

Australian Capital Territory

## **Financial Management (Public Liability Insurance) Determination 2005\***

**Notifiable Instrument NI2005-341**

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The Treasurer makes the following determination under the *Financial Management Guidelines (Public Liability Insurance) 2005*, section 5.

Dated 7 September 2005

TED QUINLAN, MLA  
Treasurer

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\*Name amended under Legislation Act, s 60

Authorised by the ACT Parliamentary Counsel—also accessible at [www.legislation.act.gov.au](http://www.legislation.act.gov.au)

# Financial Management (Public Liability Insurance) Determination 2005

## Notifiable Instrument NI 2005-341

made under the

*Financial Management Guidelines (Public Liability Insurance) 2005*, section 5.

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### 1 Name of instrument

This instrument is the *Financial Management (Public Liability Insurance) Determination 2005*.

### 2 Commencement

This instrument commences on 1 October 2005.

### 3 Appropriate levels of public liability insurance

A. Section 31 (2) (f) of the *Financial Management Act, 1996* requires chief executives of departments, inter alia, to ensure that adequate control is maintained over the incurring of liabilities by the department. This determination is issued pursuant to the *Financial*

*Management Guidelines (Public Liability Insurance) 2005*, section 5.

A1. This determination relates to the securing of appropriate levels of public liability insurance from entities in the ACT (**Entity**) under the terms of an insurance agreement, as defined in the *Financial Management Guidelines (Public Liability Insurance) 2005 (Agreement)*.

A2. This determination establishes procedures by which departments can effectively verify adequate levels of public liability insurance based upon objective, standardised risk criteria.

B1. In any case where a department decides to enter into an Agreement and further, requires public liability insurance to be arranged for the purposes of the Agreement, the following procedure will apply with respect to the level of public liability insurance required under the Agreement.

B2. The department shall require the Entity to nominate each and all of the proposed activities the Entity wishes to undertake in connection with the Agreement and shall incorporate those activities in a schedule to the Agreement (**Activity Schedule**).

B3. The department shall require the Entity to register on the ACT Government's risk advisory web site <http://www.insuranceriskadvice.act.gov.au> (the **Site**).

B4. The department shall require the Entity to create a risk profile consisting:

- Entering the activities specified in the Activity Schedule in the Site's risk profiler;
- Completing the activity risk profiler on the Site; and
- Submitting the results of the profiler, including the profiler's insurance risk rating, to the department.

**B5. If the insurance risk rating established is 6 or below**, the level of public liability insurance required by the Entity shall be \$10 million, required for the duration of the Agreement.

**B6. If the insurance risk rating established is 7 or above**, subject to paragraphs B10 through B11 inclusive, the level of public

liability insurance required by the Entity shall be \$20 million or such lesser amount as the General Manager ACT Insurance Authority (*ACTIA*) may determine, in consultation with the department, required for the duration of the Agreement.

B7. In all cases where the insurance risk rating established is 7 or above, the department shall cause the Entity to—

- (a) Complete a risk management plan as provided on the Site; and
- (b) Submit the risk management plan to the department; and
- (c) Submit the risk management plan to ACTIA.

B8. The department and ACTIA shall review the risk management plan. If either ACTIA or the Department considers the risk management plan to be deficient in any way, the department shall cause the Entity to revise the risk management plan and resubmit it.

B9. In no case shall the department permit the Entity to use or occupy Territory land or premises, or commence performing services or supplying goods or works under the Agreement until the department receives a certificate of insurance provided by the Entity and in the case where paragraphs 3.B.6 and B.7 apply, the department and ACTIA approve the risk management plan.

B10. In any case where the Agreement arises out of procurement activity with respect to which Paragraph 12 of the *Government Procurement (Principles) Guideline 2002* applies, the action prescribed in Clauses B2 through B4 inclusive shall be undertaken, or facilitated or managed by ACT Procurement Solutions depending on the circumstances of the case. In such event, any request for tender, bid or other solicitation document issued in connection with procurement activity by ACT Procurement Solutions on behalf of a department shall contain a provision establishing the estimated insurance level required commensurate with the proposed Activity Level. If the actual activity to be undertaken by an Entity under an Agreement is different in any material respect from the proposed Activity Level, the insurance level shall be adjusted accordingly, prior to execution of the Agreement.

B11. Any policy of public liability insurance taken out by an Entity shall be with an insurer that is either:

- On a schedule of acceptable insurers published by ACTIA; or
- Authorised by the Australian Prudential Regulation Authority to conduct new or renewal insurance business in Australia; or
- If not authorised by the Australian Prudential Regulation Authority to conduct new or renewal insurance business in Australia, rated at A- or better by a ratings agency acceptable to ACTIA.

#### **4. Application of this Determination**

A. This determination does not apply to Community Entities (therein defined) in circumstances where *Financial Management Guidelines (Public Liability Insurance – Non Profit Entities) Determination 2005* applies.