

QUEENSLAND LAW SOCIETY (QLS) SCHEME - SUMMARY

OCCUPATIONAL ASSOCIATION

The Queensland Law Society (QLS) scheme (the scheme) is a scheme prepared by QLS for its members. QLS is the professional association of solicitors practicing in Queensland.

QLS was incorporated under s13 of an Act of Parliament – the *Queensland Law Society Act 1927*) and continued under s677 of the *Legal Profession Act 2007* (LPA 2007). It is governed by a Council of 12 members, elected by the membership.

Queensland Law Society

- Is a body corporate;
- Has perpetual succession
- Has a common seal; and
- May sue and be sued in its corporate name.

While QLS is defined as a statutory authority in the *Financial Administration & Audit Act 1977*, it remains an independent professional body, subject to the governance of its elected Council. The Attorney General is represented on the Council by a nominee who is a Queensland solicitor.

QLS is funded mainly from annual fees paid by its members. Any person admitted as a legal practitioner of the Supreme Court of Queensland is eligible for membership of QLS, and associate membership is available to others associated with the profession in Queensland.

Together with the traditional obligation of any professional association of the preservation and maintenance of the integrity of the profession, QLS is responsible for the issuing of practising certificates and maintaining records relating to solicitors.

QLS holds specific statutory responsibilities in the regulation and discipline of the solicitors' branch of the profession in Queensland. We work closely with the Legal Services Commission to ensure any concerns about the conduct of a solicitor are investigated quickly and thoroughly.

Among the main objectives of QLS are representing and promoting the profession, increasing community understanding of the law, helping to protect the rights of individuals and advising the community about the many benefits solicitors can provide.

QLS makes submissions to federal and state governments and their agencies on matters affecting the profession and on legal issues affecting to the wider community. QLS is consulted and provides formal submissions on proposed legislation introduced into state & Federal parliaments.

Further information on Queensland Law Society can be found on the QLS website:
www.qls.com.au

NATURE OF LIABILITY TO BE LIMITED

The scheme operates for the purpose of improving the occupational standards of solicitors, and to protect the consumers of their services. It also limits the civil liability of persons to whom the scheme applies.

The liability limited by the scheme includes, to the extent permitted by the *Professional Standards Act 2004* (Qld) (the Act), all civil liability arising directly or vicariously from anything done or omitted by any person to whom the scheme applies in acting in the performance of his or her occupation.

The scheme is intended to operate as a scheme of Queensland only and applies only to full members of Queensland Law Society who:

- Hold current practising certificates issued by QLS;
- Have not been exempted from the scheme by QLS; and
- Have the benefit of an insurance policy that complies with standards set by QLS.

The Law Society has approximately 7,500 members, the majority of whom are expected to remain in the scheme, although it is not yet possible to make accurate predictions.

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. The scheme does not apply to liability for damages arising out of any negligence or other fault of a solicitor in acting for a client in a personal injury claim.

The monetary ceiling (maximum amount of liability) required for the purposes of limitation of liability under the Scheme at the time at which the act or omission giving rise to the cause of action occurred is to be determined according to the following table –

Class	Description	Monetary ceiling (Maximum amount of liability)
1	Participating Members who were at the Relevant Time in a Law Practice consisting of up to and including 20 Principals and where the Law Practice generates total annual fee income for the most recent financial year up to and including \$10million	\$1.5million (where the insurance policy or policies are full defence costs in addition) or \$2million (where the insurance policy or policies are not full defence costs in addition)
2	(a) Participating Members who were at the Relevant Time in a Law Practice consisting of greater than 20 Principals; or (b) Participating Members who were at the Relevant Time in a Law Practice where the Law Practice generates total annual fee income for the most recent financial year greater than \$10million	\$10million

Pursuant to section 25 of the Act, this Scheme also confers Queensland Law Society a discretionary authority to specify, on application of a Participating Member, a higher monetary ceiling (maximum amount of liability) in all cases or in any specified case or class of case than would otherwise apply under the Scheme in relation to the Participating Member.

MEMBERSHIP REQUIREMENTS

In order to become a full member of QLS, legal practitioners must satisfy 3 criteria:

- Admission as an Australian lawyer or a person who is an Australian-registered foreign lawyer
- Granting of a practising certificate to the Australian lawyer
- Membership of QLS

Each stage has its own requirements. Admission as an Australian lawyer involves:

- The completion of an approved law degree
- Completion of approved practical legal training
- Satisfaction of suitability requirements
- Application for admission to the Supreme Court

STANDARDS OF INSURANCE

Under the scheme, the person must have the benefit of insurance to an amount at least equal to the limitation of liability applying to that person at the relevant time which insurance complies with the standards set by the Law Society.

RISK MANAGEMENT

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

The centrepiece of the Law Society's risk management strategies is the Lexon Insurance practice advisory service involving visits to practices, a helpline, the facilitation of risk management workshops, and the preparation and monitoring of action plans to improve firms' claims experience.

Other elements of the strategy include:

- The *Legal profession (Solicitors) Rule 2007* which acts as the Society's Code of ethics/practice
- Risk management tools such as precedent documents and checklists, both generally and in key risk areas such as conveyancing, personal injury and wills (available from www.lexoninsurance.com.au)
- CPD requirements including compulsory CPD (COE) sessions for practice management, professional skills and practical legal ethics,
- The provision of more than 100 different QLS CLE events either relevant to risk management or aimed at maintaining and raising standards of professional expertise.
- QLS's 'Practice Management Course',
- an ethics advice line, and proactive advice on ethical issues through our website and monthly magazine
- senior counsellors,
- guidance booklets on issues such as costs, client care, communication and appropriate management systems

CLAIMS MONITORING

QLS and its insurer, Lexon Insurance, will monitor claims made against its 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.

COMPLAINTS AND DISCIPLINE MATTERS

Members of QLS are subject to the complaints and disciplinary systems operating under chapter 4 of the *Legal Profession Act 2007* (Qld). Queensland Law Society works closely with the Legal Services Commissioner in Queensland to monitor complaints and consumer disputes and implement strategies to raise professional standards

SCHEME ADMINISTRATION

Responsibility for administering the scheme and ensuring that it complies with the requirements of the *Professional Standards Act 2004* (Qld) and of the Professional Standards Council rests with the Law Society and senior officers of the Law Society.

Management and administration of the scheme will include the following functions:

- Implementation of Queensland Law Society's risk management strategies as detailed on the QLS website at **www.qls.com.au**.
- Providing Reports to the Professional Standards Council on matters relating to the professional standards scheme for Queensland solicitors.
- Maintaining accurate records of membership of the scheme.
- Maintaining accurate records of discretionary caps under the scheme.
- Ensuring the maintenance of insurance standards under the scheme.
- Auditing members compliance with disclosure requirements under the scheme.

Queensland Law Society is confident in its ability to meet its responsibilities in relation to the administration of the scheme.

The scheme will be administered by the staff of QLS under the direction of Mal Hinton, General Counsel and Bernie O'Donnell, Secretary of the Society.

A register of members to whom the scheme applies will be placed on the QLS website at **www.qls.com.au**

PROFESSIONAL DEVELOPMENT

Queensland Law Society operates a compulsory professional development scheme that requires all practitioners to

- Complete 10 CPD units each year
- Complete a point each year in the three compulsory areas of i) practical legal ethics, ii) practice management/business skills, and iii) professional skills
- Take part in a range of CPD activities

The QLS Continuing Legal Education Department provides 75 events a year on a variety of topics, although practitioners can also choose from other providers of relevant courses.

QUALITY ASSURANCE

All scheme members must comply with quality assurance programs in relation to scheme disclosure requirements and also with other QLS quality assurance arrangements including trust account audits, and the auditing of compulsory professional development requirements.

CONTINUATION OF SCHEME COVERAGE

Former members of the scheme will continue to be protected under the scheme for civil liability arising from their acts, errors or omissions during the period in which they were members of the scheme, provided they meet the requirements of the scheme in respect of

maintaining sufficient professional indemnity insurance to the amount of the limitation of liability.

DURATION OF THE SCHEME

The scheme will operate for 5 years from the date of commencement currently proposed to be 1 July 2010.