



Comcover Information Bulletin

Issue 33

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Changes to Comcover's Insurance Policy Relating to Indemnities in Short Term Venue Hire and Motor Vehicle Agreements

This document provides a detailed overview of a fundamental change to the cover for indemnities in relation to short term venue hire, and motor vehicle hire agreements.

Old Policy Wording

The current Policy wording for all indemnities or liability caps (as the Comcover Fund treats these the same) has been amended to expedite the management of specific indemnities. The old wording was as follows:

2.9.12. liability arising out of any indemnity unless the liability would have arisen in the absence of such indemnity.

This exclusion does not apply to indemnities contained in a contract where the contract was entered into prior to 1 July 2004.

Australian Government policy on the issuing and managing of indemnities is detailed in Financial Management Guidance No. 6 – Guidelines for Issuing and Managing Indemnities, Guarantees, Warranties and Letters of Comfort, September 2003.

§ See also Part 3. General Information – section 3.5

New Policy Wording

The new wording states:

2.9.12. liability arising out of any indemnity unless the liability would have arisen in the absence of such indemnity.

This exclusion does not apply to indemnities contained in a contract where the contract was entered into prior to 1 July 2004.

This exclusion does not apply to indemnities contained in **short term venue hire agreements** or **motor vehicle hire agreements** provided that:

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- Australian Government policy on the issuing and managing of indemnities as detailed in *Financial Management Guidance No. 6—Guidelines for Issuing and Managing Indemnities, Guarantees, Warranties and Letters of Comfort, September 2003* has been adhered to; and
- you have assessed the probability of a liability eventually being recognised as being no more than remote (page 10, *Financial Management Guidance No. 6* provides that any event with a probability of less than 5% can be considered remote); and
- you have assessed the **residual risk** (excluding the risk control of insurance) as being not more than \$20,000,000.

§ See also Part 3. General Information – section 3.5

2.11 Definitions have been amended to include the following:

SHORT TERM VENUE HIRE AGREEMENTS

A contract or agreement for the use of a premises and auxiliary services for a period of not more than 7 days and not including:

- Use of watercraft;
- Use of aircraft;
- Physical activities including without limitation paintball, rock climbing, abseiling, use of go-karts, use of jumping castle, or any kind of sport.

MOTOR VEHICLE HIRE AGREEMENT

A contract or agreement for the use of a motor vehicle only for a period of not more than 6 months.

RESIDUAL RISK

The risk exposure remaining after the risk consequence has been reduced by likelihood and the effectiveness of the relevant risk controls.

Practical Implementation

Regardless of this amendment to the Comcover policy wording, Fund Members' internal handling of indemnities for all contracts (including Short Term Venue Hire Agreements and Motor Vehicle Agreements) should not change.

The new Policy wording in paragraph 2.9.12 provides automatic Comcover Fund cover for the claims arising out of indemnities in Short Term Venue Hire Agreements and Motor Vehicle Hire Agreements provided you follow the requirements of Financial Management Guidance No 6 and comply with the conditions in paragraph 2.9.12 of the New Policy Wording.

In the event of a claim arising out of an indemnity described in paragraph 2.9.12 of the New Policy Wording you may be called upon to show evidence of the following:

- A signed Reg 10 or similar Authorisation form;
- Legal advice on the indemnity;
- Completed risk assessments which document compliance with paragraph 2.9.12 of the new policy wording; and
- Normal claim supporting information.

These changes will take effect from **9 March 2010**.

More information

If you require further information regarding the changes to the Policy Terms and Conditions, please contact your Account Manager at Comcover Member Services on 1800 651 540.