

LEGAL PRACTITIONERS PROFESSIONAL INDEMNITY INSURANCE 2011-12

YOU WILL BE REQUIRED TO PAY

Legal Practitioner base PI Insurance contribution	\$2,400.00 (plus applicable GST)
Administration Levy	\$450.00 (plus applicable GST)
Plus Loadings (if applicable) - please see attached ^(c) personalised invoice	
Barristers, New Practitioners, Conveyancers and Low Fee Earners, please see attached ^(c) personalised invoice.	

INSURANCE IS MANDATORY

Section 52 of the Legal Practitioners Act 1981 requires all local practitioners exercising a right of private practice to be insured under the Scheme. The Act provides for the suspension of any practising certificate in respect of any practitioner who has failed to obtain insurance and who is required to be insured.

Applications to renew practising certificate and payment on the remittance slips must be returned to the Law Society by Friday 17th June 2010 to avoid penalty and risk of suspension

THE BASE CONTRIBUTION

The base contribution for practitioners for the policy year commencing 1 July 2011 and expiring on 30 June 2012 is \$2,400.00 plus applicable GST. This represents an additional decrease of \$200.00 from the previous policy year. The per claim limit of \$2,000,000.00 inclusive of defence costs and excess remains.

THE ADMINISTRATION LEVY

The administration levy payable by practitioners for the policy period is \$400.00 plus GST. The levy funds the administration of the Scheme and the provision of Risk Management services.

INVOICE FOR INSURANCE

The enclosed invoice is based on the Law Society's records at the date of printing (low fee earners excepted).

PRO RATA: PAYMENTS FOR PRACTICE COMMENCING AFTER 1 JULY 2011

For a practice commencing after 1 July 2011 contributions for the 12 months will be calculated pro rata on a daily basis. The administration levy remains fixed.

PI INSURANCE AND VARIOUS GROUPS

BARRISTERS

Barristers pay a reduced contribution of 13.5% of the base contribution. A Barrister is defined in the Scheme document as a practitioner who takes instructions only from other legal practitioners, a patent attorney or government related bodies.

A Barrister who undertakes solicitor's work must inform the Society within 14 days and their contribution will be adjusted. No indemnity is provided if a claim arises against a Barrister who is not acting on instructions of defined entities.

LOW FEE EARNERS (Form 2)

Practitioners who estimate gross fees for 12 months at under \$25,000.00 may qualify for a reduction of the base contribution. To qualify a practitioner **cannot** be:

- An employee;
- A partner;
- A director of a legal practice company.

The reduced contributions for the 2011-12 year are:

Gross fees	not exceeding	\$12,000.00	20%
	exceed \$12,000.00 but not exceeding	\$25,000.00	50%

FORMER PRACTITIONERS

A former practitioner insured under the South Australian Scheme remains covered in respect of any claim made within the terms of the policy after ceasing to practice in Australia. No certificate of insurance will be issued to a former practitioner.

NEWLY ADMITTED PRACTITIONERS

Practitioners employed in a legal firm must, in addition to a practising certificate, have professional indemnity insurance. Practitioners applying for their first practising certificate within 12 months of their admission may be entitled to a reduced insurance contribution in respect of their first 6 months of employment.

GENERAL EXEMPTION (Form 5)

Practitioners who either do not practice law or who practice solely as employees of the Crown, the Legal Services Commission or of Corporations (other than incorporated legal practices) and who do not otherwise practice privately, or who reside overseas may apply for an exemption from insurance under this Scheme.

Any exempt practitioner returning to any form of private practice in South Australia must take out PI insurance immediately.

INTERSTATE OFFICE

If your firm has an interstate office insured through LPLC (Victoria) or Law Cover (New South Wales), contact Libby Bishop, Director of Law Claims on 8410 7677 to discuss the application of the National Firm clause to your practice insured through LPLC or the Claims Management Protocol agreement with Law Cover and LPLC.

EMPLOYED LICENSED CONVEYANCERS (Form 4)

A contribution of \$2,400.00 plus applicable GST is required for each Licensed Conveyancer employed in a legal practice.

An exemption may be claimed where the usual functions of a conveyancer are not performed in the course of employment. Where an exemption is claimed a statutory declaration may be provided by 25 July 2011.

It is the obligation of the firm to make full disclosure and complete the appropriate form. This fee must be included in the firm's cheque, and the completed form forwarded to the Society.

TOP UP INSURANCE

If you require advice or cover beyond the level of \$2m offered by the Scheme you should contact your own broker concerning Top Up.

GALLAGHER BROKING SERVICES

The Society's brokers, Gallagher Broking Services, are able to provide advice on, and arrange, Top-up Professional Indemnity Insurance for barristers and firms.

Gallagher Broking Services holds an Australian Financial Services Licence (AFSL 227017).

Contact Graham Vasileff at Gallagher on 8309 3060 for further information.

THE SCHEME DOCUMENTS

The 2011-12 Scheme document is available at Law Claims and can be accessed on the Law Society's web page at www.lawsociety.sa.asn.au.

The terms of the Scheme are set out in three (3) documents. Pursuant to s52 of the Legal Practitioners Act the Scheme assumes the force of law and binds all parties to it.

1. The General Scheme Provisions

The General Scheme Provisions document set out:

- The obligations of the Law Society of South Australia (LSSA) to practitioners;
- The application of the Scheme (to whom and in what circumstance);
- The Professional Indemnity Fund's (PIF) establishment, maintenance and operation;
- Practitioner's obligations to insure / exemptions;
- Contributions;
- The Payment of the Deductible by the LSSA from the PIF.

2. The Master Policy

The Master Policy sets out:

- The relationship between the LSSA and Insurers;
- Run Off cover for former practitioners;
- The Claims Committee and its role and function;
- Law Claims and the administration of claims;
- Notice provisions.

3. The Certificate of Insurance

The Certificate contains the terms and conditions of cover provided by Insurers to Insured Practitioners.

The terms of the Certificate of Insurance include:

- The insuring clause – What is Insured;
- The deductible and excess provisions;
- The exclusions;
- Special conditions (non avoidance, substantial prejudice, fraudulent claims);
- Notice provisions;
- Conduct of defence (settlement including QC clause and dispute resolution clause);
- Insurer's right of subrogation;
- Dispute resolution procedures;
- National firms;
- USA / Canada provisions.

THE COVER AND WHO PAYS

The Cover is \$2m including defence costs and excess for each claim.

Of this, the first \$200,000.00 per claim is met by PIF (to a maximum of \$4.25m in any year) less the excess payable on settlement which is the responsibility of the practitioner or partner(s) of the firm at the date of the act/omission giving rise to the claim.

EXCESSES

The base excesses in 2011-12 for which practitioners are uninsured are:

- **\$3,000.00 per partner – without penalty maximum \$50,000.00;**
- Penalty excesses apply in certain circumstances as follows:
 - loss arising wholly or partly from failure to comply with a time stipulation of 30 days or less – 50% penalty;
 - loss arising wholly or partly from failure to comply with a time stipulation of more than 30 days – 100% penalty;
 - loss arising from advice on certificate of financial transaction given between 1/1/1994 and 1/12/1998 – 50% penalty;
 - loss arising from advice / certificate of guarantee given after 1/1/1999 – 300% penalty;

- if claim arises out of dishonest or fraudulent act or omission of a partner / director of a practitioner company – 100% penalty;
- acting for more than one party (except as exempted) after 1/7/2004 – 100% penalty;
- **Maximum excess with penalty \$200,000.00.**

TERMS AND CONDITIONS OF COVER

The terms and conditions of cover contained in the Certificate of Insurance remain substantially the same as 2010-11.

EXCLUSIONS

There are no new exclusions for the 2011-12 Policy Year.

CLAIMS

Law Claims administers claims. Notice to Law Claims is required as the Insurers representative. Law Claims address is Level 3, 132 Franklin Street, Adelaide or DX 400, Adelaide.

Practitioners are reminded that notice in writing to Insurers of circumstances that may give rise to a claim may be made pursuant to Section 40(3) of the Insurance Contracts Act (Cth) which provides:

"Where the insured gave notice in writing to the insurer of facts that might give rise to a claim against the insured as soon as was reasonably practicable after the insured became aware of those facts but before the insurance cover provided by the contract expired, the insurer is not relieved of liability under the contract in respect of the claim, when made, by reason only that it was made after the expiration of the period of insurance cover provided by the contract."

Law Claims solicitors are also available for telephone advice on rectification where a potential or actual problem may lead to a claim against a practitioner.

This Information Sheet is issued by Gallagher Broking Services

Gallagher Broking Services is licensed to provide financial services under the Corporations Act (Cth) 2001
Our Australian Financial Services License number is 227017

This license allows us to provide advice on and deal in general insurance products as an insurance broker

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