



# State Indemnity Guidance

## SIG 05: Use of private vehicles for business purposes

### a) What is regarded as driving for work/business purposes using a private vehicle?

When driving for work/business purposes, the employee will be attending to official Delegated State Authority (DSA)<sup>1</sup> business, using their own private vehicle, having pre-received management approval. Typically, for work related use, an employee will receive payment for expenses, such as travel and subsistence during the period of use. This does not include commuting to and from their normal place of work.

### b) What cover is provided?

State Indemnity<sup>2</sup> applies to DSA negligence and cannot be extended to cover an individual's own negligence when driving their own private vehicle. Therefore, employees using their own private<sup>3</sup> vehicle for work/business purposes are responsible for their own commercial motor insurance.

### c) What is required of the employee?

Prior to driving for work, employees using privately owned vehicles on work-related business must contact their motor insurance provider and inform them that they will be driving for work. Their motor insurer will ask them to indicate the extent to which they will be using their vehicle for work and whether or not they will be carrying goods or passengers. This may affect their policy arrangements.

The employee can then confirm to their DSA, that they have secured appropriate motor insurance before driving. Please refer to the Department of Finance: Circular 11/82: Travelling and Subsistence

or HSE National Financial Regulation, Travel and Subsistence, NFR-05 for further detail.

### d) How are claims managed following a motor accident in a private vehicle?

In the event of an accident while the employee is driving their private vehicle on DSA business, any subsequent claim will depend on the circumstance of the case and who was the negligent party. For instance, if a third party caused the accident, their motor cover applies or similarly if there was negligence on the part of the DSA employee, then their personal motor insurance applies. The matter is then dealt with by the individual insurers.

### e) What should happen in the event of a driving penalty<sup>4</sup>?

While driving on DSA business, if an employee is found to have breached the Road Traffic Act(s), any associated driving penalties affect the drivers' personal licence. It is a matter for the employee to inform their insurance company of any driving penalties or of any accidents that occur. As per DSA policy and procedure, employees should inform their employer of driving penalties incurred.

### f) DSA risk management best practice

Both DSA and employees must adhere to the requirements of the Road Traffic Act(s); Safety, Health and Welfare at Work Act, 2005 and application of the common law duty of care, which all apply to driving as a work activity.

DSAs should implement or update their local "Driving for Work" policy (please contact the SCA

<sup>1</sup> **Delegated State Authority (DSA):** refers to all bodies where management of personal injury and third-party property damage claims against the body is delegated to the SCA. This includes State Agencies, healthcare enterprises, community & comprehensive schools and prisons.

<sup>2</sup> **State Indemnity (SI):** Indemnity is a protection against possible damage or loss, typically a promise of payment should damage or losses occur. SI is given to State authorities by the State, to compensate third parties or individuals for any losses that incur as a result of the activities of the State (or State body), where the State has been negligent by act or omission.

<sup>3</sup> **Private** in this instance refers to vehicles owned and insured by an employee of the DSA - For information on vehicles on hire or lease by a DSA, please refer to *SIG-04 Delegated State Authority Vehicles*.

<sup>4</sup> **Driving penalties:** this includes motoring offences that attract penalty points (see [www.rsa.ie](http://www.rsa.ie)), fines, endorsements of a driving licence and driving disqualification.

for a sample policy) to include the following (non-exhaustive) list of risk management controls:

- A procedure for approval and authorisation with regard to use of privately insured vehicles for work purposes by employees should be maintained by the DSA;
- A formal process to ensure that the driver is competent i.e. holds an appropriate full licence, conduct a penalty point check etc.;
- Formal processes in place to inform employees of the requirement to have appropriate insurance in place. DSA should verify that employees have adequate insurance cover and have this reviewed on an annual basis (see section (c));
- Maintained register of all authorised private vehicle drivers;
- A risk assessment for driving for work activities. This should be carried out to identify appropriate control measures. Controls may include;
  - Promoting good driver behaviour and the safe scheduling and planning of journeys;
  - Providing instruction, training and information such as a driver's handbook.

#### **g) Employee risk management best practice**

- The owner of the vehicle must ensure it is certified as "roadworthy" in order to comply with the Road Traffic Regulations; while also ensuring that a valid National Car Testing (NCT) and tax certificate is obtained;
- It is not necessary to complete a risk assessment for every unique journey. Risk assessments can be conducted for groups of employees to identify those who are at a higher risk due to the nature, duration; frequency of journey, carriage of passengers or goods;
- Develop a driving for work checklist for your activities;
- Further information on driving for work including a driving for work checklist is available at [www.rsa.ie](http://www.rsa.ie).

#### **h) Can employees transport third parties in their vehicles?**

Third parties can be transported in private vehicles; however, the decision to transport service users (e.g. children, clients, family members of service users) in a private vehicle should be based on a consideration of the risks involved and the capabilities of each individual service user. The

driver should also confirm insurance cover with their relevant motor insurance provider.

The DSA should develop risk assessments which take account of task related risks e.g. child protection issues; control and restraint etc. for such scenarios. The SCA recommend consulting with your local health and safety / risk manager prior to proceeding.

#### **i) When should you contact the SCA?**

If you are uncertain as to whether State indemnity applies, or if you require risk management guidance, please contact your local insurance/risk manager where designated, or alternatively, the SCA directly via [stateclaims@ntma.ie](mailto:stateclaims@ntma.ie).

This State Indemnity Guidance is solely for use of members of the State indemnity schemes managed by the State Claims Agency, in accordance with its mandate under the National Treasury Management Agency (Amendment) Act, 2000 (Delegated State Authorities or DSAs). The SCA does not bear responsibility for use of or reliance on the guidance by any party other than a DSA.