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| Treasurer’s Direction (mandatory) | |
| Purpose | To provide a framework for insurance arrangements for the Northern Territory (NT) Government |
| Last reviewed | November 2019 |
| Operative date | May 2004  Retrospective to 1 July 2019 |
| References | * Commercial insurance approval form * Administrative Arrangements Order * Treasurer’s Determination of Government Business Divisions * Treasurer’s Direction – Guarantees and indemnities * Treasurer’s Direction – Part 5 Section 5 Losses * Procurement Framework * *Financial Management Act* *1995* (FMA) * *Return to Work Act 1986* |

# Insurable risks

## Definition of insurable risks

1. Insurable risks are financially measurable, could normally be insured in the commercial insurance market, and include:
   1. damage to physical assets
   2. economic or physical harm to a person
   3. may result in a requirement to provide compensation.
2. Examples of insurable risks include, but are not limited to:
   1. workers compensation
   2. property, plant and equipment (including motor vehicles and office buildings)
   3. inventories
   4. public liability
   5. professional liability
   6. travel.
3. Insurable risks do not include:
   1. financial risks
   2. legal costs in an action brought by an agency or government business division (GBD)
   3. liability arising solely from a decision by an agency or GBD to terminate a contract or agreement
   4. all other risks which are financially immeasurable and cannot be insured in the commercial insurance market.
4. An external entity refers to an entity or third party not subject to the FMA, which includes but is not limited to contractors, consultants, non-budget sector entities, government owned corporations, non‑government organisations, local government entities and private entities.

## Managing insurable risks

1. Accountable officers must implement appropriate risk management strategies to manage and mitigate insurable risks.
2. There are two types of insurance arrangements that agencies may enter into to manage insurable risk in accordance with this Treasurer’s Direction: self‑insurance and commercial insurance.
3. Agencies are to self-insure against risks of an insurable nature to the greatest extent possible, but may enter into commercial insurance arrangements in accordance with the requirements of this Treasurer’s Direction.

# Risk Management

1. Agencies must ensure appropriate processes are implemented to manage, settle and report claims against the NT Government’s self-insurance and commercial insurance arrangements.
2. As part of an agency’s risk management policies and procedures, insurance arrangements must, at a minimum:
   1. be clearly documented and accessible to employees
   2. establish service level agreements, defining roles and responsibilities, where applicable
   3. outline procedures for handling claims against the NT Government
   4. outline procedures for handling incidents or claims involving NT Public Sector (NTPS) employees
   5. outline procedures for dealing with insurance companies, other self-insurers, and claims from other NT Government entities
   6. address recovery arrangements
   7. articulate statutory reporting requirements.

# Self-insurance

## Definition of self-insurance

1. Self-insurance is an arrangement whereby there is no underlying insurance policy, and the NT Government accepts the financial risk of any losses incurred.
2. Self-insurance arrangements do not create, incur, accept, shift or apportion liability between parties.
3. At common law, the NT Government will only be liable for the loss it causes.

## Scope

1. Self-insurance arrangements extend to:
   1. assets, which are owned and or controlled by the NT Government
   2. NTPS employees, in performance of their duties.
2. Government owned corporations are not included under the NT Government’s self‑insurance arrangements and are out of scope for this Treasurer’s Direction.

## Application to agencies

1. Agencies **must** self-insure against risks of an insurable nature to the greatest extent possible, and meet costs as they emerge, subject to paragraph 44, exclusions outlined in paragraphs 53 to 57 and Appendix A of this Treasurer’s Direction.

## Application to government business divisions

1. GBDs are excluded from the NT Government’s self-insurance arrangements, subject to exceptional circumstances where it is more cost effective for a GBD to be included.
2. The inclusion of risks of an insurable nature for GBDs under the NT Government’s self-insurance arrangements must be endorsed by the host agency and its portfolio minister and approved by the Treasurer.
3. If a GBD is included under NT Government’s self-insurance arrangements, the GBD must:
   1. pay a premium to their host agency in lieu of purchasing commercial insurance
   2. comply with all self-insurance requirements in this Treasurer’s Direction.

## Application to external entities

1. External entities are excluded from self-insurance arrangements unless approved by the Treasurer.
2. Any request to the Treasurer must have portfolio minister endorsement and information that:
   1. demonstrates providing self-insurance cover to an external entity will result in a net benefit to the NT Government
   2. details the financial implications, risk exposure, and risk management framework of the external entity
   3. demonstrates it is in the public’s best interest to provide ongoing cover to the external entity under self‑insurance arrangements.

## Types of insurable risk

### Workers compensation

1. For the purposes of the *Return to Work Act 1986*, the NT Government is an approved self‑insurer.
2. Workers compensation claims are managed by an external entity and agency premium payments are managed by the Central Holding Authority (CHA) on behalf of the NT Government, where:
   1. agencies must pay annual workers compensation premiums, as advised by the CHA
   2. premiums are reviewed annually by an actuary appointed by the CHA.
3. NT Government appointed members of councils, boards or committees established under NT legislation:
   1. are covered under the NT Government’s self-insurance arrangements as if they were NTPS employees while undertaking their statutory functions
   2. the agency responsible for the legislation, as per the Administrative Arrangements Order, has carriage for self-insurance of workers compensation for these members.
4. Where an agency deems appropriate, and a net benefit can be demonstrated, to provide workers compensation cover to NT appointed members of councils, boards or committees not established under NT Government legislation, application may be made to the Treasurer:
   1. for inclusion under the NT Government’s self-insurance arrangements and registration in Appendix C
   2. or to purchase commercial insurance.
5. Pursuant to paragraph 24.b on approval by the Treasurer, the agency responsible for the council, board or committee is responsible for purchasing commercial workers compensation insurance for these members.
6. Members of the Legislative Assembly (MLA) are covered under the NT Government’s self‑insurance arrangements for workers compensation as if they were NTPS employees in respect of constituency and or legislative activities conducted by the MLA in the course of the discharge of his or her electorate and or parliamentary duties.
7. Treasurer’s approval is not required where an agency purchases commercial workers compensation insurance as a requirement of a legislative scheme outside of the NT (in jurisdictions where the NT Government is not an approved self-insurer).

### Property, plant and equipment

1. Agencies will not claim costs for damage caused to property, plant and equipment, if the damage is directly or indirectly caused by another agency.
2. Pursuant to paragraph 28, each agency will bear its own costs without claiming on the other.
3. Agencies must recover damage to, or loss or destruction of public property, in accordance with the Financial Management Regulations and Treasurer’s Direction on losses.

### Public liability

1. The NT’s risk of public liability when agencies engage contractors or consultants is covered under the NT Government’s self-insurance arrangements, external contractors or consultants will require their own insurance arrangements to cover their own risk of public liability.
2. An agency should mitigate the NT’s risk by requiring the contractor or consultant to maintain during the currency of the engagement, a public liability insurance policy to cover the contractor or consultant’s risk of public liability.
3. MLAs are covered under the NT Government’s self-insurance arrangements for public liability in respect of constituency and or legislative activities conducted by the MLA in the course of the discharge of his or her electorate and or parliamentary duties.

### Professional liability

1. Professional liability relates to claims for financial loss, bodily or personal injury or property damage arising from an act, error or omission in the performance of professional services.
2. When engaging a contractor or consultant, an agency must require the contractor or consultant to maintain during the currency of the engagement, a professional liability insurance policy to cover the contractor or consultant’s liabilities to third parties.
3. An indemnity for professional liability in favour of a third party can only be provided in accordance with section 34 of the FMA and the Treasurer’s Direction on guarantees and indemnities.
4. Agencies must ensure that once an indemnity has been issued, appropriate mechanisms are in place to limit the risks associated with the indemnity.
5. Where an agency deems appropriate, and a net benefit can be demonstrated to provide professional indemnity cover to NT appointed members of councils, boards and committees, application may be made to the Treasurer:
   1. for inclusion under the NT Government’s self-insurance arrangements and registration in Appendix C
   2. or to purchase commercial insurance.
6. Pursuant to paragraph 38, on approval by the Treasurer, the agency responsible for the member(s) appointed to the council, board, or committee is responsible for professional indemnity insurance of these members.

# Commercial insurance

## Definition of commercial insurance

1. Commercial insurance provides a mechanism for transferring financial risk to a third‑party private insurer, in exchange for the payment of a premium.
2. Under a commercial insurance arrangement, the NT Government still remains liable for the loss incurred but the insurer pays the financial losses associated with the liability, in accordance with the terms of the insurance policy.

## Threshold for commercial insurance premiums

1. The threshold for commercial insurance premiums, for the purposes of this Treasurer’s Direction is:
   1. $10,000 per policy per annum (inclusive of any brokerage fees, taxes and stamp duty)
   2. cannot be pro-rated.

## Procurement process

1. Agencies and GBDs must acquire commercial insurance in accordance with whole of government procurement policies and procedures.

## Application to agencies

### Entering into commercial insurance arrangements

1. Agencies **may** acquire commercial insurance in accordance with Appendix B and the following conditions:
   1. the agency must undertake a risk assessment and demonstrate commercial insurance will result in a net benefit to the NT Government, for the full or partial transfer of an insurable risk, including intangible benefits and costs avoided as a result of the insurance
   2. if the premium is less than or equal to the threshold, the accountable officer is authorised to approve the policy
   3. or if the premium is greater than the threshold, the agency must obtain Ministerial endorsement and Treasurer’s approval (by completing a Commercial Insurance Approval Form) prior to entering into an agreement with a commercial insurers.
2. Notwithstanding any other requirements, ministerial endorsement and the Treasurer’s approval is required for all commercial insurance policies covering:
   1. motor vehicles
   2. workers compensation
   3. office buildings
   4. professional indemnities for NT appointed members of councils, boards and committees.

### Cancelling insurance arrangements

1. Prior to cancelling or not renewing commercial insurance previously approved in accordance with paragraph 44.c an agency must:
   1. undertake a revised risk assessment (refer to paragraph 44.a)
   2. obtain Ministerial endorsement
   3. obtain approval of the Treasurer.

## Application to government business divisions

### Entering into commercial insurance arrangements

1. GBDs:
   1. must acquire commercial insurance for insurable risks, subject to exceptions in this Treasurer’s Direction where self-insurance is deemed the most cost effective method (refer to paragraphs 16 to 18)
   2. or may elect to pay a premium as per the agreement with their host agency in lieu of purchasing commercial insurance.
2. The host agency will meet all claim costs for an election made under paragraph 47.b.
3. GBDs must demonstrate that commercial insurance will result in a net benefit to the NT and obtain Ministerial endorsement and Treasurer’s approval for insurance policies covering professional indemnities for NT appointed members of councils, boards and committees.

### Cancelling insurance arrangements

1. Prior to cancelling or not renewing insurance policies covering professional indemnities for NT appointed members of councils, boards and committees previously approved in accordance with paragraph 49, a GBD must:
   1. obtain Ministerial endorsement
   2. obtain approval of the Treasurer.

## Application to external entities

### Entering into commercial insurance arrangements for external entities

1. Agencies **may** acquire commercial insurance on behalf of external entities, in accordance with Appendix B and the following conditions:
   1. the agency must undertake a risk assessment and demonstrate commercial insurance will result in a net benefit to the NT, for the full or partial transfer of an insurable risk, including intangible benefits and costs avoided as a result of the insurance
   2. if the premium is less than or equal to the threshold, the accountable officer is authorised to approve the policy
   3. or if the premium is greater than the threshold, the agency must obtain Ministerial endorsement and Treasurer’s approval (by completing a Commercial Insurance Approval Form) prior to entering into an agreement with a commercial insurer.

### Cancelling insurance arrangements

1. Prior to cancelling or not renewing commercial insurance previously approved in accordance with paragraph 51.c an agency must:
   1. undertake a revised risk assessment (refer to paragraph 51.a)
   2. obtain Ministerial endorsement
   3. obtain approval of the Treasurer.

# Exclusions

## International travel by employees

1. International travel by NTPS employees, in the course of performing their duties, is excluded from self-insurance arrangements and must be covered by commercial insurance for all insurable risks (refer to paragraph 2) with the exception of statutory insurance requirements (i.e. workers compensation).

## Contractors and consultants

1. The NT Government’s self-insurance arrangements do not extend to contractors or consultants unless the Treasurer has approved an application for inclusion in the self‑insurance arrangements.

## Territory owned property hire (or loans) to external entities

1. Territory owned property refers to all NT Government or agency-owned assets, including land and buildings.
2. The Territory’s self-insurance and commercial insurance arrangements do not extend to external parties who lease, hire or loan Territory owned property.
3. Agencies and GBDs must ensure an external entity leasing, hiring or loaning the property arranges and pays for adequate insurance cover, this does not include insurance cover for the repair or replacement of Territory owned property which remain within the Territory’s self-insurance arrangements, or commercial insurance were applicable.

# Reporting

1. If requested by the Department of Treasury and Finance (DTF), agencies and GBDs must provide details on the management of insurable risks, including, but not limited to:
   1. mitigation strategies and processes employed to reduce the risk for each insurable risk category
   2. total number, value, and average cost of self-insurance claims for each insurable risk category for the current and previous year
   3. total commercial insurance premium expenditure for the current and previous year
   4. total number, value, and average cost of commercial insurance claims for the current and previous year.
2. Details of commercial insurance policies approved by the Treasurer or accountable officer will be recorded in a register that is maintained by DTF.

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| Appendices | |
| Appendix A | Self-insurance matrix |
| Appendix B | Commercial insurance matrix |
| Appendix C | Entities and third parties approved for ongoing inclusion under the Northern Territory Government self-insurance arrangements |

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| Change history | | | |
| **Version** | **Date** | **Author** | **Change details** |
| 1.0 | May 2004 | DTF | Initial version |
| 1.1 | December 2010 | DTF | Change reference from R2.1 to M.1 |
| 1.2 | January 2012 | DTF | Minor amendments |
| 1.3 | 1 July 2019 | DTF Financial Policy | New format, clarify requirements in TD, introduce new matrix appendices, remove appendix for entities and third parties approved for ongoing commercial insurance arrangements |
| 1.4 | 29 November 2019 | DTF Financial Policy | Minor amendments.  Clarifying requirements in the TD |
| 1.5 | 9 December 2024 | DTF Economic Policy | Update Appendix C to include Conservation Land Corporation and agency names |