

Australian Capital Territory

Financial Management (Public Liability Insurance – Non Profit Entities) Determination 2005*

Notifiable Instrument NI2005-342

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

*Name amended under Legislation Act, s 60

Financial Management (Public Liability Insurance – Non Profit Entities) Determination 2005

Notifiable Instrument NI2005-342

made under the

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

1 Name of instrument

This instrument is the *Financial Management (Public Liability Insurance – Non Profit Entities) Determination 2005*.

2 Commencement

This instrument commences on 1 October 2005.

3 Appropriate levels of public liability insurance

A. The Act, section 31 (2) (f) 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 non-profit or community entities in the ACT (**Community Entity**) in situations involving the use or occupation by them of government property or public spaces (**Premises**) under the terms of an insurance agreement, as defined in the *Financial Management Guidelines (Public Liability Insurance) 2005, Section 5 (Agreement)*.

A2. The determination establishes procedures by which departments can effectively determine 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, the following procedure will apply with respect to the level of public liability insurance required under the Agreement.

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

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

B4. The department shall require the Community Entity to create a risk profile consisting of entering the activities specified in the Activity Schedule in the Site's risk profiler, complete the activity risk profiler on the Site and submit 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 Community Entity shall be \$10 million, required for the duration of the Community Entity's occupation of the Premises.

B6. If the insurance risk rating established is 7, subject to paragraphs B10 through B12 inclusive, the following procedure applies:

B7. If the Community Entity is an ACT Affiliate (branch, subsidiary, division or member) of a national Community Entity and the affiliate Community Entity is a named insured on a national public liability insurance policy, the level of public liability insurance required by the Community Entity shall be \$10 million or the value of the policy (whichever is greater), required for the duration of the Community Entity's occupation of the Premises.

B8. If the Community Entity is a named insured in the insurance scheme offered to ACT Community groups by the NRMA/QBE/Allianz consortium of insurers, or a named insured under insurance cover provided by AON under its Volunteers Vital Pack, the level of public liability insurance required by the

Community Entity shall be \$10 million or the value of the policy (whichever is greater), required for the duration of the Community Entity's occupation of the Premises.

B9. In all other cases the level of public liability insurance required by the Community Entity shall be \$20 million or such lesser amount as the ACT Insurance Authority (*ACTIA*) may determine, in consultation with the department, required for the duration of the Community Entity's occupation of the Premises.

B10. In all cases where the insurance risk rating established is 7, the department shall cause the Community 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.

B11. 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 Community Entity to revise the risk management plan and resubmit it.

B12. In no case shall the department permit the Community Entity to occupy the Premises until the department and ACTIA approve the risk management plan.

B13. If the insurance risk rating established is 8 or above, the following procedures apply:

B14. If the Community Entity is a named insured in the insurance scheme offered to ACT Community groups by the NRMA/QBE/Allianz consortium of insurers or a named insured under insurance cover provided by AON under its Volunteers Vital Pack, the level of public liability insurance required by the Community Entity shall be \$10 million or such other amount as ACTIA may determine not exceeding \$20 million, in consultation with the department, required for the duration of the Community Entity's occupation of the Premises.

B15. In all other cases the level of public liability insurance required by the Community Entity shall be \$20 million or such other amount

as ACTIA may determine, in consultation with the department, required for the duration of the Community Entity's occupation of the Premises.

B16. In all cases where the insurance risk rating established is 8 or above, the department shall cause the Community 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.

B17. 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 Community Entity to revise the risk management plan and resubmit it.

B18. In no case shall the department permit the Community Entity to occupy the Premises until the department and ACTIA approve the risk management plan.

B19. Any policy of public liability insurance taken out by a Community 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 repeal of existing Determination

C.1 this Determination replaces *Financial Management Guidelines (Public Liability Insurance) Determination 2003* (Notifiable Instrument NI 2003-170). NI 2003-170 is hereby repealed, effective 1 October 2005.