



## GIS STATE INDEMNITY GUIDANCE 13: USE OF THIRD-PARTY PREMISES AND TEMPORARY STRUCTURES BY DELEGATED STATE AUTHORITIES

### a) Introduction

The State Claims Agency (SCA) recognises that Delegated State Authorities (DSAs) may need to use third-party-owned locations such as hotels, community halls and/or use onsite temporary structures such as marquees or portacabins for capacity or other business requirements. This State Indemnity Guidance (SIG) sets out the scope of cover and risk management considerations for use of these premises/structures.

### b) How does State indemnity apply when a DSA hires/leases an offsite third-party premises?

State Indemnity (SI) extends to cover the negligence of the DSA in respect of the use of third-party premises and/or temporary structures.

This indemnity covers only the negligence of the DSA, its servants and agents. It does not indemnify third parties (i.e. the third-party premises/temporary structure owner(s) and/or contractor(s)) in respect of their negligence. See part (e) for additional controls required.

### c) How does State indemnity apply when a DSA hires/leases an onsite temporary structure from a third party?

SI will apply to temporary structures which are hired and leased from a third party. This cover does not extend to third-party negligence and part (e) controls should be in place.

In this instance, the level of risk to a DSA is greater and requires further risk management considerations as outlined in part (h) e.g. planning requirements.

### d) How does State indemnity apply when a DSA purchases/borrows a temporary structure?

SI will apply to temporary structures such as marquees or portacabins which are purchased and owned by the DSA.

In this instance, the DSA takes on a high level of responsibility and the SCA would request that DSAs

contact the SCA for risk management advice when purchasing.

### e) What controls does a DSA need in place before using a third-party premises/temporary structure?

DSAs should ensure that the third-party property owners and/or contractors hired for the supply, erection and maintenance of the temporary structure/premises have appropriate insurance cover in place to cover their negligence. The recommended cover<sup>1</sup> and limits of indemnity are as follows:

- Employers Liability €12.7m (not required if self-employed) for any one claim or series of claims arising out of a single occurrence;
- Public/Product liability €6.5m for any one claim or series of claims arising out of a single occurrence.

The DSA should confirm to the third party that it is covered by SI. A copy of the General Indemnity Scheme (GIS) Confirmation Statement (a certification document used by DSAs to confirm cover under the GIS) should be provided. SI satisfies the requirements of commercial public liability and employers liability insurance policies.

The SCA recommends an appropriate agreement be put in place outlining the arrangement with the third-party property owner/contractor. Sample template agreement(s) are available for use by DSAs in **Appendix A** and **B**. These agreements briefly set out an indemnity arrangement whereby each party is responsible for their area of control. This will speed up the process for agreement and represents a fair arrangement for both parties. Please note this is for temporary arrangements of only approximately 6 months and a full lease/contract is required for long-term arrangements. Please link with your DSA's estates/legal team.

<sup>1</sup> [SIG-02: Determining Insurance Requirements for Goods and Services RFTs & Contracts](#) provides further information on entering into a contract for services<sup>1</sup> arrangement with a third party



## f) Risk Management Considerations

DSAs should complete a risk assessment to identify potential hazards and implement appropriate control measures. The risk assessment should be proportionate to the level of risk involved and consider the following:

- Documented roles and responsibilities of the DSA and third party provider;
- The suitability of the premises for the intended purpose e.g. ensuring the size of room / type of premises is adequate etc.;
- Potential conflict with other uses of room/ users of the premises;
- Physical aspects of the premises/venue i.e. lighting, ventilation, heating;
- Access to suitable facilities e.g. power supply and toilet facilities;
  - Suitable and safe access and egress, including consideration of those with disabilities and of external lighting etc.;
  - Fire safety – the premises should have a fire and emergency evacuation plan in place and the staff must be familiar with these;
  - Staffing and security requirements;
  - Any requirements set out in public health guidelines have been met;
  - The relevant elements of risk assessment contained within the [GIS RAN 15: COVID-19 Building Reoccupation Risk Assessment](#) and [GIS RAN 16: Risk Assessment for COVID-19](#) have been completed and controls implemented;
  - Other risks, as identified by the DSA, which have the potential to create an issue e.g. obvious trip hazards which have the potential to cause harm, weather warnings.

All documentation should be retained on file. All incidents in, or in connection with, these facilities should be reported to the SCA as per the DSA's normal incident reporting procedures.

All persons involved in using/supervising these locations should be made aware of the risks and relevant controls in place.

## g) Additional risk management considerations for temporary structures

It is essential to ensure that any temporary structure complies with the appropriate standards and is erected by competent persons using safe working practices. Other considerations include:

- A competent person should “sign off” the temporary structure as being sound before it can be used;
- Suitability of the location, consider: trip hazards – ropes and stays; heavy rain running off roofs can puddle and create a hazard; underground cables, overhead power lines and tree branches;
- The DSA should be advised of the maximum wind loading that the temporary structure can withstand and, in some circumstances, the DSA may need to monitor the wind strengths on site using an anemometer;
- Canopy weights should be attached to the canopy at all times and should be secured in such a way as to not create a separate safety hazard;
- Temporary structures should be made of appropriate material that does not permit rapid surface spread of flames and certification should be provided from the supplier to confirm this;
- An adequate number of fire exits should be provided in accordance with the number of people likely to be accommodated in the temporary structure at any one time and fire extinguishers and emergency lighting will be required;
- Temporary structures require regular maintenance and routine inspection; this should be agreed with third party provider;
- The DSA must ensure that any planning requirements as set out in S.I. No. 600/2001 Planning and Development Regulations, 2001 are met. DSAs should contact their local authority for further advice. See Appendix C.

## h) When should you contact the State Claims Agency?

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

## Appendix A - Sample Agreement for temporary use of an offsite third-party premises

[insert name and address of Third-Party Premises] has agreed for the specified dates and terms to grant temporary use of the premises owned by the [insert name and address of Third-Party Premises].

The start date and termination date of the agreement are [insert dates]

The agreed areas are as follows [insert areas and relevant fixtures and fittings]

<p>[insert name of DSA] agrees to:</p> <ul style="list-style-type: none"> <li>(i) That the use of the premises will be for the purpose of [insert purpose of use e.g. office space];</li> <li>(ii) Will carry out its own risk assessment of the premises prior to use; appropriate controls will be put in place for any risks identified;</li> <li>(iii) Will keep the premises neat and tidy;</li> <li>(i) Will report any defects promptly to [insert name of Third Party Premises];</li> <li>(iv) Will remove all materials and equipment, and restore location to original condition upon termination of the agreement.</li> </ul>	<p>[insert name of Third-Party Premises] agrees to:</p> <ul style="list-style-type: none"> <li>(v) Inspect and risk assess property before handover to [insert name of DSA]</li> <li>(vi) Formally handover premises to [insert name of DSA]. This handover will include controls/requirements and relevant safety information;</li> <li>(vii) Provide access to suitable facilities, e.g. [edit as appropriate power supplies, toilets, Wi-Fi will be provided];</li> <li>(viii) Provide a fire and emergency evacuation plan and [insert name of DSA] will be made aware of same;</li> <li>(ix) Will respond/rectify defects promptly.</li> </ul>
<p>The State Claims Agency will provide State indemnity to [insert name of DSA] subject to the terms set out in the Confirmation Statement attached.</p>	<p>[insert name of Third-Party Premises] will provide adequate public liability, employers Liability and other insurance as may be necessary to cover potential losses associated with their negligence and same is attached.</p>
<p>Both parties will agree to indemnify, and keep indemnified, the other parties to the agreement against all and any expenses, costs, claims, demands, damages and other liabilities whatsoever in respect of the injury or death of any person or damage to any property whatsoever arising directly or indirectly out of each parties' responsibilities under this agreement.</p> <p>In effect, each party will indemnify its area of responsibility for the duration of the agreement in respect of death, bodily injury or damage to property where liability/negligence can be directly attributed to and proven against the party, its servants and/or agents.</p>	
<p>Signed on behalf of [insert name of DSA]</p> <p>_____</p> <p>Date: _____</p>	<p>Signed on behalf of [insert name of Third-Party Premises]</p> <p>_____</p> <p>Date _____</p>

## Appendix B - Agreement for provision of a temporary onsite structure

[Insert name of Third-Party Service Provider] has agreed for the specified dates and terms to provide [insert service- e.g. temporary structure and/or attach full details of services provided] to [Insert name of DSA].

The start date and termination date of the agreement are [insert dates]

<p>[insert name of DSA] agrees to:</p> <ul style="list-style-type: none"> <li>(i) That the use of the premises will be for the purpose of [insert purpose of use e.g. office space];</li> <li>(ii) Will carry out its own risk assessment of the premises prior to use; appropriate controls will be put in place for any risks identified;</li> <li>(iii) Will keep the premises used neat and tidy;</li> <li>(ii) Will report any defects promptly to [insert name of Third-Party Service Provider]</li> <li>(iv) Will remove all materials and equipment, and restore location to original condition upon termination of the agreement.</li> </ul>	<p>[insert name of Third-Party Premises] agrees to:</p> <ul style="list-style-type: none"> <li>(v) Provide a suitable structure, at an agreed suitable location which is erected by a competent person to [insert name of DSA];</li> <li>(vi) Inspect and risk-assess structure before handover to [insert name of DSA].</li> <li>(vii) Formally hand over premises to [insert name of DSA]. This handover will include controls/requirements for the structure; instruction for use and relevant safety information;</li> <li>(viii) Implement appropriate best practice inspection regime;</li> <li>(ix) Will respond/rectify defects promptly.</li> </ul>
<p>The State Claims Agency will provide State indemnity to [insert name of DSA] subject to the terms set out in the Confirmation Statement attached.</p>	<p>[insert name of Third-Party Premises] will provide adequate public liability, employers liability and other insurance as may be necessary to cover potential losses associated with their negligence and same is attached.</p>
<p>Both parties will agree to indemnify, and keep indemnified, the other parties to the agreement against all and any expenses, costs, claims, demands, damages and other liabilities whatsoever in respect of the injury or death of any person or damage to any property whatsoever arising directly or indirectly out of each parties' responsibilities under this agreement.</p> <p>In effect, each party will indemnify its area of responsibility for the duration of the agreement in respect of death, bodily injury or damage to property where liability/negligence can be directly attributed to and proven against the party, its servants and/or agents.</p>	
<p>Signed on behalf of [insert name of DSA]</p> <p>_____</p> <p>Date: _____</p>	<p>Signed on behalf of [insert name of Third-Party Premises]</p> <p>_____</p> <p>Date _____</p>



## Appendix C – Planning Requirements

Under Class 37 of the [Planning and Development Regulations 2001](#) “development consisting of the use of land for any fair, funfair, bazaar or circus or any local event of a religious, cultural, educational, political, social, recreational or sporting character and the placing or maintenance of tents, vans or other temporary or movable structures or objects on the land in connection with such use” is considered exempt as long as “the land is not used for any such purposes either continuously for a period exceeding 15 days or occasionally for periods exceeding in aggregate 30 days in any year” and that “on the discontinuance of such use the land shall be reinstated save to such extent as may be authorised or required by a permission under the Act”.

Therefore, any marquee, prefab or temporary structure in place longer than 15 days of continuous duration may require planning permission as set out in S.I. No. 600/2001 Planning and Development Regulations, 2001 (Class 37). DSAs should contact their local authority who will be able to give advice about how to apply, whether the proposals are likely to comply with the development plan, what other documents may be needed, what the fee will be and any other requirements or exemptions.

If Planning permission is deemed necessary, the local authority may request copies of certificates, structural specifications, method statements, site layout drawings and details of the location of such structures to establish compliance with the relevant requirements.

Information, application form and a checklist are available from [your local authority](#).