

Terms and Conditions of Hire Fremantle Prison

1. DEFINITIONS

Application Form means the Fremantle Prison Function Application Form.

Bump In means the date and time when the Function Organiser may gain access to the Function Area for purposes of setting up of the Function.

Bump Out means the date and time by which the Function Organiser is required to have completed cleaning up and clearing up of all set up of the Function Area.

DPLH means the Department of Planning, Lands and Heritage, Fremantle Prison division.

DPLH Representative means the representative of the Department of Planning, Lands and Heritage, being the Events and Promotions Co-ordinator, Fremantle Prison.

Function means the Function or event as described in the Venue Hire Contract Form.

Function Area means the Area as specified in the Venue Hire Contract Form and depicted or described on the Schedule attached.

Function Organiser means the Applicant and Function Organiser as specified in the Application Form.

Hire Contract means the Venue Hire Contract, these Terms and Conditions and any communication of the DPLH Representative which contains requirements or conditions.

Prison means the Fremantle Prison.

Venue Hire Contract means the Fremantle Prison Hire Contract to which these Terms and Conditions are attached.

2. HIRE OF FREMANTLE PRISON

- (a) The State of Western Australia, acting through DPLH, agrees to hire the Function Area within the Prison to the Function Organiser for the Function on the terms and conditions of the Hire Contract.
- (b) The Function Organiser agrees to hire the Function Area within the Prison from the State of Western Australia, acting through DPLH, on the terms and conditions of the Hire Contract.

3. PROTECTION OF HERITAGE

The Function Organiser acknowledges and agrees that:

- (a) The Prison is recognised nationally and internationally as one of the most intact convict-built heritage sites in the world and represents an important and irreplaceable part of Western Australia's cultural heritage.
- (b) The Prison is a publicly owned asset, managed by a division of the Department of Planning Lands and Heritage, and its use by the community is encouraged. However, when considering the Prison as a venue for your function, it is important to understand that the Prison is registered
 - (i) on the State Register of Heritage Places under the *Heritage Act 2018*; and
 - (ii) as a UNESCO World Heritage and National Heritage Place under the *Environment Protection and Biodiversity Conservation Act 1999 (Cth)*

and special care must be taken to ensure its preservation for all present and future uses.

- (c) Given the heritage nature of many of the buildings within the Prison precinct, special conditions to protect the fabric of the buildings must be observed at all times.
- (d) Any functions held at the Prison must be presented and conducted in a manner that respects the history of the Prison. As such, all functions should be themed in an appropriate manner. Approval on theming should be obtained from the DPLH Representative.

4. HIRE OF FACILITIES

The Function Organiser acknowledges and agrees as follows:

- (a) The Function will be held within the Function Area only. All cells will remain locked during functions. Access to upper galleries by function guests is strictly prohibited. Function guests are not permitted to wander outside of the Function Area.
- (b) The Function Organiser will ensure that any of its employees, agents or sub-contractors, volunteers, or any organisations or related bodies used in conjunction with the function comply with the terms and conditions set out in the Hire Contract; and that they must complete and acknowledge they have completed the relevant site induction before access to site will be granted.
- (c) The Function Organiser will ensure that Bump In and Bump Out activities do not interfere, as far as is practicable, with the normal business of the Prison, including tours, education and public programs, and any other events conducted at the Prison. This includes (but is not limited to) ensuring that:
 - (i) All entrances and stairways are not blocked or obstructed at any time;
 - (ii) no equipment, rubbish or other items are left in areas which could pose a hazard or risk to persons within the Prison; and
 - (iii) noise levels are kept to a minimum while tours are still operating.
- (d) The Function Organiser agrees to ensure that the Function Area is clear of all rubbish, refuse and equipment at the conclusion of the Function. This includes the removal from the Function Area of all rubbish, refuse and equipment, as directed by the DPLH Representative.
- (e) If the State has agreed to the Function Organiser storing equipment for collection, the DPLH Representative will advise of the date by when the equipment must be collected, and whether additional charges for storage will be applicable.
- (f) A formal site handover from DPLH to the Function Organiser will take place prior to Bump In with the DPLH Representative and the Function Organiser present, as advised by the DPLH Representative.
- (g) A formal site handover from the Function Organiser to DPLH will take place prior to Bump Out, with the DPLH Representative and the Function Organiser present where necessary, as advised by the DPLH Representative.

- (h) Any damage, repair or clean-up caused or necessitated by the Function Organiser, its guests, invitees, contractors and agents as determined by DPLH will be for the account of the Function Organiser and is to be paid within seven days of presentation of an invoice to the Function Organiser by DPLH.

5. PAYMENT AND CANCELLATIONS

- (a) A non-refundable deposit as indicated on the Hire Contract is required to secure the booking. The deposit, along with your signed Application Form, must be received by the DPLH Representative before a booking can be confirmed.
- (b) Final numbers of function guests must be provided to the DPLH Representative no less than ten (10) days prior to the Function Date in order to confirm the Function Hire Charge.
- (c) Payment in full of the Function Hire Charge (less the deposit) must be made no less than seven (7) days prior to the Function Date, as indicated on the Hire Contract.
- (d) Cancellations or transfers within seven (7) days of the event will be charged at the full amount.

6. INDEMNITY, RELEASE AND BOND

6.1. DEFINITIONS

For the purposes of clauses 6.2 and 6.3, the term

Indemnified Parties includes the State, any Minister of the State, Fremantle Prison and any employees, agents, contractors or agents of any of the aforementioned

6.2. INDEMNITY

- (a) The Function Organiser must indemnify and keep indemnified the Indemnified Parties from and against all actions, claims, costs, proceedings, suits and demands whatsoever which may at any time be brought, maintained or made against the Indemnified Parties in respect of:
 - (i) any loss whatsoever (including loss of use);
 - (ii) injury or damage of, or to, any kind of property or thing (including the Function Area and the property of third parties); and
 - (iii) the death of, or injury or illness sustained by, any person, caused by, contributed to or arising out of, or in connection with, whether directly or indirectly:
 - (iv) the use or occupation of the Function Area by the Function Organiser, its guests, invitees, contractors and agents;
 - (v) any work carried out by or on behalf of the Function Organiser or the Function Organiser's guests, invitees, contractors and agents;
 - (vi) any negligent or other tortious act or omission of the Function Organiser or the Function Organiser's guests, invitees, contractors and agents,

such indemnity being reduced in proportion to the extent such injury, loss or damage is caused or contributed to by an act or omission of the State or its employees, contractors or agents.

- (b) The obligations of the Function Organiser under this clause 6.2 are unaffected by the obligation of the Function Organiser to provide a bond, and the obligations of the Indemnifier to indemnify are paramount.
- (c) The obligations of the Function Organiser under this clause continue after the expiration or earlier determination of this Lease in respect of any act, deed, matter or thing occurring before the expiration or earlier determination of this Hire Contract.

6.3. RELEASE

- (a) The Function Organiser:
 - (i) agrees to use the Function Area at its own risk;
 - (ii) releases to the full extent permitted by law the Indemnified Parties from:
 - (A) any liability which may arise in respect of any accident or damage to property or death or injury to, or illness of, any person, of any nature in or near the Function Area;
 - (B) loss of or damage to fixtures of the Prison;
except to the extent that such loss or damage is caused by the negligence of the State.
- (b) The obligations of the Function Organiser under this clause continue after the expiration or earlier determination of this Hire Contract in respect of any act, deed, matter or thing occurring before the expiration or earlier determination of this Hire Contract.

6.4. BOND

The State may require the payment of a bond prior to the function from which any costs of cleaning or repairs will be deducted. For the avoidance of doubt, the payment of a bond will not limit the Function Organiser's liability where the cost of cleaning and/or repairs exceeds the value of the bond.

7. SECURITY

- (a) The Function Organiser acknowledges and understands that unless otherwise advised by DPLH in writing, security personnel and services provided by DPLH are required at all functions commencing 30 minutes before the Function, for the full duration of the Function, and terminating 15 minutes after the end of the Function.
- (b) DPLH will determine the number of security personnel and crowd controllers required, based on the type of function and the number of guests attending.
- (c) All costs of the security service will be for the account of the Function Organiser.
- (d) The Function Organiser acknowledges and understands that it is responsible for the conduct and behaviour of guests and shall promptly comply with any directions given by employees of DPLH or its contracted security personnel.

8. SMOKING

The Prison is a non-smoking, non-e-cigarette and non-vaping site. Failure to comply with this rule may lead to immediate eviction.

9. DECORATIONS AND LIGHTING

- (a) The following decorations are not permitted at the Prison:
- (i) open flame candles;
 - (ii) candelabras;
 - (iii) ice sculptures;
 - (iv) water features;
 - (v) confetti;
 - (vi) rice;
 - (vii) compressed confetti and streamer cans;
 - (viii) glitter;
 - (ix) sparklers;
 - (x) pyrotechnics;
 - (xi) smoke or haze machines; and
- other similar items.
- (b) Decorations, banners and the like may be affixed to some existing structures provided that prior written approval of the DPLH Representative has been obtained, and that all instructions and directions of the DPLH Representative are followed. Under no circumstances are any nails, screws or similar fixings to be used.
- (c) No person is to climb on, or place any ladders on or against the balustrades or walls.
- (d) Tables, chairs and other similar objects are not to be placed in positions that may cause contact with the walls, doors or windows or interfere with emergency exits or tour routes.
- (e) All sound and lighting equipment must be free-standing. No lighting or cables are to be affixed to the handrails, balustrades or other structures of or comprising the Prison. Under no circumstances are any nails, screws or similar fixings to be used.
- (f) The erection of temporary structures such as marquees, staging or lighting requires the prior written approval of the DPLH Representative, and must be carried out in accordance with all instructions and directions of the DPLH Representative.

10. GAS BOTTLES

Gas bottles and canisters are strictly prohibited inside the Prison buildings. This includes but is not limited to, barbeques, gas cookers and stoves. Catering companies wishing to use such equipment should contact the DPLH Representative for direction as to whether an appropriate outdoor location can be used for the Function for this purpose.

11. FALSE FIRE ALARM FEES

Should the function or event trigger a false fire alarm due to the use of restricted items as outlined in clauses 9 & 10, the Function Organiser will be liable to pay a \$1437.00 false fire alarm fee.

12. CATERING AND LIQUOR

The Function Organiser acknowledges and understands that:

- (a) Fremantle Prison does not allow self-catering. The Function Organiser must employ the services of a professional caterer regardless of guest numbers, to ensure the efficient coordination of the Function and appropriate use of the Function Area.
- (b) If alcohol is going to be sold to guests the Function Organiser will need to obtain a permit from the Department of Local Government, Industry Regulation and Safety. A copy of the liquor license must be supplied to the DPLH Representative no less than 7 days prior to the Function Date.
- (c) If alcohol is provided to guests free of charge no license is required. The Function Organiser and caterer should ensure patrons are served in accordance with all relevant laws. Alcohol is only to be consumed inside the booked Function Area.

13. HEALTH AND SAFETY

- (a) Health and safety laws and regulations determine the maximum number of people that can be hosted in the Function Area. These laws and regulations must be adhered to at all times.
- (b) Depending on the location and number of guests attending the function, the Function Organiser may be required to hire toilets to meet public health requirements. The DPLH Representative will advise of this requirement if necessary.
- (c) Fire escapes are to be kept clear both before and during the Function. The doors that form part of the emergency exit system are to remain locked in the open position at all times.
- (d) The Function Organiser undertakes to follow all directions of security personnel at all times.
- (e) The sound levels of entertainment are to comply with all laws and regulations, including those requirements set by the City of Fremantle. Where necessary, the DPLH Representative may notify the Function Organiser that it is required to advise Local residents of the Function Date, time and nature of the Function and the Function Organiser agrees to comply with this notice.

14. ADVERTISING

- (a) Any advertising, promotion or media releases relating to the Function requires the prior written approval of the DPLH Representative.
- (b) The Function Organiser agrees to provide copies or proofs of all advertising, promotion or media releases to the DPLH Representative no less than 7 days prior to distribution (or such longer period as may be agreed to by the DPLH Representative in writing).

15. GENERAL CONDUCT

The Function Organiser shall not do or suffer or permit the doing of anything which will or is likely to cause the Prison, DPLH, or the State of Western Australia to suffer or incur loss, damage, liability, embarrassment, disrepute or public criticism.

16. TERMINATION

16.1. GROUNDS

- (a) This Hire Contract and the rights granted to the Function Organiser pursuant to it, may be terminated by the State by notice in writing to the Function Organiser:
 - (i) if moneys payable under this Hire Contract are not paid on the due date;
 - (ii) if at any time, in the sole discretion of the DPLH Representative, it becomes apparent that the Function or any part thereof may cause reputational or other damage to the State, DPLH or to the Prison, and on the further terms of clause 15(b) and 15(c);
 - (iii) if any of the conditions contained in the Hire Contract are not satisfied.
- (b) This Hire Contract and the rights granted to the Function Organiser pursuant to it, may be terminated immediately by the State by verbal notice of the DPLH Representative to the Function Organiser and confirmed thereafter in writing to the Function Organiser if after Bump In, in the sole discretion of the DPLH Representative, it becomes apparent that the Function or any part thereof may cause reputational or other damage to the State, DPLH or to the Prison.
- (c) The State has the right to immediately terminate the Function if:
 - (i) the Function Organiser, its guests, invitees, contractors and agents breach or fail to observe any of the covenants, conditions or terms on the Function Organiser's part expressed or implied in this Hire Contract;
 - (ii) in the sole discretion of the DPLH Representative, it becomes apparent that the Function or any part thereof may cause reputational or other damage to the State, DPLH or to the Prison.
- (d) No compensation or money is payable to, or recoverable by, the Function Organiser from the State for termination of the Hire Contract or Function under this clause.
- (e) Any termination of the Hire Contract or Function under this clause:
 - (i) does not affect any rights and obligations that are expressed in this Hire Contract to survive expiry or earlier termination of this Hire Contract; and
 - (ii) is without prejudice to the rights of the State in respect of any antecedent breach of the terms, covenants or conditions contained or implied in this Hire Contract by the Function Organiser.