Travel cover is purchased in the private sector and is limited to the persons and circumstances specified below. Participants will need to purchase separate travel cover if they wish to extend cover to anyone else or in other circumstances. If in doubt, contact the Fund Administration Agent, JLT for advice.

## Cover

Worldwide travel cover is provided to employees of participating entities, the Premier, Ministers, and Members of Parliament, and persons appointed by a participating entity to represent them (eg board and committee members, and volunteers), whilst on authorised business travel.

Subject to applicable limits, cover includes:

- 24-hour emergency assistance overseas (provided through commercial insurer) , including:
  - Access to 24 hour worldwide telephone assistance (all employees travelling overseas should contact their participant representative before they leave for a 'wallet card' containing the emergency contact details.);
  - emergency travel assistance;
  - emergency medical evacuation;
  - emergency political evacuation;
  - medically supervised repatriation;
  - assistance in replacing a lost or stolen passport;
  - legal assistance;
  - interpreter access and referral;
  - compassionate visit if travelling alone and hospitalised for more than a week;
  - assistance in tracing delayed or lost luggage; and
  - payment of approved medical services.
- personal accident – death and injury;
- overseas medical expenses;
- limited personal liability;
- the cost of replacing lost/stolen passports;
- delayed or stolen baggage or business property; and
- rental vehicle – the amount of the excess.

Cover is also provided for associated incidental personal travel. Associated personal travel is regarded as incidental if it does not exceed the period of business travel.

Limited cover is also provided to spouses and dependent children travelling with the insured traveller. Prior approval by the participating entity may be required when an employee wishes to be accompanied by his or her family whilst travelling on business.



## **Exclusions**

The travel policy prescribes the radius of travel to which the policy applies.

The maximum duration of any trip covered is 180 days.

Cover does not extend to personal computers, electronic equipment or mobile phones where theft or attempted theft occurs whilst such equipment is unattended (unless the equipment is securely locked inside a building or out of sight inside a motor vehicle) or whilst carried in or on any aircraft, vessel or craft unless they accompany the insured traveller as personal cabin baggage.

Participants should contact JLT for details of exclusions/limitations that apply.

## **Extent of cover**

Benefits are not open-ended and vary depending on age, status (ie employee or dependent) and circumstance. Information on the applicable limits and/or a copy of the travel policy and schedule outlining the benefits provided is available from JLT.



## 4. Entities covered by the Fund

### Part A: Inner-Budget Agency Participants

All inner-Budget agencies are required to participate in the Fund and are provided with cover for all risk areas referred to in Section 3. The inner-Budget agencies are:

- Department of Communities Tasmania
- Department of Education
- Department of Health
- Department of Justice
- Department of Police, Fire and Emergency Management
- Department of Premier and Cabinet
- Department of Primary Industries, Parks, Water and Environment
- Department of State Growth
- Department of Treasury and Finance
- House of Assembly
- Integrity Commission
- Legislative Council
- Legislature-General
- Office of the Director of Public Prosecutions
- Office of the Governor
- Office of the Ombudsman
- Tasmanian Audit Office

Reference should also be made to the section on Agency-Related Entities referred to in Part C below.

### Part B: Other Government Entity Participants

The following entities are covered by the Fund as detailed below:

- Brand Tasmania (*full cover*)
- Inland Fisheries Service (*workers' compensation cover only*)
- Port Arthur Historic Site Management Authority (*workers' compensation cover only*)
- Private Forests Tasmania (*workers' compensation cover only*)
- Royal Tasmanian Botanical Gardens (*workers' compensation cover only*)
- State Fire Commission (*full cover excluding motor vehicle cover*)
- TasTAFE (*full cover*)
- Tourism Tasmania (*full cover*)

## Part C: Agency-related entities

Agency-related entities that meet the criteria outlined in Section 5 and have been approved for cover either by or through the Fund are listed in the Fund Administration section on the Tasmanian Risk Management Fund section of the Treasury website ([www.treasury.tas.gov.au/trmf](http://www.treasury.tas.gov.au/trmf)).

Except where otherwise indicated, full cover as detailed in Section 3, is provided. The inclusion of risk cover for an agency-related entity is reflected in the related participant's contributions to the Fund.

## Part D: Indemnified persons

The Fund will cover personal liability where an indemnity has been provided to a Public Officer of a participating entity by the Panel established to consider an application from a Public Officer for an indemnity and/or legal assistance ('Public Officer' is defined in *Employment Direction No 16 (1 January 2016) - Indemnity and Legal Assistance*).

# 5. Identified Policy Statements

## Building Claims Policy

This policy applies to the claims process for general property claims made against the Fund involving loss of or damage to buildings that a participating entity owns, or has an interest in or for which the participating entity is responsible.

The policy is available in the Property incident management section on the Tasmanian Risk Management Fund section of the Treasury website ([www.treasury.tas.gov.au/trmf](http://www.treasury.tas.gov.au/trmf)).

## Cover for agency-related entities

The policy position in respect to cover for agency-related entities, such as boards, commissions, authorities and panels, is as follows:

Cover under the Fund is generally extended only to inner-Budget agencies and other Government entities. Consideration is given, on a case-by-case basis, to include boards, commissions, authorities, panels and other agency-related entities.

If an inner-Budget agency or other Government entity<sup>8</sup> requires cover for an entity and is willing to accept the associated risks, the inner-Budget agency or other Government entity is to submit a formal written request to Treasury, detailing how the entity meets all three of the following criteria for cover and including any relevant circumstances that it believes is applicable:

1. the entity must be part of the General Government Sector;
2. the entity must be significantly financed through the Public Account, either through an inner-Budget agency or other Government entity budget or by direct allocation; and
3. there must be a high level of control by an inner-Budget agency or other Government entity over the financial and operating policies of the entity.

As the administrative arrangements and responsibilities relating to this type of entity can be complex and varied, each entity's eligibility for cover will be considered on a case-by-case basis, with Treasury considering how each entity meets the intent of the criteria. Generally cover will only be provided where the entity meets the criteria.

Treasury will advise the relevant inner-Budget agency or other Government entity once a decision on the entity's eligibility has been reached. Should cover be offered, the Fund's Actuary will then determine the appropriate additional contribution to be paid by the inner-Budget agency or other Government entity.

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<sup>8</sup> The other Government entity must be one that is afforded full cover under the Fund as noted in Section 4, Part B in order to submit an agency-related entity request.

## Claims on former participating entities

Occasionally, claims are made against the Crown with respect to a government entity that no longer exists. The responsibility for managing and meeting the cost of these claims will be determined in accordance with the following principles:

- as a general principle, the Fund will only be responsible for meeting claims for which contributions have been received, or which are recoverable from participating entities, or which will be met by a one-off or ongoing contribution from the Public Account through Finance-General;
- funding will be sought from the Public Account to meet the cost of major claims made in relation to former participating entities – perhaps in the form of an annual amount over a number of years to establish an appropriate reserve (the amount to be set following advice from the Actuary);
- if funding from the Public Account is not approved, the claims costs relating to former participating entities will be met from the “government contingency” allocation, with future agency contributions to this element being adjusted if necessary to ensure that claims costs are recovered over time;
- “associated” participating entities will administer claims made on former participating entities and the administration cost will be absorbed by those participating entities; and
- workers’ compensation claims paid on behalf of former participating entities (ie in relation to those activities that are no longer undertaken by any government entity) will be excluded from participants’ claim histories when calculating contributions to the Fund.

To ensure that the responsibility for claims can be readily assigned in future, participating entities are required to:

- include detailed cost centre information on claims advice forwarded to the Fund Administration Agent; and
- reallocate past claims history and assign responsibility for ongoing management of cases as part of any restructuring process.

# 6. Important Information and Definitions

## Important Information

### Accuracy of information

When the Fund agrees to provide cover or to pay a claim, the decision relies on the accuracy of the information given to it. As a result, participants must disclose relevant information, including asset information, to the Fund accurately and in a timely manner.

Participating entities must ensure that all claim and payment documentation is complete, accurate and appropriate. The Fund Administration Agent (JLT) has the authority to refuse incomplete or incorrect claims for payment.

### Advice on cover

If a participating entity is unsure of whether cover is extended in relation to any particular circumstances, advice can be sought from Treasury.

### Asset information

Information on the value of assets provided to the Fund to enable contributions to be determined should represent the full replacement value.

Participating entities must advise Treasury of any significant ( $\pm 10$  per cent) change to the total value of property assets held by it as the changes occur (through acquisition, disposal or major property redevelopment), to ensure that contributions are adjusted to properly reflect the risk exposure of the entity. In addition, Treasury must be advised of any property acquisition with a replacement value of \$20 000 000 and above for the purpose of insuring the asset in the event of a catastrophe.

Participating entities must also advise Treasury of any change to marine hull assets held by it as the changes occur (through acquisition or disposal) as marine hull cover is purchased from an external insurer and only those vessels that are specifically declared to the external insurer are insured. If a vessel is not declared it is not insured.

Information on all assets (excluding marine hull as noted above) must be provided to Treasury in Treasury's biennial review of participant assets. This includes assets where a decision has been made by the participant that it does not intend replacing those assets in the event of loss/damage. All asset information is required to ensure that cover is available for costs associated with making safe damaged or potentially dangerous sites, clearing away debris or making partial rectification to damaged assets. Also, as noted above under Accuracy of Information, in some cases a failure to specifically declare certain property may result in external cover not being available.

## Claims Management

Participating entities are ultimately responsible for the management of claims and must instruct the Fund Administration Agent (JLT) and the Office of the Solicitor-General regarding the management of those claims.

Specific responsibilities regarding the management of claims are detailed under the relevant incident management sections of the Tasmanian Risk Management Fund section of the Treasury website ([www.treasury.tas.gov.au/trmf](http://www.treasury.tas.gov.au/trmf)).

## Commencement of cover

While the Fund was established on 1 January 1999, risks were progressively incorporated into the self-insurance arrangement as follows:

Personal Accident - from 1 July 1999

Legal Liability (excluding Medical Liability) - from 1 July 1999

Property (including Motor Vehicle) - from 1 July 1999

Workers' Compensation - from 1 July 2001 when the Fund merged with the Tasmanian State Service Workers' Compensation Scheme (originally established on 1 July 1989)

Medical Liability - Post 1 July 2001 claims - from 1 July 2001; Pre 1 July 2001 claims - from 1 July 2002

The Fund will not indemnify participants for claims costs resulting from incidents that have occurred prior to commencement of cover or prior to them joining the Fund.

## Date of claim

If a claim is made in relation to a latent medical condition (eg asbestosis), the date of the claim will be taken to be the date on which the condition was first medically diagnosed.

## Excesses

If a claim is made, a participating entity may be required to pay one or more excesses. The descriptions of these excesses and the circumstances in which they are applied are determined at the commencement of each financial year by each participating entity. Information on excesses is available in the Fund Administration section on the Tasmanian Risk Management Fund section of the Treasury website ([www.treasury.tas.gov.au/trmf](http://www.treasury.tas.gov.au/trmf)).

Under-excess claims must be met by the participating entity.

## Making a claim

Claims should be made in accordance with the guidance provided on the Tasmanian Risk Management Fund section of the Treasury website ([www.treasury.tas.gov.au/trmf](http://www.treasury.tas.gov.au/trmf)). Advice and assistance can be obtained from the Fund Administration Agent, JLT. Contact information is set out at the end of this section.

A specific *Procedure for Reporting of Liability Claims* is available under the Liability incident management section of the Tasmanian Risk Management Fund section of the Treasury website ([www.treasury.tas.gov.au/trmf](http://www.treasury.tas.gov.au/trmf)). It sets out when potential liability claims are to be reported by participating entities to the Fund Administration Agent.

### **Multiple claims**

Where multiple claims arise from a single occurrence at different locations, each claim is to be separately lodged and will be treated as an individual claim for the purposes of claims management under the Fund. Multiple claims may not be grouped together in order to reduce excess requirements. For example, where a severe storm results in damage to a number of Parks' huts in a particular region of the State, a separate claim is to be lodged for each location, regardless of the fact that all were damaged as a result of the same event.

### **Period of cover**

The Fund will meet all legitimate claims costs (less nominated excesses) relating to incidents that occurred after participating entities joined the Fund and for which that entity is provided with cover in accordance with Section 4.

In relation to agency-related entities, the Fund will meet all claims relating to incidents that occurred after the agency-related entity is approved for cover and for which the agency-related entity is provided cover.

Subject to Section 5-Identified Policy Statements, entities are generally responsible for claims costs relating to incidents which occurred prior to these dates.

Any specific risk area limitations on the period of cover are included in the information relevant to that risk area in Section 3.

### **Property not to be replaced**

In circumstances where destroyed premises are not to be rebuilt, payment outside of clean-up costs is not automatic and will be determined on a case-by-case basis by Treasury following a submission by the participating entity.

# Definitions

**Agency** – refer to **inner-Budget agency**;

Agency-related entity - means those entities referred to in Section 4, Part C of this document.

**Claim** means any demand by a third party against a **participant / participating entity** for compensation.

**Inner-Budget agency** means those entities referred to in Section 4, Part A of this document.

Other Government entity - means those entities referred to in Section 4, Part B of this document.

**Panel** means the Indemnity and Legal Assistance Panel established to consider an application from a Public Officer for an indemnity and/or legal assistance.

**Participant / participating entity** means:

- the Tasmanian Government inner-Budget agencies referred to in Section 4, Part A of this document;
- the Other Government Entity participants referred to in Section 4, Part B – where relevant cover is extended; and
- the approved agency-related entities referred to in Section 4, Part C.



# Contacts

## Department of Treasury and Finance / Tasmanian Risk Management Fund

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### **By mail:**

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### **Refer also:**

[www.treasury.tas.gov.au/trmf](http://www.treasury.tas.gov.au/trmf)

### **LeasePlan Australia**

*(Government's light passenger vehicle fleet manager)*

Senior Manager

Tasmanian Government Fleet Contract

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