

This scheme commenced on 22 November 2000 and ceases on 21 November 2005.

THE SOLICITORS SCHEME

Professional Standards Act 1994 (NSW)

PREAMBLE

OCCUPATIONAL ASSOCIATION

The Solicitors Scheme (the scheme) is a scheme of The Law Society of New South Wales (the Law Society). The Law Society is the professional association of solicitors practising in New South Wales and its details are: The Law Society of New South Wales ACN 000 000 699, 170 Phillip Street Sydney NSW.

The Law Society is constituted as a company limited by guarantee. It is governed by a council of 21 members elected in accordance with its articles of association and who are representative of city, country and suburban solicitors. The Law Society has more than 14,000 members practising on their own account, or as employees in private practice, government service or corporate service. Approximately 11,000 members are private practitioners of whom more than 50% are principals.

Since 1935 the Law Society has been vested with powers pursuant to statute to regulate the practice of solicitors in New South Wales. These powers are comprehensive and, as they currently exist are set out in the Legal Profession Act 1987. In particular, the Council of the Law Society is empowered by the Legal Profession Act to grant practising certificates to legal practitioners authorising them to practise as solicitors and to refuse to issue a practising certificate if certain requirements specified in the Legal Profession Act are not met including, among others, failure to pay a required insurance premium, contribution or levy.

NATURE OF LIABILITY TO BE LIMITED

The liability limited by the scheme includes, to the extent permitted by the Act, all civil liability arising (in tort, contract or otherwise) directly or vicariously from anything done or omitted by a member of the Law Society or to any person to whom the scheme applies in acting in the performance of his or her occupation.

The scheme does not apply to liability for damages arising from any matter to which the Act does not apply, including, but not limited to, liability for damages arising from death or personal injury to a person, a breach of trust, fraud or dishonesty.

STANDARDS OF INSURANCE

Under the scheme, the person must have the benefit of insurance to an amount at least equal to the amount of the limitation of liability applying to that person at the relevant time which insurance complies with standards set from time to time by the Law Society in accordance with section 27 of the Professional Standards Act. In addition, the person must have sufficient assets to cover any claim made up to the amount of the uninsured deductible on the insurance.

CLAIMS MONITORING

The Law Society will monitor through LawCover Pty Limited claims made against members for the purpose of developing strategies to improve standards and to minimise claims. The Law Society will report annually on claims monitoring and strategies.

RISK MANAGEMENT

An array of risk management strategies are provided for members of the Law Society which are designed to improve standards and minimise risk. They are provided through existing structures, are monitored by the Law Society which reports annually on the implementation and effect of strategies.

Membership of the Law Society is available to admitted legal practitioner . Qualifications for admission as a legal practitioner are determined by an independent statutory body, the Legal Practitioners Admission Board under the Legal Profession Act 1987.

The centrepiece of the Law Society's risk management strategies is the Risk Management Education Program conducted by LawCover Pty Limited. The program is designed to assist practitioners in devising appropriate risk management and practice management systems delivered through a course program covering engagement training, managing legal issues, communication skills, and quality assurance and risk management.

A Risk Management Consultation Program is conducted which identifies practitioners requiring risk management assistance and assists practitioners to introduce effective risk management initiatives.

Members are required to undergo continuing education on an annual basis to retain certification to practise. The types of allowable activities include: education programs, seminars, workshops, discussion groups, research and presentations. Practical Legal Training Programs. Risk Management and Practice Management Seminal Presentations are provided and a program concerning quality management in legal practice is available through Quality in Law Inc.

Other risk management activities include: a range of Guides to Good Practice and Client Care Guidelines, a Best Practice Program of training in practice excellence, Schemes of Accreditation, Field Counselling, Specialist publications, and the Buddy Network designed to provide support for practitioners in small legal practices.

COMPLAINTS AND DISCIPLINE MATTERS

Members to whom the scheme applies are subject to the complaints and disciplinary system operating under Part 10 of the Legal Profession Act. All members of the occupational association must comply with the Professional Conduct and Practice Rules made pursuant to sections 57B and 57C of the Legal Profession Act.

SCHEME ADMINISTRATION

Responsibility for administering the scheme and ensuring that it complies with the requirements of the Act and of the Professional Standards Council rests with the Law Society Council and senior officers of the Law Society.

COMMENCEMENT OF THE SCHEME

The scheme commences on 22 November 2000.

SCHEME DURATION

The scheme remains in force for a period of 5 years from its commencement unless it is revoked, extended or ceases in accordance with section 32 of the Act.

THE SOLICITORS SCHEME

1. Occupational Association

- 1.1** The Solicitors Scheme (the scheme) is a scheme under the Professional Standards Act 1994 (NSW) (the Act) of The Law Society of New South Wales (the Law Society) whose business address is 170 Phillip Street Sydney NSW.

2 Persons to Whom the Scheme Applies

- 2.1** The Scheme applies to the class of persons as defined in clauses 2.2 and persons defined in clause 2.3 of the scheme.
- 2.2** All members of the Law Society who hold a current practising certificate issued by the Law Society who have not been exempted under clause 2.4 of the scheme, and who have the benefit of an insurance policy under which the amount payable in respect of occupational liability is not less than the maximum amount of liability applicable to that person at the relevant time which insurance complies with standards set from time to time by the Law Society in accordance with section 27 of the Act.
- 2.3** Persons to whom the scheme applies by virtue of sections 18, 19 and 20 of the Act.
- 2.4** A person may, on application by a person, be exempted from the scheme by the Law Society Council. This clause does not apply to other persons as defined in clause 2.3 of the scheme.

3 Limitation of Liability

- 3.1** A person to whom the scheme applies is not liable in damages above the maximum amount of liability applicable to the person within the class of persons specified in the scheme in relation to a cause of action relating to occupational liability where the person is able to satisfy the court that the person has the benefit of an insurance policy or policies insuring the person against that occupational liability and under which the amount payable in respect of the occupational liability relating to that cause of action is not less than the maximum amount of liability specified in the scheme in relation to the person at the time at which the act or omission giving rise to the cause of action occurred.
- 3.2** The maximum amount of liability of a person is the amount specified in clause 3.3 of the scheme.

3.3 Classes of Persons/Maximum Amount of Liability

Class	Description	Maximum amount of liability
1	Persons in a sole practitioner legal practice or in a legal practice having no more than 3 principals	(a) The amount of professional indemnity cover provided by the insurance approved by the Attorney General pursuant to section 41(2) of the Legal Profession Act 1987 or \$1.5 million, whichever is the greater
2	Persons in a legal practice having 4 principals	(b) \$2.0 million
3	Persons in a legal practice having 5 principals	(c) \$2.5 million
4	Persons in a legal practice having 6 principals	(d) \$3.0 million
5	Persons in a legal practice having 7 principals	(e) \$3.5 million
6	Persons in a legal practice having 8 principals	(f) \$4.0 million
7	Persons in a legal practice having 9 principals	(g) \$4.5 million
8	Persons in a legal practice having 10 principals	(h) \$5.0 million
9	Persons in a legal practice having 11 principals	(i) \$5.5 million
10	Persons in a legal practice having 12 principals	(j) \$6.0 million
11	Persons in a legal practice having 13 principals	(k) \$6.5 million
12	Persons in a legal practice having 14 principals	(l) \$7.0 million
13	Persons in a legal practice having 15 principals	(m) \$7.5 million
14	Persons in a legal practice having 16 principals	(n) \$8.0 million
15	Persons in a legal practice having 17 principals	(o) \$8.5 million
16	Persons in a legal practice having 18	(p) \$9.0 million

	principals	
17	Persons in a legal practice having 19 principals	(q) \$9.5 million
18	Persons in a legal practice having 20 or more principals	(r) \$10.0 million
19	Persons in a legal practice where the sole practitioner or principals in classes 1-18, as the case may be, select and specify a maximum amount of liability greater than that specified for the class	(s) The selected maximum amount of liability greater than that specified for the class but not exceeding a maximum amount of \$50.0 million

4. Commencement of the Scheme

4.1 The scheme commences on 22 November 2000.