

APPLICATION FOR INSURANCE EXEMPTION 2019/20

SOLICITORS 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).

- A The single provider of an approved insurance policy in New South Wales is Lawcover.
- B This application is made pursuant to section 215 of the *Legal Profession Uniform Law (NSW)*.
- C The Declaration at section 4 of this application must be completed by a principal of the law practice.
- D Please read the Explanatory Notes before completing this application.
- E 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*).
- F All questions are mandatory except where indicated otherwise.

1. PLEASE INDICATE WHICH CATEGORY APPLIES TO YOUR CIRCUMSTANCES (SEE EXPLANATORY NOTES ON PAGE 4):

- | | | |
|--|---|---|
| <input type="checkbox"/> 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) | <input type="checkbox"/> Practising at an ILP with permanent offices in NSW and ONLY ONE other Australian jurisdiction (s.215(4) the Uniform Law) | <input type="checkbox"/> Practising at a Community Legal Service (s.215(6) the Uniform Law) |
| <input type="checkbox"/> 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) | <input type="checkbox"/> Practising at an ILP with permanent offices in NSW and AT LEAST TWO other Australian jurisdictions (s.215(5) the Uniform Law) | <input type="checkbox"/> 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.

2. LAW PRACTICE DETAILS (CONTINUED)

ADDITIONAL 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.

OVERSEAS PERMANENT OFFICE ADDRESS FOR THOSE PRINCIPALLY PRACTISING OVERSEAS:

Please note Australian legal practitioners who are principally practising overseas must notify the Law Society prior to engaging in legal practice in NSW and satisfy the Law Society that they hold or are covered by the requisite insurance under the *legal profession legislation*.

Street number and name:			
Suburb:	State:		
Country:			Postcode:
Name at least one Principal practising at this overseas address:			

 Attach additional page if necessary.

3. PRINCIPAL(S) OF THE LAW PRACTICE SEEKING THE 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 the law practice:

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 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 from the requirement of the law practice, and its Australian legal practitioners engaging in legal practice in New South Wales to hold or be covered by an approved insurance policy for New South Wales, and declare as follows:

- (a) The information provided in and 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 and the Explanatory Notes.
- (d) I am authorised by each of the principals and Australian legal practitioners engaging in legal practice in New South Wales 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) For Australian based practitioners only, the policy covers the insurable solicitors of the law practice who are engaging in legal practice in NSW; is a policy issued or provided by an insurer, or other provider approved under, or selected in accordance with, applicable jurisdictional legislation in Australia; and the policy is approved for the purposes of engaging in legal practice in NSW.
- (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
 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
 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-
- (a) the home jurisdiction of the practitioner is another jurisdiction; and
 - (b) 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-
- (a) the home jurisdiction of the practitioner is this jurisdiction; and
 - (b) the practitioner is a legal practitioner associate of a law practice that-
 - (i) maintains a permanent office in this jurisdiction and only one other jurisdiction; and
 - (ii) 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
 - (c) 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-
- (a) the home jurisdiction of the practitioner is this jurisdiction; and
 - (b) the practitioner is a legal practitioner associate of a law practice that-
 - (i) maintains a permanent office in this jurisdiction and at least 2 other jurisdictions; and
 - (ii) 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

- (c) 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-
 - (a) maintains a permanent office in this jurisdiction and only one other jurisdiction; and
 - (b) 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-
 - a) maintains a permanent office in this jurisdiction and at least 2 other jurisdictions; and
 - (b) 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-
 - (a) apply to classes of Australian legal practitioners, classes of incorporated legal practices and classes of community legal services; and
 - (b) 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 application can only be considered if you provide a full copy of the policy you wish to rely on for the purposes of this exemption and a valid Certificate of Insurance/Currency pursuant to rule 81 of the *Legal Profession Uniform General Rules 2015*.
- The Law Society is not authorised to issue an Australian practising certificate until the requisite professional indemnity insurance is in place (see s. 45 of the *Legal Profession Uniform Law (NSW)*).
- If you are a principal of a Community Legal Service please ensure you provide the required undertaking.
- Australian legal practitioners who are principally practising overseas must notify the Law Society prior to engaging in legal practice in NSW and satisfy the Law Society that they hold or are covered by the requisite insurance under the *legal profession legislation*.
- 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 this exemption. For Australian based practitioners only, engaging in legal practice with a law practice the policy must:
 - (a) cover the insurable solicitors of the law practice who are engaging in legal practice in NSW;
 - (b) is a policy issued or provided by an insurer, or other provider approved under, or selected in accordance with, applicable jurisdictional legislation in Australia; and
 - (c) the policy is approved for the purposes of engaging in legal practice in NSW.
- 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:**
 1. the **Certificate of Currency** from your insurer; and
 2. 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), the *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 a 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 lawsociety.com.au/privacy-policy

HOW TO CONTACT US FOR PRIVACY RELATED ISSUES

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

PLEASE DO NOT RETURN THIS FORM TO THE PRIVACY OFFICER

See page 5 for lodgement address.