

Explanatory memorandum

Amendments to 2018/19 barrister's policy wordings

Policy wordings are reviewed each year and consultation over any changes takes place with the Victorian Bar 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 2018/19 the excess will be an amount specified in the certificate of insurance issued to the insured barrister and based on the GFI for the financial year ended 30 June 2017 (or in the case of barristers who signed the Bar roll after 1 May 2017, the estimated GFI for 2018/19) according to the following scale.

Gross fee income	Excess
\$0 - \$250,000	\$2,000
\$250,001 - \$499,999	\$3,000
\$500,000 and above	\$4,000

This change introduces a reduced policy excess for barristers whose GFI is below \$500,000 and retains the existing excess of \$4,000 for all other barristers.

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 practitioner' at clause 28.14
- (c) clauses 5 (deterrent excess) and 6 (aggregate excess limit) have been amended and expressed as multiples of the 'specified amount'.

Deterrent excess categories

Four categories of deterrent excesses have been deleted because they are no longer considered to be necessary or relevant. These four deleted categories relate to 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 excesses 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

Clause 19.20 has been amended to reflect recognition by the Uniform Law of unincorporated legal practices (bodies described under the preceding legislation as multi-disciplinary partnerships).

Barrister's run-off policy

LPLC's annual master policy for run-off liabilities for barristers provides free run-off cover to barristers who have previously ceased to practice or who cease to practice during the policy year (whether through death, retirement, elevation to the Bench 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 on page 1 of 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 barristers 2018/19
- Master policy for run-off liabilities – barristers

Legal Practitioners' Liability Committee

April 2018