



Level 3, 132 Franklin Street  
Adelaide, South Australia, 5000  
DX 400, Adelaide  
Telephone (08) 8410 7677  
Facsimile (08) 8231 7798  
Email [email@lawguard.com.au](mailto:email@lawguard.com.au)  
Website [www.lawsocietyysa.asn.au](http://www.lawsocietyysa.asn.au)

*Director*  
Libby Bishop (BA Juris) LL.B  
*Senior Solicitor*  
Geoff Thomas LL.B  
*PfII Risk Manager*  
Gianna DiStefano (BA Juris) LL.B

## EXCESSES / LOADINGS PROFESSIONAL INDEMNITY INSURANCE 2011-12

The terms and conditions of cover are a statutory instrument having the force of law pursuant to Section 52 of the Legal Practitioners Act 1981, approved by the Attorney-General. Part of the basis of the Scheme's operation is the concept that ***practitioners against whom claims are successfully made should contribute more*** to the necessary premium pool. That same burden of a ***higher contribution is imposed*** on those who would have been jointly, severally or vicariously liable for loss occasioned by a claimant, if sued ie ***co-partners / co-directors / employers***. That extra contribution is called a claims loading.

### 2011-12 COVER

\$2 million  
inclusive of related costs (defence costs)

### BASE EXCESS

Sole Practitioner      **\$3,000**  
  
Partner                    **\$3,000 per partner**  
                                  maximum \$50,000 - (without penalty)

### PENALTY EXCESS

**\$4,500 per partner** for advice on certificates of financial transaction between 1/1/1994 and 1/12/1998 – 50% penalty

**\$4,500 per partner** for loss arising wholly or partly from failure to comply with a time stipulation of 30 days or less – 50% penalty

**\$6,000 per partner** for loss arising wholly or partly from failure to comply with a time stipulation of more than 30 days – 100% penalty

**\$6,000 per partner** for claims arising from a transaction or series of transactions where a practitioner was first retained after 1/7/2004 and where a practitioner acts for more than one party whose interests are or may be in conflict.

**\$12,000 per partner** for advice/certificate of guarantee after 1/1/1999 additional 300% penalty excess

**\$6,000 per partner** if claim arises out of dishonest or fraudulent act or omission of a partner /director of a practitioner company after 2001 additional 100% penalty excess

Maximum excess with penalty \$200,000

## EXCESSES / LOADINGS PROFESSIONAL INDEMNITY INSURANCE 2011-12

### INCREASED PROFESSIONAL INDEMNITY INSURANCE CONTRIBUTION - LOADINGS

If during any three year period prior to renewing Professional Indemnity Insurance a claim has been paid a practitioner who is a Principal may have a liability for an increased contribution (called a loading).

### WHO PAYS LOADINGS?

All persons who were sole practitioners, partners or co-directors of a practice at the time the error occurred and on whose behalf a claims payment was made are liable for a loading if renewing insurance.

### HOW ARE LOADINGS CALCULATED?

A loading has the same effect as the loss of a no claim bonus but in reverse. If there is a claim paid an extra percentage is incurred for future P.I. insurance premiums, usually for three years. If the amount paid to the Claimant and the defence costs (excluding an excess) exceeds premiums paid during the three (3) preceding years the cost of insurance is increased for three years by up to 50% depending on the ratio of claims payments and defence costs to premiums.

*For example:*

- ♦ A claim is paid in 2010 of \$57,000.00 (excluding excess).
- ♦ The firm consisted of **six** (6) partners in 2008 when the error was made.
- ♦ The insurance contribution for three (3) years prior to 2010 for each partner was \$8,000.00.
- ♦ The defence costs for the claim were \$15,000.00.
- ♦ Each partners share is \$12,000.00.
- ♦ The ratio  $\frac{\$12,000.00}{\$8,000.00} = 150\%$

To renew insurance for 2011, 2012 and 2013 an additional 20% is payable by each partner in addition to the standard premium/contribution (assuming no other claim payment made during the three year period).

If one of those partners had gone to the Bar in 2009, that partner's insurance contribution for three (3) years prior would be only \$3,329.00.

i.e.  $\frac{\$12,000.00}{\$3,329.00} = 360\%$

That partner (now barrister) would have a 40% loading, for the next three (3) years.

*July 2011, Law Claims*

**THIS DOCUMENT IS A GUIDE ONLY – NOT INTENDED TO DETRACT FROM THE TERMS APPROVED BY THE  
ATTORNEY-GENERAL UNDER SECTION 52 OF  
THE LEGAL PRACTITIONERS ACT**