

Explanatory Notes on Important Changes to the Master Policy and AIB for the Law Mutual 2017/2018 Insurance Year



These Notes identify the important changes to the Master Policy and Annual Information Booklet (AIB) that will be made for the Law Mutual 2017/2018 Insurance Year. It is expected that the final Master Policy and AIB will be available in mid-March 2017.

1. Entitlement to the No Claims Bonus (NCB)

In the 2017/2018 Insurance Year, the circumstances in which a legal practice will not be entitled to the NCB will change. It is expected that this will result in more legal practices being entitled to the NCB.

Currently, a legal practice will lose its 10% NCB for three years if Law Mutual has paid \$10,000 or more in respect of a claim in the previous 12 months.

In the 2017/2018 Insurance Year, a legal practice is entitled to the NCB unless, during the period 30 June 2013 to 30 June 2016:

- it has two or more new claims against it; and
- the total of all monies reserved by Law Mutual and paid out of the Law Mutual Fund in respect of those claims is \$50,000 or more.

Legal practices that are not currently entitled to the NCB will be assessed according to the new criteria.

All other conditions concerning the NCB remain unchanged.

2. Low Fee Earners (LFEs)

Currently, a legal practice that estimates its Gross Fee Income (GFI) at \$50,000 or less for the upcoming Insurance Year and otherwise qualifies as an LFE is entitled to a concessional annual contribution rate which varies according to their GFI from 50% to 5% of the rate charged for a non LFE sole practitioner.

In the 2017/2018 Insurance Year, the GFI level up to which a legal practice might qualify as an LFE will increase to \$100,000. The GFI will be based on:

- fees rendered by the legal practice during the period 1 January 2016 to 31 December 2016 if it carried on business for the whole of that period; or
- the legal practice's estimated fees for the 12 months starting on the date on which it commenced carrying on business if it did not carry on business for the whole of that period.

The concessional annual contribution rate will vary according to the legal practice's GFI from 80% to 5% of the rate charged for a non LFE sole practitioner.

If required by Law Mutual, a legal practice that did not carry on business for the whole of the period 1 January 2016 to 31 December 2016 must verify by declaration the fees it rendered for the 12 months starting on the date on which it commenced carrying on business. The legal practice's annual contribution will be adjusted in accordance with the verified fees and an invoice or refund issued as appropriate.

Law Mutual expects legal practices to declare their GFI fees and estimates on the same basis as they account for GFI in their income tax returns.

On a random audit, Law Mutual expects legal practices to support their declaration of GFI fees and estimates by producing tax returns and proper financial accounts or records for the relevant period.

If, on a random audit, it turns out that the legal practice does not qualify as a LFE, the legal practice:

- will be charged the rate for a non LFE sole practitioner;
- will not be eligible for LFE status for the next three Insurance Years;
- may be referred to the Legal Practice Complaints Committee for a misleading declaration as to its qualification as a LFE.

LFEs must still submit a Statutory Declaration for the 2016/2017 Insurance Year. Statutory Declarations will not be required for the 2017/2018 Insurance Year unless required by Law Mutual for verification purposes.

3. Higher Claims Loading and increase in Insured's Contribution for Legal Practices with unsatisfactory claims experience

In the 2017/2018 Insurance Year, a new category of claims loading and Insured's Contribution will apply for legal practices with frequent, high severity claims as follows.

If a legal practice, during the period 1 July 2011 to 30 June 2016, has:

- three or more new claims against it; and
- a loss ratio based on incurred (paid and reserved) claims in excess of 300%,

it will be subject to a claims loading of 200% and an increased Insured's Contribution per claim of five times the usual amount.

The loading and Insured's Contribution may be reduced at the discretion of the Law Society if the legal practice agrees to:

- fully implement risk management practices recommended by Law Mutual; and
- be subject to annual audit (at the legal practice's own cost) on compliance with those practices.

Law Mutual will take into account the nature and structure of a legal practice when recommending risk management practices specifically for it.

If a legal practice does not comply with the recommended risk management practices, it must pay the full claims loading within 14 days of invoice.

In exercising its discretion, the Law Society will take into account the claims:

- frequency per practitioner when compared with the claims frequency across all legal practices covered by the Scheme;

- cost per practitioner when compared with the claims costs across all legal practices covered by the Scheme.

This claims loading applies in place of the risk rating claims loading if this claims loading applies and it is higher than the risk rating claims loading.

4. Risk Management Discount

In the 2017/2018 Insurance Year, a legal practice (other than an LFE or a legal practice entitled to the Criminal Law Discount) will be entitled to a 5% Risk Management Discount on its Annual Contribution amount if:

- a. all the Partners, Principals or Practitioner Directors and at least 80% of the employed Practitioners of the legal practice have attended at least two (2) hours of Law Mutual approved risk management training in the period 1 March 2016 to 28 February 2017; and
- b. the legal practice, by a Partner, Principal or Practitioner Director, declares in its Application for Insurance that it has met the training requirements and is entitled to the Risk Management Discount.

If, on a random audit, the legal practice does not produce documentary proof that it is entitled to the 5% Risk Management Discount, or if the documentary proof of such entitlement produced by the legal practice is not to Law Mutual's satisfaction, the legal practice:

- a. must immediately repay to the Law Society the equivalent of the Risk Management Discount it received plus GST;
- b. will not again be entitled to a Risk Management Discount until it has completed two consecutive years of Law Mutual approved risk management training requirements;
- c. may be referred to the Legal Practice Complaints Committee for a misleading declaration as to its entitlement to the Discount.

5. Definition of predecessor legal practice

Currently, 'predecessor of the legal practice' in the Certificate of Insurance is not defined.

In the 2017/2018 Insurance Year, 'predecessor of the legal practice' will be defined as what the Law Society says it means, taking into account various factors, including, among other things, whether:

- at the relevant time, the legal practice held itself out as a successor to the predecessor legal practice and
- the legal practice employs or has a majority of the partners, directors or practitioners of the predecessor legal practice.

The definition of 'predecessor of the legal practice' is relevant to calculation of the Insured's Contribution and the definition of 'Consultant' and 'Insured' in the Certificate.

6. Insured's Contribution

In the 2017/2018 Insurance Year, there will be:

- a. an additional circumstance in which the Insured's Contribution is doubled, namely when a Claim arises out of a matter or transaction in which the interests of the Insured conflicted with the interests of the party or parties for whom the Insured acted;
- b. no circumstances in which the Insured's Contribution is trebled.

The other significant change in relation to the Insured's Contribution is mentioned in point 3 above.