

Explanatory memorandum

Amendments to 2018/19 solicitor's policy wordings

Policy wordings are reviewed each year and consultation over any changes takes place with the Law Institute of Victoria before policy wordings are finalised by LPLC and approved by the Victorian Legal Services Board.

This memorandum explains amendments made to the policy wordings for 2018/19.

Excesses

LPLC has altered the manner of calculating the policy excess for law practices with gross fee income (GFI) of less than \$5m.

For 2018/19 the excess for law practices with GFI of \$5m or less will be an amount specified in the certificate of insurance issued to the insured law practice and based on its GFI for the financial year ended 30 June 2017 (or for law practices commencing after 1 September 2016, their estimated gross fee income for the 2018/19 financial year) according to the table below.

GFI	Excess
\$0 - \$132,000	\$2,000
\$132,001 - \$500,000	\$5,000
\$500,001 - \$1,000,000	\$7,500
\$1,000,001 - \$2,000,000	\$10,000
\$2,000,001 - \$3,000,000	\$15,000
\$3,000,001 - \$5,000,000	\$20,000

This replaces the previous position where the excess was \$5,000 multiplied by the number of principals at the date of the act or omission giving rise to the claim up to a maximum of \$25,000.

The benefits of the new approach are greater simplicity and increased fairness between firms with similar income levels, and a reduced excess for concessional premium payers.

Implementing this change to the excess calculation results in other consequential amendments to the policy:

- (a) new definitions of 'certificate of insurance' and 'specified amount'
- (b) an amendment to the definition of 'the firm' at clause 28.9
- (c) the definition of 'relevant principal' has been deleted
- (d) clauses 5 (deterrent excess) and 6 (aggregate excess limit) have been amended and expressed as multiples of the 'specified amount'
- (e) clause 14 has been deleted.

Deterrent excess categories

Four categories of deterrent excess have been deleted because LPLC no longer considers they are needed as a deterrent – these are services provided outside Australia, related interests, 'unacceptable mortgage loans', and proven breaches of professional conduct and practice rules. As a result, the definition of 'unacceptable mortgage loan' has also been deleted.

Four categories of deterrent excess remain in the policy – failing to issue proceedings with a period of limitation, acting for more than one party or interest, fraud/dishonesty and non-party costs orders made against any insured.

Admissions of liability and settlement

Amendments have been made to clauses 24 and 25 to modify the dispute procedure when LPLC and an insured firm disagree whether a claim should be settled. The clauses now establish a procedure for expert determination by senior counsel as to whether the claim has reasonable prospects of success and, if so, what steps should be taken to resolve it, having due regard to the interests of both the insured and LPLC.

Unincorporated legal practices

Clauses 19.21 and 28.17 have been amended to reflect recognition by the Uniform Law of unincorporated legal practices (bodies described under the preceding legislation as multi-disciplinary partnerships).

Solicitor's run-off policy

LPLC's annual master policy for run-off liabilities provides free run-off cover to solicitors who have previously ceased to practice or who cease to practice during the policy year (whether through death, retirement, or otherwise) where immediately prior to such cessation of legal practice they were insured by LPLC.

The wording of this policy has been reviewed and simplified. Most of the changes reflect the alteration to the manner proposed for excesses to be calculated as explained earlier in this memorandum.

Where can you view the full policy wordings?

Copies of the following policy wordings can be viewed and downloaded from LPLC's website www.lplc.com.au

- Contract for professional indemnity insurance for solicitors (with defence costs exclusive excess) 2018/19
- Contract for professional indemnity insurance for solicitors (with defence costs inclusive excess) 2018/19
- Master policy for run-off liabilities – solicitors