

**Professional Standards Scheme
(formerly Limitation of Liability Scheme)
Higher Maximum Amount Application Form**

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LAW SOCIETY OF WESTERN AUSTRALIA PROFESSIONAL STANDARDS SCHEME

Clauses 5.1 and 5.2 of the Law Society of Western Australia’s Professional Standards Scheme (Scheme) provide –

- 5.1 The Law Society WA has discretionary authority, on application by a Participating Member, to specify in relation to a Participating Member, a higher maximum amount of liability (monetary ceiling) than would otherwise apply under the Scheme in relation to him or her either in all cases or any specified case or class of case.
- 5.2 If, in exercise of its discretion under clause 5.1 the Law Society of WA has specified a higher maximum amount of liability (monetary ceiling) than would otherwise apply under the Scheme in relation to a Participating Member, the maximum amount of liability (monetary ceiling) in relation to that Participating Member is that higher maximum amount.

The Law Society’s Scheme is available at lawsocietywa.asn.au.

APPLICANTS

The persons listed in Annexure A are, as at the date of this application:

- In the Law Practice named below;
- Participating Members of the Scheme; and
- Applying to the Law Society for the higher maximum amount of liability set out in Part A, Part B, or Part C below.

The details of the Law Practice of the Participating Members making the application are:

Law Practice name: _____

Business address: _____

State: _____ Postcode: _____

DX: _____

I/The Law Practice, on behalf of all Participating Members in the Law Practice, make/s application to the Law Society for a higher maximum amount of liability as follows (applicants must complete Part A, B or C below):

REASON FOR APPLICATION

Please provide a brief reason as to why a Higher Maximum Amount is being sought:

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PROFESSIONAL INDEMNITY INSURANCE

If the application is for a class of case, please provide details here or by annexure:

Name of Insurer and Policy Number:

Clause 3 of the Law Society's Insurance Standard requires that:

Any Top-up Policy must provide coverage that is broadly equivalent to the coverage provided under the Legislated Cover and, in particular, must:

- a. Provide indemnity for claims made during the relevant period of insurance or from circumstances which are notified during the relevant period of insurance that subsequently give rise to a claim;
- b. If possible, provide at least one automatic reinstatement of the policy limit of indemnity or an aggregate limit of indemnity that is at least two (2) times the PSS member's Limited Liability;
- c. Defence costs must be in addition to the limit of indemnity under the PII Arrangements or the Top-up Policy limit must be increased by no less than 25% of the PII Arrangements limit to take into account these costs.
- d. Indemnify any past, present or future directors, partners or employees of any law practice of which the PSS member is a practitioner;
- e. Provide retrospective coverage to the date on which the PSS member first become a member of the PSS or any predecessor scheme under which the PSS member's liability was limited;
- f. Remain current for the same period as the Legislated Cover
- g. Must be underwritten by an APRA authorised general insurer or insurers unless otherwise approved in writing by LSWA having regard to any regulatory guidance published by the Professional Standards Council in respect of professional indemnity insurance and in accordance with the applicable Professional Standards Act and any relevant subordinate legislation.

Applicants must ensure that the Professional Indemnity Insurance meets the requirements of the Insurance Standard and provide a copy of the Certificate of Currency and Policy Wording with the application.

PART A – ALL CASES

The application is sought to apply for ALL cases:

Yes No (if you answered 'no' here, please complete either Part B or Part C below)

Effective date: From:

To:

PART B – CLASS OF CASE

If the application is for a class of case, please provide details here or by annexure:

Class of case:

Transaction type:

Effective date: From:

To:

PART C – SPECIFIED CASE

If the application is for a specific case, please provide details here or by annexure:

Specified case:

Transaction type:

Effective date: From:

To:

PART D – SPECIFIED CLIENT/S

If the application is for a specific client/s, please provide details here or by annexure:

Specified client/s:

Effective date: From:

To:

LIMITATION AMOUNT

Higher maximum amount of liability sought: \$ million

My/Our current limitation amount under the Scheme: \$ million

DECLARATION

I / The Law Practice, on behalf of all Participating Members in the Law Practice:

- 1. Authorises the Law Society to make relevant enquiry of the client or other relevant person, to provide particulars of this application to other relevant persons including the Law Societies in the other States and Territories in which the Participating Members practice, and to record particulars of Participating Members and the Law Practice, details of the cases to which the Law Society’s exercise of the discretion is to apply and any specified higher maximum amount of liability on its database;
- 2. Confirms that the Professional Indemnity Insurance Policy applying to the higher maximum amount of liability sought and provided with this application complies with the requirements of clause 3 of the Law Society’s Insurance Standards;
- 3. Undertakes to notify the Law Society of any subsequent change in the circumstances referred to in this application that are relevant to the Law Society’s exercise of its discretionary authority, including any relevant changes in insurance arrangements;
- 4. Undertakes to apply if appropriate to the relevant occupational association in the other jurisdictions of which the Participating Members in the Law Practice are members for a higher maximum amount of liability that is consistent with the amount specified by the Law Society, where a scheme applies to the Participating Members of the Law Practice under Professional Standards Legislation of another State or Territory;
- 5. Agrees that any reasonable period of notice may be given to the Participating Members of the Law Practice by the Law Society of a change to the higher maximum amount of liability where the Law Society in its absolute discretion determines that the period of notice is reasonable in the circumstances, including where the Participating Members of the Law Practice cease to have the benefit of insurance of an appropriate standard and level; and
- 6. Undertakes to notify clients of the Law Practice and/or Participating Members of any higher maximum amount of liability in the nature and manner specified in this application.

Signatory’s full name:

Law Practice name:

Signature:

Date:

ANNEXURE A

The following are Participating Members of the Scheme:

Australian Legal Practitioner name	Society member number

LAW SOCIETY OF WA (INC) COLLECTION NOTICE: The Law Society collects the personal information contained in this form pursuant to the provisions of the *Privacy Act, 1988* and the Australian Privacy Principles. The information is collected by the Law Society to enable it to deal with the matters the subject of this form and to provide its services and benefits (and the benefits and services of the Law Council of Australia) to its members and the public. Those services and benefits are set out on the Law Society’s website (lawsocietywa.asn.au). If the information collected in this form is not provided, the Law Society may not be able to provide its services as effectively. Individuals who wish to access information held about them, who wish to make any complaints or who wish to obtain details about information which is disclosed by the Law Society to overseas recipients may do so by accessing the Privacy Collection Notice located on the Law Society’s website or may contact the Law Society’s Privacy Officer.

STANDARD DISCLAIMER: The Professional Standards Scheme is administered by the Law Society of Western Australia. The Law Society is unable to provide any legal advice, and gives no warranties and makes no representations as to whether any claim brought against a Participating Member or Law Practice will be covered by the Scheme. Participating Members should rely on their own enquires and assessments, specifically as to the adequacy or otherwise of any insurance arrangements and as to the consistency or otherwise of such arrangements with either the Scheme or the Act, and seek their own independent legal advice.