

# APPLICATION FOR INSURANCE EXEMPTION 2018/19

## SOLICITORS IN PRIVATE PRACTICE AT A LAW PRACTICE



**THIS IS AN APPLICATION FOR EXEMPTION FROM THE REQUIREMENT TO HOLD OR BE COVERED BY AN APPROVED INSURANCE POLICY FOR THIS JURISDICTION IN ACCORDANCE WITH CHAPTER 4, PART 4.4 OF THE *LEGAL PROFESSION UNIFORM LAW (NSW)* (THE UNIFORM LAW).**

- This form is to be completed by or on behalf of those solicitors who intend to hold an Australian practising certificate authorising them to engage in legal practice as a principal of a law practice but would like to be exempt from the requirement to hold or be covered by an approved insurance policy for this jurisdiction (s.215 of the *Legal Profession Uniform Law (NSW)* (the Uniform Law)).
- A full copy of the insurance policy must be provided for this application to be considered (Rule 81 of the *Legal Profession Uniform General Rules 2015*).
- All questions are mandatory except where indicated otherwise.

### 1. PLEASE INDICATE WHICH CATEGORY APPLIES TO YOUR CIRCUMSTANCES (SEE EXPLANATORY NOTES ON PAGE 3):

Practising at a multi-state law practice with permanent offices and principals in NSW and **ONLY ONE** other Australian jurisdiction (s.215(2) the Uniform Law)

Practising at an ILP with permanent offices in NSW and **ONLY ONE** other Australian jurisdiction (s.215(4) the Uniform Law)

Practising at a Community Legal Service (s.215(6) the Uniform Law)

Practising at a multi-state law practice with permanent offices and principals in NSW and **AT LEAST TWO** other Australian jurisdictions (s.215(3) the Uniform Law)

Practising at an ILP with permanent offices in NSW and **AT LEAST TWO** other Australian jurisdictions (s.215(5) the Uniform Law)

Practising principally overseas (s.215(6) the Uniform Law)

### 2. LAW PRACTICE DETAILS

#### PRACTICE NAME:

Name of entity:

#### NEW SOUTH WALES PERMANENT OFFICE ADDRESS:

Street number and name:

Suburb:

State:

Country:

Postcode:

#### INTERSTATE PERMANENT OFFICE ADDRESS:

Street number and name:

Suburb:

State:

Country:

Postcode:

Name of at least one Principal practising at this interstate address:



Attach additional page if necessary.

### 3. PRINCIPALS OF THE LAW PRACTICE SEEKING EXEMPTION

Provide the full name of each Australian legal practitioner who is applying for a practising certificate in New South Wales authorising the holder to engage in legal practice as a principal of a law practice and for this exemption:

 Attach additional page if necessary.

### 4. DECLARATION

This form must be signed by a principal of the law practice.

I am a principal of the law practice applying for this exemption and declare on behalf of the law practice that:

- (a) The information provided in or attached to this application is accurate.
- (b) I have not withheld any relevant information.
- (c) I have read and understood the contents of the application.
- (d) I am authorised by each of the principals and solicitors in New South Wales who are applying for this exemption to make this application.
- (e) The law practice insurance arrangements, as demonstrated in the attached evidence from the insurer, are as follows:

Inception Date (DD/MM/YYYY):   /   /

Expiry Date (DD/MM/YYYY):   /   /

Insurer:

Limit:

 Attach the Certificate of Currency from your insurer and a full copy of the insurance policy (See General Notes).

- (f) The solicitors at the law practice are insured against any description of civil liability whatsoever incurred in practising as solicitors in an Australian state or territory and the indemnity provided is broadly equivalent to that provided by the approved insurance policy in New South Wales, and accordingly, application is made for an exemption for insurable solicitors practising with the law practice from the requirement to hold or be covered by an approved insurance policy for this jurisdiction for the period ending 30 June 2019.
- (g) I agree that this or any previous exemption on behalf of the principals and solicitors of the law practice applying for this exemption does not apply to the application of sections 106, 107 and clause 3 Schedule 7 of the *Legal Profession Uniform Law Application Act 2014* or any other provision of an Act relating to any levy on account of the Indemnity Fund; and
- (h) I authorise The Law Society of New South Wales to contact the insurer of the law practice as shown on this form.

Name:

Signed:

Dated (DD/MM/YYYY):   /   /

### 5. LODGEMENT OF NOTICE

Please return completed form by either:

Email: [registry@lawsociety.com.au](mailto:registry@lawsociety.com.au)

Fax: +61 2 9926 0257

Post: **LAW SOCIETY REGISTRY**  
170 Phillip Street, Sydney NSW 2000 or DX 362 Sydney

Please direct any queries to the Registry on:

Email: [registry@lawsociety.com.au](mailto:registry@lawsociety.com.au)

Telephone: +61 2 9926 0156

Fax: +61 2 9926 0257

## EXPLANATORY NOTES

Section 215 of the *Legal Profession Uniform Law (NSW)* provides;

### 215 EXEMPTIONS

- (1) An Australian legal practitioner is exempt from the requirement to hold or be covered by an approved insurance policy for this jurisdiction if-
- the home jurisdiction of the practitioner is another jurisdiction; and
  - the practitioner holds or is covered by an approved insurance policy for that other jurisdiction and that policy covers legal practice in this jurisdiction.

Note:

The Uniform Rules may provide that professional indemnity insurance must provide indemnity for the private legal practice of the insured in relation to the provision of legal services within Australia.

- (2) The designated local regulatory authority may exempt an Australian legal practitioner from the requirement to obtain an approved insurance policy for this jurisdiction if-
- the home jurisdiction of the practitioner is this jurisdiction; and
  - the practitioner is a legal practitioner associate of a law practice that-
    - maintains a permanent office in this jurisdiction and only one other jurisdiction; and
    - has at least one principal whose home jurisdiction is that other jurisdiction and who engages solely or principally in legal practice at that permanent office; and
  - the practitioner is covered by an approved insurance policy for that other jurisdiction and that policy covers legal practice in this jurisdiction.
- (3) An Australian legal practitioner is exempt from the requirement to hold or be covered by an approved insurance policy for this jurisdiction if-
- the home jurisdiction of the practitioner is this jurisdiction; and
  - the practitioner is a legal practitioner associate of a law practice that-
    - maintains a permanent office in this jurisdiction and at least 2 other jurisdictions; and
    - has at least one principal in each of those other jurisdictions who engages solely or principally in legal practice at the permanent office in that other jurisdiction; and
  - the Australian legal practitioner is covered by an approved insurance policy for one of the other jurisdictions to which paragraph (b) refers and that policy covers legal practice in this jurisdiction.

- (4) The designated local regulatory authority may exempt an incorporated legal practice from the requirement to obtain an approved insurance policy for this jurisdiction if the practice-
- maintains a permanent office in this jurisdiction and only one other jurisdiction; and
  - is covered by an approved insurance policy for that other jurisdiction and that policy covers legal practice in this jurisdiction.
- (5) An incorporated legal practice is exempt from the requirement to obtain an approved insurance policy for this jurisdiction if the practice-
- maintains a permanent office in this jurisdiction and at least 2 other jurisdictions; and
  - is covered by an approved insurance policy for one of the other jurisdictions to which paragraph (a) refers and that policy covers legal practice in this jurisdiction.
- (6) The designated local regulatory authority may exempt a specified Australian legal practitioner from the requirement to hold or be covered by an approved insurance policy on any grounds that the designated local regulatory authority considers sufficient and may, as a condition of exemption, impose a discretionary condition on his or her Australian practising certificate limiting the scope of legal services that may be provided by the holder of that certificate.
- (7) An exemption under subsection (6) can operate only in respect of periods commencing when or after the exemption is granted.
- (8) The Uniform Rules may provide for other exemptions from the requirement to hold or be covered by an approved insurance policy, and (without limitation) an exemption may-
- apply to classes of Australian legal practitioners, classes of incorporated legal practices and classes of community legal services; and
  - as a condition of exemption applying to or in respect of an Australian legal practitioner, impose or provide for imposing a discretionary condition (on an Australian practising certificate granted in a participating jurisdiction) limiting the scope of legal services that may be provided by the holder of that certificate.

## GENERAL NOTES

- This exemption will only be granted if insurance cover for all the practice activities is arranged for an amount at least equal to the amount of cover provided by the approved policy; and which remains or is warranted to remain in force for the period of this exemption, and the cover is considered by the Council of The Law Society of NSW to be broadly equivalent to that required to be held by insurable solicitors in New South Wales under the *legal profession legislation*.
- A Practising Certificate can only be issued to an insurable solicitor at your law practice if this insurance exemption has been approved. In order that the exemption may be approved, please:
  - Fully complete this application form;
  - Ensure that the **Declaration** on this form has been completed and signed by a principal of the law practice; and
  - Attach:**
    - the **Certificate of Currency** from your insurer; and
    - a full copy of the insurance policy (Rule 81 of the *Legal Profession Uniform General Rules 2015*).

## PERSONAL INFORMATION COLLECTION NOTICE

By completing this form you are providing personal information to The Law Society of New South Wales (we, us, or our).

### WHO DO WE COLLECT THE PERSONAL INFORMATION FROM?

We generally collect your personal information directly from you. However, in some cases, we may receive your personal information from a third party (for instance if we receive a complaint) and when it is relevant to our statutory responsibilities (for instance other regulators who have dealt with you).

### WHAT ARE THE PURPOSES FOR WHICH WE COLLECT PERSONAL INFORMATION?

We collect your personal information to:

- fulfil our functions and responsibilities under, and facilitate compliance with, the *Legal Profession Act 2004 (NSW)*, *legal profession legislation* (as defined in the *Legal Profession Uniform Law Application Act (2014)*), the *Corporations Act 2001 (Cth)*, the *Professional Standards Act 1994 (NSW)* and associated regulations (which require and authorise us to collect certain information) including to maintain regulatory and corporate records;
- fulfil our role as your professional association including:
  - maintaining membership records
  - communicating with you to offer products, services and events and when you obtain a product or service or come to an event
  - to conduct research and provide public representation; and
- provide information to third parties as authorised or required by law.

### WHAT IF WE DIDN'T COLLECT THIS PERSONAL INFORMATION?

Without your personal information we may not be able to process your application or request, perform our statutory functions or provide you with some or all of the services of the Law Society as a professional association.

### WHO ARE THE TYPES OF BODIES AND PERSONS TO WHOM WE USUALLY DISCLOSE YOUR PERSONAL INFORMATION?

Your personal information may be provided to:

- entities distributing information relevant to you as a legal practitioner or member of the Law Society;
- LawCover and other professional indemnity insurers and practising certificate funders;
- our professional advisors and contractors (strictly on the basis that the information is to be used only for providing services to the Law Society and must not be disclosed);
- Australian regulators and government entities (such as the Office of the Legal Services Commissioner) and overseas regulators; and
- organisations that represent the legal profession such as the Law Council of Australia and Regional Law Societies.

### DISCLOSURE OVERSEAS

If you practise in a foreign country (or apply to do so) we may send your personal information overseas in response to an inquiry from the relevant authority in that place.

### YOU CAN ACCESS AND CORRECT YOUR PERSONAL INFORMATION

Our privacy policy contains information about how you may access your personal information and seek correction of such information; as well as how to complain about a breach of the Australian Privacy Principles and how we will deal with such a complaint. Our privacy policy is accessible via a link appearing at the foot of each web page at [www.lawsociety.com.au](http://www.lawsociety.com.au).

### HOW TO CONTACT US

#### PRIVACY OFFICER

Corporate Legal Services  
The Law Society of New South Wales  
170 Phillip Street, SYDNEY NSW 2000

Telephone: (02) 9926 0333  
Fax: (02) 9231 5809  
Email: [corplegal@lawsociety.com.au](mailto:corplegal@lawsociety.com.au)

**Please do not return this form to the privacy officer**