

## Legal Practice in the Uniform Law States – PII Requirements for Practitioners

Australian legal practitioners engaging in legal practice in New South Wales, Victoria or Western Australia (**Uniform Law States**) must be covered by an approved professional indemnity insurance policy (**approved PII policy**) that complies with the provisions of the Uniform Law.<sup>1</sup>

Those provisions and the privileges they impart on legal practitioners from the Australian Capital Territory, the Northern Territory, Queensland, South Australia and Tasmania (**non-participating jurisdictions**) are summarised below.

### Approved PII policies

An approved PII policy for a non-participating jurisdiction is a policy that either:

1. Falls within the Legal Services Council (**Council**) Framework for the approval of PII policies of non-participating jurisdictions (**PII Framework**), or
2. Has been approved by the Council.<sup>2</sup>

This can be contrasted with an approved PII policy for a Uniform Law State that will not require Council approval if it complies with the minimum standards specified in the Uniform General Rules (**UGR**).<sup>3</sup>

### Forms of practice covered by an approved PII policy

All forms of practice are covered, including practice as a sole practitioner, in a law firm, for an incorporated or unincorporated legal practice,<sup>4</sup> as a volunteer for a community legal service, or working pro bono<sup>5</sup>.

Legal practitioners working in corporate and government settings are exempt unless they engage in legal practice on their own account.<sup>6</sup>

### Areas of legal practice covered by an approved PII policy

The approved PII policy covers the legal services to be provided by the legal practitioner in the Uniform Law jurisdiction.<sup>7</sup>

### Exemptions for legal practitioners from non-participating jurisdictions practising in Uniform Law jurisdictions

An Australian legal practitioner seeking to practice in a Uniform Law State is exempt from holding or being covered by an approved PII policy for that State if:

1. The home jurisdiction of that practitioner is a non-participating jurisdiction and
2. The practitioner holds or is covered by an approved PII insurance policy for that non-participating jurisdiction and
3. The policy also covers the legal service provided within the Uniform Law State.<sup>8</sup>

The designated local regulatory authority (**DLRA**) in each Uniform Law State has the power to grant exemptions from the requirement to hold an approved PII policy for that State. Exemptions may be granted to legal practitioners, incorporated legal practices, community legal services, or classes of community legal services.<sup>9</sup>

The DLRA with this function are the [Law Society of NSW](#) and the [NSW Bar Association](#) in New South Wales, the [Victorian Legal Services Board](#) in Victoria and the [Legal Practice Board of Western Australia](#) in Western Australia. For full details on how to obtain an exemption, refer to the relevant DLRA website.

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### Powers of the Council to approve PII policies

The Council may approve a policy issued in a non-participating jurisdiction whether or not it complies with the minimum standards specified in the Uniform General Rules (UGR).<sup>10</sup> Council's approval may be unconditional or conditional, and once granted, varied or revoked.<sup>11</sup>

### Framework for the approval of PII policies of non-participating jurisdictions

To that end, Council has adopted the PII Framework which covers legal services provided in Uniform Law jurisdictions.

The PII Framework provides that an approved PII policy for a non-participating jurisdiction is a professional indemnity insurance policy that covers legal practice in a participating jurisdiction if it:

1. Is a policy issued or provided by an insurer or other provider approved under, or selected in accordance with jurisdictional legislation of a non-participating jurisdiction; and
2. Complies with the minimum standards set out in [UGR 78](#) (law practices except barristers) and [UGR 79](#) (barristers), for participating jurisdictions; or
3. Is otherwise approved by the Legal Services Council.<sup>12</sup>

### Process for checking that practitioners from non-participating jurisdictions are covered to practice in the Uniform Law States

A legal practitioner from a non-participating jurisdiction who wishes to engage in legal practice in the Uniform Law States, must first ensure that they are covered by approved PII policy, unless exempted.

This can be done by asking the regulatory authority in their home jurisdiction if the PII policy offered in that jurisdiction is an approved PII policy under the PII Framework.

### Where an approved PII policy under the PII Framework is not offered in the non-participating jurisdiction

If the non-participating jurisdiction does not offer an approved PII policy:

1. Practitioners from that jurisdiction who are covered by insurance only in that jurisdiction may not engage in legal practice in the Uniform Law States.
2. The local regulatory authority should notify Council that its PII insurance policy is not an approved PII policy.
3. To facilitate Council approval of the PII policy before its coverage is due to start, the local regulatory authority should provide Council with:
  - a. a copy of the Insurance Master Policy
  - b. the Certificate of Insurance
  - c. the particulars of non-compliance with the minimum standards under UGR rr 78 - 79, and
  - d. the reasons why the PII policy should be unconditionally approved.
4. The Council will consider whether the PII policy may be approved under the PII Framework.

### Further information

Correspondence and relevant documents can be sent to, and further information can be obtained from the Council's Senior Executive Officer.

<sup>1</sup> *Legal Profession Uniform Law Application Act 2014* (Vic) Sch 1; *Legal Profession Uniform Law 2014* (NSW); *Legal Profession Uniform Law Application Act 2021* (WA).

<sup>2</sup> Uniform Law s 210(2).

<sup>3</sup> Uniform Law s 210(1)(b); UGR Part 4.4 rr 78-79.

<sup>4</sup> Uniform Law ss 211-213.

<sup>5</sup> UGR r 82(2)(a).

<sup>6</sup> UGR rr 82(1)(a) and 82(2)(a).

<sup>7</sup> Uniform Law s 211.

<sup>8</sup> Uniform Law s 215(1).

<sup>9</sup> Uniform Law s 215(2), (4) and (6) and UGR r 82(1)(d).

<sup>10</sup> Uniform Law s 210(1)(b).

<sup>11</sup> Uniform Law s 210(3).

<sup>12</sup> Council resolution on 19 December 2017, endorsed for future years by resolution on 25 November 2020.