

## STATE INDEMNITY GUIDANCE 05: USE OF PRIVATE VEHICLES FOR WORK

### a) What is driving for work using a private vehicle?

The employee will be attending to official 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.

This guidance document should be read in conjunction with

- SIG-01 State indemnity as operated by the SCA;
- SCA-AF-01: SI confirmation: DSA vehicles.

### b) What cover is provided?

State Indemnity<sup>2</sup> applies to DSA negligence in respect of driving for DSA business. An employee is responsible for their own insurance, as State indemnity cannot be extended to cover an individual's negligence although they are using their own private<sup>3</sup> vehicle for work purposes.

### 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 *HSEs National Financial Regulation, Travel and Subsistence, NFR 5* for further detail.

### d) What happens following a motor accident?

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 also 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 may need to inform their employer of driving penalties incurred.

### f) DSA risk management best practice

Both DSA and employee 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.

The State Claims Agency (SCA) would advise that all DSAs implement or update their local "Driving for Work" policy (please contact SCA for a sample) 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 private authorised 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 "road worthy" 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 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?

Yes, the DSA should develop risk assessments which take account of task related risks e.g. child protection issues; control and restraint, etc. The decision to transport service users (e.g. children, clients, family members) in a private vehicle should be based on a consideration of the risks involved and the capabilities of each individual service user.

1- **Delegated State Authority (DSA)**: refers to all bodies delegated to the SCA including: State authorities, State agencies, healthcare enterprises, community & comprehensive schools and prisons.  
 2- **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.  
 3- **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 DSA vehicles*  
 4- **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.